

By: Senator(s) Minor

To: Finance

SENATE BILL NO. 3150
(As Passed the Senate)

1 AN ACT TO LEVY A TAX IN THE AMOUNT OF 3% UPON AMOUNTS THAT
2 ARE SUBJECT TO WITHHOLDING AND REPORTING REQUIREMENTS BY THE
3 INTERNAL REVENUE CODE THAT ARE PAID TO PATRONS BY LICENSED GAMING
4 ESTABLISHMENTS; TO PROVIDE THAT SUCH TAX SHALL BE COLLECTED BY
5 GAMING ESTABLISHMENTS; TO PROVIDE THAT NO STATE INCOME TAX CREDIT
6 SHALL BE GIVEN TO PATRONS FOR THE AMOUNT OF THE TAX SO COLLECTED;
7 TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO EXCLUDE
8 AMOUNTS PAID TO PATRONS UPON WHICH THE TAX PROVIDED FOR IN THIS
9 ACT IS COLLECTED FROM THE DEFINITION OF GROSS INCOME UNDER THE
10 STATE INCOME TAX LAWS; TO AMEND SECTION 27-7-17, MISSISSIPPI CODE
11 OF 1972, TO PROVIDE THAT LOSSES INCURRED AT LICENSED GAMING
12 ESTABLISHMENTS SHALL NOT BE DEDUCTIBLE UNDER STATE INCOME TAX
13 LAWS; AND FOR RELATED PURPOSES.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

15 SECTION 1. (1) There is hereby levied, assessed and shall
16 be collected a tax of three percent (3%) upon amounts that are
17 paid or credited by gaming establishments licensed under the
18 provisions of the Mississippi Gaming Control Act to their patrons.
19 The tax shall be collected by licensed gaming establishments and
20 remitted to the State Tax Commission in the manner provided for by
21 regulations promulgated by the Chairman of the State Tax
22 Commission.

23 (2) As used in this section, "amounts that are paid or
24 credited" means amounts or credits that are subject to the
25 withholding or reporting requirements of the Internal Revenue
26 Code.

27 (3) No credit shall be allowed under the Income Tax Law of
28 1952 for the tax collected by licensed gaming establishments
29 pursuant to this section.

30 SECTION 2. Section 27-7-15, Mississippi Code of 1972, is
31 amended as follows:

32 27-7-15. (1) For the purposes of this article, except as
33 otherwise provided, the term "gross income" means and includes the
34 income of a taxpayer derived from salaries, wages, fees or
35 compensation for service, of whatever kind and in whatever form
36 paid, including income from governmental agencies and subdivisions
37 thereof; or from professions, vocations, trades, businesses,
38 commerce or sales, or renting or dealing in property, or
39 reacquired property; also from annuities, interest, rents,
40 dividends, securities, insurance premiums, reinsurance premiums,
41 considerations for supplemental insurance contracts, or the
42 transaction of any business carried on for gain or profit, or
43 gains, or profits, and income derived from any source whatever and
44 in whatever form paid. The amount of all such items of income
45 shall be included in the gross income for the taxable year in
46 which received by the taxpayer. The amount by which an eligible
47 employee's salary is reduced pursuant to a salary reduction
48 agreement authorized under Section 25-17-5 shall be excluded from
49 the term "gross income" within the meaning of this article.

50 (2) In determining gross income for the purpose of this
51 section, the following, under regulations prescribed by the
52 commissioner, shall be applicable:

53 (a) Dealers in property. Federal rules, regulations
54 and revenue procedures shall be followed with respect to
55 installment sales.

56 (b) Casual sales of property. Federal rules,
57 regulations and revenue procedures shall be followed with respect
58 to installment sales.

59 (i) The term "installment sale" means a
60 disposition of property where at least one (1) payment is to be
61 received after the close of the taxable year in which the
62 disposition occurs.

63 (ii) The term "installment method" means a method
64 under which the income recognized for any taxable year from the

65 disposition is that proportion of the payments received in that
66 year which the gross profit (realized or to be realized when
67 payment is completed) bears to the total contract price.

68 (c) Reserves of insurance companies. In the case of
69 insurance companies, any amounts in excess of the legally required
70 reserves shall be included as gross income.

71 (d) Affiliated companies or persons. As regards sales,
72 exchanges or payments for services from one to another of
73 affiliated companies or persons or under other circumstances where
74 the relation between the buyer and seller is such that gross
75 proceeds from the sale or the value of the exchange or the payment
76 for services are not indicative of the true value of the subject
77 matter of the sale, exchange or payment for services, the
78 commissioner shall prescribe uniform and equitable rules for
79 determining the true value of the gross income, gross sales,
80 exchanges or payment for services, or require consolidated returns
81 of affiliates.

82 (e) Alimony and separate maintenance payments. The
83 federal rules, regulations and revenue procedures in determining
84 the deductibility and taxability of alimony payments shall be
85 followed in this state.

86 (f) Reimbursement for expenses of moving. There shall
87 be included in gross income (as compensation for services) any
88 amount received or accrued, directly or indirectly, by an
89 individual as a payment for or reimbursement of expenses of moving
90 from one residence to another residence which is attributable to
91 employment or self-employment.

92 (3) In the case of taxpayers other than residents, gross
93 income includes gross income from sources within this state.

94 (4) The words "gross income" do not include the following
95 items of income which shall be exempt from taxation under this
96 article:

97 (a) The proceeds of life insurance policies and
98 contracts paid upon the death of the insured. However, the income
99 from the proceeds of such policies or contracts shall be included
100 in the gross income.

101 (b) The amount received by the insured as a return of
102 premium or premiums paid by him under life insurance policies,
103 endowment, or annuity contracts, either during the term or at
104 maturity or upon surrender of the contract.

105 (c) The value of property acquired by gift, bequest,
106 devise or descent, but the income from such property shall be
107 included in the gross income.

108 (d) Interest upon the obligations of the United States
109 or its possessions, or securities issued under the provisions of
110 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the
111 War Finance Corporation, or obligations of the State of
112 Mississippi or political subdivisions thereof.

113 (e) The amounts received through accident or health
114 insurance as compensation for personal injuries or sickness, plus
115 the amount of any damages received for such injuries or such
116 sickness or injuries, or through the War Risk Insurance Act, or
117 any law for the benefit or relief of injured or disabled members
118 of the military or naval forces of the United States.

119 (f) Income received by any religious denomination or by
120 any institution or trust for moral or mental improvements,
121 religious, Bible, tract, charitable, benevolent, fraternal,
122 missionary, hospital, infirmary, educational, scientific,
123 literary, library, patriotic, historical or cemetery purposes or
124 for two (2) or more of such purposes, if such income be used
125 exclusively for carrying out one or more of such purposes.

126 (g) Income received by a domestic corporation which is
127 "taxable in another state" as this term is defined in this
128 article, derived from business activity conducted outside this
129 state. Domestic corporations taxable both within and without the

130 state shall determine Mississippi income on the same basis as
131 provided for foreign corporations under the provisions of this
132 article.

133 (h) In case of insurance companies, there shall be
134 excluded from gross income such portion of actual premiums
135 received from an individual policyholder as is paid back or
136 credited to or treated as an abatement of premiums of such
137 policyholder within the taxable year.

138 (i) Income from dividends that has already borne a tax
139 as dividend income under the provisions of this article, when such
140 dividends may be specifically identified in the possession of the
141 recipient.

142 (j) Amounts paid by the United States to a person as
143 added compensation for hazardous duty pay as a member of the Armed
144 Forces of the United States in a combat zone designated by
145 Executive Order of the President of the United States.

146 (k) Amounts received as retirement allowances,
147 pensions, annuities or optional retirement allowances paid under
148 the federal Social Security Act, the Railroad Retirement Act, the
149 Federal Civil Service Retirement Act, or any other retirement
150 system of the United States government, retirement allowances paid
151 under the Mississippi Public Employees' Retirement System,
152 Mississippi Highway Safety Patrol Retirement System or any other
153 retirement system of the State of Mississippi or any political
154 subdivision thereof. The exemption allowed under this paragraph
155 (k) shall be available to the spouse or other beneficiary at the
156 death of the primary retiree.

157 (l) Amounts received as retirement allowances,
158 pensions, annuities or optional retirement allowances paid by any
159 public or governmental retirement system not designated in
160 subsection (k) or any private retirement system or plan of which
161 the recipient was a member at any time during the period of his
162 employment. Amounts received as a distribution under a Roth

163 individual retirement account shall be treated in the same manner
164 as provided under the Internal Revenue Code of 1986, as amended.
165 The exemption allowed under this paragraph (l) shall be available
166 to the spouse or other beneficiary at the death of the primary
167 retiree.

168 (m) Compensation not to exceed the aggregate sum of
169 Five Thousand Dollars (\$5,000.00) for any taxable year received by
170 a member of the National Guard or Reserve Forces of the United
171 States as payment for inactive duty training, active duty training
172 and state active duty.

173 (n) Compensation received for active service as a
174 member below the grade of commissioned officer and so much of the
175 compensation as does not exceed the aggregate sum of Five Hundred
176 Dollars (\$500.00) per month received for active service as a
177 commissioned officer in the Armed Forces of the United States for
178 any month during any part of which such members of the Armed
179 Forces (i) served in a combat zone as designated by Executive
180 Order of the President of the United States; or (ii) was
181 hospitalized as a result of wounds, disease or injury incurred
182 while serving in such combat zone.

183 (o) The proceeds received from federal and state
184 forestry incentives programs.

185 (p) The amount representing the difference between the
186 increase of gross income derived from sales for export outside the
187 United States as compared to the preceding tax year wherein gross
188 income from export sales was highest, and the net increase in
189 expenses attributable to such increased exports. In the absence
190 of direct accounting the ratio of net profits to total sales may
191 be applied to the increase in export sales. This paragraph (p)
192 shall only apply to businesses located in this state engaging in
193 the international export of Mississippi goods and services. Such
194 goods or services shall have at least fifty percent (50%) of value
195 added at a location in Mississippi.

196 (q) Amounts paid by the federal government for the
197 construction of soil conservation systems as required by a
198 conservation plan adopted pursuant to 16 USCS 3801 et seq.

199 (r) The amount deposited in a medical savings account,
200 and any interest accrued thereon, that is a part of a medical
201 savings account program as specified in the Medical Savings
202 Account Act under Sections 71-9-1 through 71-9-9; provided,
203 however, that any amount withdrawn from such account for purposes
204 other than paying eligible medical expense or to procure health
205 coverage, shall be included in gross income.

206 (s) Amounts paid by the Mississippi Soil and Water
207 Conservation Commission from the Mississippi Soil and Water
208 Cost-Share Program for the installation of water quality best
209 management practices.

210 (t) Dividends received by a holding corporation, as
211 defined in Section 27-13-1, from a subsidiary corporation, as
212 defined in Section 27-13-1.

213 (u) Interest, dividends, gains or income of any kind on
214 any account in the Mississippi Affordable College Savings Trust
215 Fund, as established in Sections 37-155-101 through 37-155-125, to
216 the extent that such amounts remain on deposit in the MACS Trust
217 Fund or are withdrawn pursuant to a qualified withdrawal, as
218 defined in Section 37-155-105.

219 (v) Interest, dividends or gains accruing on the
220 payments made pursuant to a prepaid tuition contract, as provided
221 for in Section 37-155-17.

222 (w) Amounts that are subject to the tax levied pursuant
223 to Section 1, Senate Bill No. 3150, 2001 Regular Session, and are
224 paid to patrons by gaming establishments licensed under the
225 Mississippi Gaming Control Act.

226 (5) Prisoners of war, missing in action-taxable status.

227 (a) Members of the Armed Forces. Gross income does not
228 include compensation received for active service as a member of

229 the Armed Forces of the United States for any month during any
230 part of which such member is in a missing status, as defined in
231 paragraph (d) of this subsection, during the Vietnam Conflict as a
232 result of such conflict.

233 (b) Civilian employees. Gross income does not include
234 compensation received for active service as an employee for any
235 month during any part of which such employee is in a missing
236 status during the Vietnam Conflict as a result of such conflict.

237 (c) Period of conflict. For the purpose of this
238 subsection, the Vietnam Conflict began February 28, 1961, and ends
239 on the date designated by the President by Executive Order as the
240 date of the termination of combatant activities in Vietnam. For
241 the purpose of this subsection, an individual is in a missing
242 status as a result of the Vietnam Conflict if immediately before
243 such status began he was performing service in Vietnam or was
244 performing service in Southeast Asia in direct support of military
245 operations in Vietnam. "Southeast Asia" as used in this paragraph
246 is defined to include Cambodia, Laos, Thailand and waters adjacent
247 thereto.

248 (d) "Missing status" means the status of an employee or
249 member of the Armed Forces who is in active service and is
250 officially carried or determined to be absent in a status of (i)
251 missing; (ii) missing in action; (iii) interned in a foreign
252 country; (iv) captured, beleaguered or besieged by a hostile
253 force; or (v) detained in a foreign country against his will; but
254 does not include the status of an employee or member of the Armed
255 Forces for a period during which he is officially determined to be
256 absent from his post of duty without authority.

257 (e) "Active service" means active federal service by an
258 employee or member of the Armed Forces of the United States in an
259 active duty status.

260 (f) "Employee" means one who is a citizen or national
261 of the United States or an alien admitted to the United States for

262 permanent residence and is a resident of the State of Mississippi
263 and is employed in or under a federal executive agency or
264 department of the Armed Forces.

265 (g) "Compensation" means (i) basic pay; (ii) special
266 pay; (iii) incentive pay; (iv) basic allowance for quarters; (v)
267 basic allowance for subsistence; and (vi) station per diem
268 allowances for not more than ninety (90) days.

269 (h) If refund or credit of any overpayment of tax for
270 any taxable year resulting from the application of subsection (5)
271 of this section is prevented by the operation of any law or rule
272 of law, such refund or credit of such overpayment of tax may,
273 nevertheless, be made or allowed if claim therefor is filed with
274 the State Tax Commission within three (3) years after the date of
275 the enactment of this subsection.

276 (i) The provisions of this subsection shall be
277 effective for taxable years ending on or after February 28, 1961.

278 (6) A shareholder of an S corporation, as defined in Section
279 27-8-3(1)(g), shall take into account the income, loss, deduction
280 or credit of the S corporation only to the extent provided in
281 Section 27-8-7(2).

282 SECTION 3. Section 27-7-17, Mississippi Code of 1972, is
283 amended as follows:

284 27-7-17. In computing taxable income, there shall be allowed
285 as deductions:

286 (1) **Business deductions.**

287 (a) Business expenses. All the ordinary and necessary
288 expenses paid or incurred during the taxable year in carrying on
289 any trade or business, including a reasonable allowance for
290 salaries or other compensation for personal services actually
291 rendered; nonreimbursable traveling expenses incident to current
292 employment, including a reasonable amount expended for meals and
293 lodging while away from home in the pursuit of a trade or
294 business; and rentals or other payments required to be made as a

295 condition of the continued use or possession, for purposes of the
296 trade or business of property to which the taxpayer has not taken
297 or is not taking title or in which he had no equity. Expense
298 incurred in connection with earning and distributing nontaxable
299 income is not an allowable deduction. Limitations on
300 entertainment expenses shall conform to the provisions of the
301 Internal Revenue Code of 1986.

302 (b) Interest. All interest paid or accrued during the
303 taxable year on business indebtedness, except interest upon the
304 indebtedness for the purchase of tax-free bonds, or any stocks,
305 the dividends from which are nontaxable under the provisions of
306 this article; provided, however, in the case of securities
307 dealers, interest payments or accruals on loans, the proceeds of
308 which are used to purchase tax-exempt securities, shall be
309 deductible if income from otherwise tax-free securities is
310 reported as income. Investment interest expense shall be limited
311 to investment income. Interest expense incurred for the purchase
312 of treasury stock, to pay dividends, or incurred as a result of an
313 undercapitalized affiliated corporation may not be deducted unless
314 an ordinary and necessary business purpose can be established to
315 the satisfaction of the commissioner. For the purposes of this
316 paragraph, the phrase "interest upon the indebtedness for the
317 purchase of tax-free bonds" applies only to the indebtedness
318 incurred for the purpose of directly purchasing tax-free bonds and
319 does not apply to any other indebtedness incurred in the regular
320 course of the taxpayer's business. Any corporation, association,
321 organization or other entity taxable under Section 27-7-23(c)
322 shall allocate interest expense as provided in Section
323 27-7-23(c)(4)(H).

324 (c) Taxes. Taxes paid or accrued within the taxable
325 year, except state and federal income taxes, excise taxes based on
326 or measured by net income, estate and inheritance taxes, gift
327 taxes, cigar and cigarette taxes, gasoline taxes, and sales and

328 use taxes unless incurred as an item of expense in a trade or
329 business or in the production of taxable income. In the case of
330 an individual, taxes permitted as an itemized deduction under the
331 provisions of subsection (2)(a) of this section are to be claimed
332 thereunder.

333 (d) Business losses.

334 (i) Losses sustained during the taxable year not
335 compensated for by insurance or otherwise, if incurred in trade or
336 business, or nonbusiness transactions entered into for profit.

337 (ii) Limitations on losses from passive activities
338 and rental real estate shall conform to the provisions of the
339 Internal Revenue Code of 1986.

340 (e) Bad debts. Losses from debts ascertained to be
341 worthless and charged off during the taxable year, if sustained in
342 the conduct of the regular trade or business of the taxpayer;
343 provided, that such losses shall be allowed only when the taxpayer
344 has reported as income, on the accrual basis, the amount of such
345 debt or account.

346 (f) Depreciation. A reasonable allowance for
347 exhaustion, wear and tear of property used in the trade or
348 business, or rental property, and depreciation upon buildings
349 based upon their reasonable value as of March 16, 1912, if
350 acquired prior thereto, and upon cost if acquired subsequent to
351 that date.

352 (g) Depletion. In the case of mines, oil and gas
353 wells, other natural deposits and timber, a reasonable allowance
354 for depletion and for depreciation of improvements, based upon
355 cost, including cost of development, not otherwise deducted, or
356 fair market value as of March 16, 1912, if acquired prior to that
357 date, such allowance to be made upon regulations prescribed by the
358 commissioner, with the approval of the Governor.

359 (h) Contributions or gifts. Except as otherwise
360 provided in subsection (2)(a) of this section for individuals,

361 contributions or gifts made by corporations within the taxable
362 year to corporations, organizations, associations or institutions,
363 including Community Chest funds, foundations and trusts created
364 solely and exclusively for religious, charitable, scientific or
365 educational purposes, or for the prevention of cruelty to children
366 or animals, no part of the net earnings of which inure to the
367 benefit of any private stockholder or individual. This deduction
368 shall be allowed in an amount not to exceed twenty percent (20%)
369 of the net income. Such contributions or gifts shall be allowable
370 as deductions only if verified under rules and regulations
371 prescribed by the commissioner, with the approval of the Governor.
372 Contributions made in any form other than cash shall be allowed as
373 a deduction, subject to the limitations herein provided, in an
374 amount equal to the actual market value of the contributions at
375 the time the contribution is actually made and consummated.

376 (i) Reserve funds - insurance companies. In the case
377 of insurance companies the net additions required by law to be
378 made within the taxable year to reserve funds when such reserve
379 funds are maintained for the purpose of liquidating policies at
380 maturity.

381 (j) Annuity income. The sums, other than dividends,
382 paid within the taxpayer year on policy or annuity contracts when
383 such income has been included in gross income.

384 (k) Contributions to employee pension plans.
385 Contributions made by an employer to a plan or a trust forming
386 part of a pension plan, stock bonus plan, disability or
387 death-benefit plan, or profit-sharing plan of such employer for
388 the exclusive benefit of some or all of his, their, or its
389 employees, or their beneficiaries, shall be deductible from his,
390 their, or its income only to the extent that, and for the taxable
391 year in which, the contribution is deductible for federal income
392 tax purposes under the Internal Revenue Code of 1986 and any other
393 provisions of similar purport in the Internal Revenue Laws of the

394 United States, and the rules, regulations, rulings and
395 determinations promulgated thereunder, provided that:

396 (i) The plan or trust be irrevocable.

397 (ii) The plan or trust constitute a part of a
398 pension plan, stock bonus plan, disability or death-benefit plan,
399 or profit-sharing plan for the exclusive benefit of some or all of
400 the employer's employees and/or officers, or their beneficiaries,
401 for the purpose of distributing the corpus and income of the plan
402 or trust to such employees and/or officers, or their
403 beneficiaries.

404 (iii) No part of the corpus or income of the plan
405 or trust can be used for purposes other than for the exclusive
406 benefit of employees and/or officers, or their beneficiaries.

407 Contributions to all plans or to all trusts of real or
408 personal property (or real and personal property combined) or to
409 insured plans created under a retirement plan for which provision
410 has been made under the laws of the United States of America,
411 making such contributions deductible from income for federal
412 income tax purposes, shall be deductible only to the same extent
413 under the Income Tax Laws of the State of Mississippi.

414 (1) Net operating loss carrybacks and carryovers. A
415 net operating loss for any taxable year ending after December 31,
416 1993, and taxable years thereafter, shall be a net operating loss
417 carryback to each of the three (3) taxable years preceding the
418 taxable year of the loss. If the net operating loss for any
419 taxable year is not exhausted by carrybacks to the three (3)
420 taxable years preceding the taxable year of the loss, then there
421 shall be a net operating loss carryover to each of the fifteen
422 (15) taxable years following the taxable year of the loss
423 beginning with any taxable year after December 31, 1991.

424 For any taxable year ending after December 31, 1997, the
425 period for net operating loss carrybacks and net operating loss
426 carryovers shall be the same as those established by the Internal

427 Revenue Code and the rules, regulations, rulings and
428 determinations promulgated thereunder.

429 The term "net operating loss," for the purposes of this
430 paragraph, shall be the excess of the deductions allowed over the
431 gross income; provided, however, the following deductions shall
432 not be allowed in computing same:

433 (i) No net operating loss deduction shall be
434 allowed.

435 (ii) No personal exemption deduction shall be
436 allowed.

437 (iii) Allowable deductions which are not
438 attributable to taxpayer's trade or business shall be allowed only
439 to the extent of the amount of gross income not derived from such
440 trade or business.

441 Any taxpayer entitled to a carryback period as provided by
442 this paragraph may elect to relinquish the entire carryback period
443 with respect to a net operating loss for any taxable year ending
444 after December 31, 1991. The election shall be made in the manner
445 prescribed by the State Tax Commission and shall be made by the
446 due date, including extensions of time, for filing the taxpayer's
447 return for the taxable year of the net operating loss for which
448 the election is to be in effect. The election, once made for any
449 taxable year, shall be irrevocable for that taxable year.

450 (m) Amortization of pollution or environmental control
451 facilities. Allowance of deduction. Every taxpayer, at his
452 election, shall be entitled to a deduction for pollution or
453 environmental control facilities to the same extent as that
454 allowed under the Internal Revenue Code and the rules,
455 regulations, rulings and determinations promulgated thereunder.

456 (n) Dividend distributions - real estate investment
457 trusts. "Real estate investment trust" (hereinafter referred to
458 as REIT) shall have the meaning ascribed to such term in Section
459 856 of the federal Internal Revenue Code of 1986, as amended. A

460 REIT is allowed a dividend distributed deduction if the dividend
461 distributions meet the requirements of Section 857 or are
462 otherwise deductible under Section 858 or 860, federal Internal
463 Revenue Code of 1986, as amended. In addition:

464 (i) A dividend distributed deduction shall only be
465 allowed for dividends paid by a publicly traded REIT. A qualified
466 REIT subsidiary shall be allowed a dividend distributed deduction
467 if its owner is a publicly traded REIT.

468 (ii) Income generated from real estate contributed
469 or sold to a REIT by a shareholder or related party shall not give
470 rise to a dividend distributed deduction, unless the shareholder
471 or related party would have received the dividend distributed
472 deduction under this chapter.

473 (iii) A holding corporation receiving a dividend
474 from a REIT shall not be allowed the deduction in Section
475 27-7-15(4)(t).

476 (iv) Any REIT not allowed the dividend distributed
477 deduction in the federal Internal Revenue Code of 1986, as
478 amended, shall not be allowed a dividend distributed deduction
479 under this chapter.

480 The commissioner is authorized to promulgate rules and
481 regulations consistent with the provisions in Section 269 of the
482 federal Internal Revenue Code of 1986, as amended, so as to
483 prevent the evasion or avoidance of state income tax.

484 (o) Contributions to college savings trust fund
485 accounts. Contributions or payments to a Mississippi Affordable
486 College Savings Program account are deductible as provided under
487 Section 37-155-113. Payments made under a prepaid tuition
488 contract entered into under the Mississippi Prepaid Affordable
489 College Tuition Program are deductible as provided under Section
490 37-155-17.

491 (2) **Individual nonbusiness deductions.**

492 (a) The amount allowable for individual nonbusiness
493 itemized deductions for federal income tax purposes * * * where
494 the individual is eligible to elect, for the taxable year, to
495 itemize deductions on his federal return except the following:
496 (i) The deduction for state income taxes paid;
497 (ii) The deduction for gaming losses from gaming
498 establishments licensed under the Mississippi Gaming Control Act;
499 (iii) The deduction for taxes collected by
500 licensed gaming establishments pursuant to Section 1, Senate Bill
501 No. 3150, 2001 Regular Session. * * *

502 (b) In lieu of the individual nonbusiness itemized
503 deductions authorized in paragraph (a), for all purposes other
504 than ordinary and necessary expenses paid or incurred during the
505 taxable year in carrying on any trade or business, an optional
506 standard deduction of:

507 (i) Three Thousand Four Hundred Dollars
508 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
509 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
510 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
511 in the case of married individuals filing a joint or combined
512 return;

513 (ii) One Thousand Seven Hundred Dollars
514 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
515 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand
516 Three Hundred Dollars (\$2,300.00) for each calendar year
517 thereafter in the case of married individuals filing separate
518 returns;

519 (iii) Three Thousand Four Hundred Dollars
520 (\$3,400.00) in the case of a head of family; or

521 (iv) Two Thousand Three Hundred Dollars
522 (\$2,300.00) in the case of an individual who is not married.

523 In the case of a husband and wife living together, having
524 separate incomes, and filing combined returns, the standard

525 deduction authorized may be divided in any manner they choose. In
526 the case of separate returns by a husband and wife, the standard
527 deduction shall not be allowed to either if the taxable income of
528 one of the spouses is determined without regard to the standard
529 deduction.

530 (c) A nonresident individual shall be allowed the same
531 individual nonbusiness deductions as are authorized for resident
532 individuals in paragraph (a) or (b) of this subsection; however,
533 the nonresident individual is entitled only to that proportion of
534 the individual nonbusiness deductions as his net income from
535 sources within the State of Mississippi bears to his total or
536 entire net income from all sources.

537 (3) Nothing in this section shall permit the same item to be
538 deducted more than once, either in fact or in effect.

539 SECTION 4. This act shall take effect and be in force from
540 and after January 1, 2002.