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

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

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

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

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

SECTION 2. Section 27-7-15, Mississippi Code of 1972, is amended as follows:
27-7-15. (1) For the purposes of this article, except as otherwise provided, the term "gross income" means and includes the income of a taxpayer derived from salaries, wages, fees or compensation for service, of whatever kind and in whatever form paid, including income from governmental agencies and subdivisions thereof; or from professions, vocations, trades, businesses, commerce or sales, or renting or dealing in property, or reacquired property; also from annuities, interest, rents, dividends, securities, insurance premiums, reinsurance premiums, considerations for supplemental insurance contracts, or the transaction of any business carried on for gain or profit, or gains, or profits, and income derived from any source whatever and in whatever form paid. The amount of all such items of income shall be included in the gross income for the taxable year in which received by the taxpayer. The amount by which an eligible employee's salary is reduced pursuant to a salary reduction agreement authorized under Section 25-17-5 shall be excluded from the term "gross income" within the meaning of this article.

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

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

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

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

(ii) The term "installment method" means a method under which the income recognized for any taxable year from the
disposition is that proportion of the payments received in that
year which the gross profit (realized or to be realized when
payment is completed) bears to the total contract price.

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

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

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

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

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

(4) The words "gross income" do not include the following
items of income which shall be exempt from taxation under this
article:
(a) The proceeds of life insurance policies and contracts paid upon the death of the insured. However, the income from the proceeds of such policies or contracts shall be included in the gross income.

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

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

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

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

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

(g) Income received by a domestic corporation which is "taxable in another state" as this term is defined in this article, derived from business activity conducted outside this state. Domestic corporations taxable both within and without the
state shall determine Mississippi income on the same basis as
provided for foreign corporations under the provisions of this
article.

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

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

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

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

(l) Amounts received as retirement allowances,
pensions, annuities or optional retirement allowances paid by any
public or governmental retirement system not designated in
subsection (k) or any private retirement system or plan of which
the recipient was a member at any time during the period of his
employment. Amounts received as a distribution under a Roth
individual retirement account shall be treated in the same manner as provided under the Internal Revenue Code of 1986, as amended. The exemption allowed under this paragraph (l) shall be available to the spouse or other beneficiary at the death of the primary retiree.

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

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

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

(p) The amount representing the difference between the increase of gross income derived from sales for export outside the United States as compared to the preceding tax year wherein gross income from export sales was highest, and the net increase in expenses attributable to such increased exports. In the absence of direct accounting the ratio of net profits to total sales may be applied to the increase in export sales. This paragraph (p) shall only apply to businesses located in this state engaging in the international export of Mississippi goods and services. Such goods or services shall have at least fifty percent (50%) of value added at a location in Mississippi.
(q) Amounts paid by the federal government for the construction of soil conservation systems as required by a conservation plan adopted pursuant to 16 USCS 3801 et seq.

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

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

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

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

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

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

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

(a) Members of the Armed Forces. Gross income does not include compensation received for active service as a member of the Armed Forces.
the Armed Forces of the United States for any month during any
part of which such member is in a missing status, as defined in
paragraph (d) of this subsection, during the Vietnam Conflict as a
result of such conflict.

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

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

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

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

(f) "Employee" means one who is a citizen or national
of the United States or an alien admitted to the United States for
permanent residence and is a resident of the State of Mississippi
and is employed in or under a federal executive agency or
department of the Armed Forces.

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

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

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

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

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

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

(1) Business deductions.

(a) Business expenses. All the ordinary and necessary
expenses paid or incurred during the taxable year in carrying on
any trade or business, including a reasonable allowance for
salaries or other compensation for personal services actually
rendered; nonreimbursable traveling expenses incident to current
employment, including a reasonable amount expended for meals and
lodging while away from home in the pursuit of a trade or
business; and rentals or other payments required to be made as a
condition of the continued use or possession, for purposes of the
trade or business of property to which the taxpayer has not taken
or is not taking title or in which he had no equity. Expense
incurred in connection with earning and distributing nontaxable
income is not an allowable deduction. Limitations on
entertainment expenses shall conform to the provisions of the

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

(c) Taxes. Taxes paid or accrued within the taxable
year, except state and federal income taxes, excise taxes based on
or measured by net income, estate and inheritance taxes, gift
taxes, cigar and cigarette taxes, gasoline taxes, and sales and
use taxes unless incurred as an item of expense in a trade or
business or in the production of taxable income. In the case of
an individual, taxes permitted as an itemized deduction under the
provisions of subsection (2)(a) of this section are to be claimed
thereunder.

(d) Business losses.

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

(ii) Limitations on losses from passive activities
and rental real estate shall conform to the provisions of the

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

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

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

(h) Contributions or gifts. Except as otherwise
provided in subsection (2)(a) of this section for individuals,
contributions or gifts made by corporations within the taxable year to corporations, organizations, associations or institutions, including Community Chest funds, foundations and trusts created solely and exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inure to the benefit of any private stockholder or individual. This deduction shall be allowed in an amount not to exceed twenty percent (20%) of the net income. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the commissioner, with the approval of the Governor.

Contributions made in any form other than cash shall be allowed as a deduction, subject to the limitations herein provided, in an amount equal to the actual market value of the contributions at the time the contribution is actually made and consummated.

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

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

(k) Contributions to employee pension plans.

Contributions made by an employer to a plan or a trust forming part of a pension plan, stock bonus plan, disability or death-benefit plan, or profit-sharing plan of such employer for the exclusive benefit of some or all of his, their, or its employees, or their beneficiaries, shall be deductible from his, their, or its income only to the extent that, and for the taxable year in which, the contribution is deductible for federal income tax purposes under the Internal Revenue Code of 1986 and any other provisions of similar purport in the Internal Revenue Laws of the
United States, and the rules, regulations, rulings and
determinations promulgated thereunder, provided that:

(i) The plan or trust be irrevocable.

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

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

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

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

For any taxable year ending after December 31, 1997, the
period for net operating loss carrybacks and net operating loss
carryovers shall be the same as those established by the Internal
Revenue Code and the rules, regulations, rulings and determinations promulgated thereunder.

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

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

(ii) No personal exemption deduction shall be allowed.

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

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

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

(n) Dividend distributions - real estate investment trusts. "Real estate investment trust" (hereinafter referred to as REIT) shall have the meaning ascribed to such term in Section 856 of the federal Internal Revenue Code of 1986, as amended.
REIT is allowed a dividend distributed deduction if the dividend distributions meet the requirements of Section 857 or are otherwise deductible under Section 858 or 860, federal Internal Revenue Code of 1986, as amended. In addition:

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

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

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

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

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

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

(2) Individual nonbusiness deductions.
(a) The amount allowable for individual nonbusiness itemized deductions for federal income tax purposes * * * where the individual is eligible to elect, for the taxable year, to itemize deductions on his federal return except the following:

(i) The deduction for state income taxes paid;

(ii) The deduction for gaming losses from gaming establishments licensed under the Mississippi Gaming Control Act;

(iii) The deduction for taxes collected by licensed gaming establishments pursuant to Section 1, Senate Bill No. 3150, 2001 Regular Session. * * *

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

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

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

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

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

In the case of a husband and wife living together, having separate incomes, and filing combined returns, the standard
deduction authorized may be divided in any manner they choose. In
the case of separate returns by a husband and wife, the standard
deduction shall not be allowed to either if the taxable income of
one of the spouses is determined without regard to the standard
deduction.

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

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

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