

By: Representative Moak

To: Ways and Means

HOUSE BILL NO. 552

1 AN ACT TO ALLOW DEDUCTIONS IN COMPUTING TAXABLE INCOME FOR
2 INCOME TAXES TO INDIVIDUALS COMPLETING HIGH SCHOOL OR COLLEGE, OR
3 BOTH, IN THIS STATE; TO AMEND SECTION 27-7-17, MISSISSIPPI CODE OF
4 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** (1) For any individual, there shall be allowed
7 as deductions in computing taxable income under this chapter, such
8 amounts as follows:

9 (a) One Thousand Dollars (\$1,000.00) for being
10 graduated from an accredited public or private high school in this
11 state;

12 (b) One Thousand Dollars (\$1,000.00) for being
13 graduated from an accredited public or private junior college or
14 community college in this state; and

15 (c) One Thousand Dollars (\$1,000.00) for being
16 graduated from an accredited public or private institution of
17 higher learning in this state, except the deduction under this
18 item (c) shall be Two Thousand Dollars (\$2,000.00) if the
19 deduction under item (b) is inapplicable.

20 (2) The deductions described under subsection (1) of this
21 section shall be allowed to individuals who are graduated during
22 2002 or any year thereafter; however, the deduction for amounts
23 under item (a), (b) or (c) of subsection (1) of this section shall
24 be allowed to an individual only once and for one (1) taxable year
25 only. The deduction or deductions allowed to an individual shall
26 not be allowed for any taxable year:



27 (a) Which is more than three (3) years after such
28 individual is graduated from an accredited public or private high
29 school in this state; or

30 (b) Which is more than three (3) years after such
31 individual ceases to be a full-time student at any accredited
32 public or private institution of higher learning in this state, if
33 within three (3) years after having been graduated from high
34 school, such individual continues his education at an accredited
35 public or private junior college, community college or institution
36 of higher learning in this state.

37 The individual allowed the deduction or deductions under
38 subsection (1) of this section may assign all deductions for which
39 he is entitled to a parent, parents or a legal guardian.

40 An individual shall be deemed to have been graduated from an
41 institution of higher learning on the date of final completion of
42 all courses, hours or credits required for graduation. An
43 individual shall be deemed to have been graduated from a junior
44 college or community college on the date of final completion of
45 all courses, hours or credits required for graduation. Completion
46 of General Educational Development (GED) in this state shall be
47 deemed to be graduation from an accredited high school in this
48 state.

49 (3) A nonresident individual shall be allowed the same
50 deductions under this section as are authorized for resident
51 individuals. However, the nonresident individual is entitled only
52 to that proportion of the deductions as his net income from
53 sources within the State of Mississippi bears to his total or
54 entire net income from all sources.

55 **SECTION 2.** Section 27-7-17, Mississippi Code of 1972, is
56 amended as follows:

57 [* * * Through June 30, 2003, this section shall read as
58 follows:]



59 27-7-17. In computing taxable income, there shall be allowed
60 as deductions:

61 (1) **Business deductions.**

62 (a) Business expenses. All the ordinary and necessary
63 expenses paid or incurred during the taxable year in carrying on
64 any trade or business, including a reasonable allowance for
65 salaries or other compensation for personal services actually
66 rendered; nonreimbursable traveling expenses incident to current
67 employment, including a reasonable amount expended for meals and
68 lodging while away from home in the pursuit of a trade or
69 business; and rentals or other payments required to be made as a
70 condition of the continued use or possession, for purposes of the
71 trade or business of property to which the taxpayer has not taken
72 or is not taking title or in which he had no equity. Expense
73 incurred in connection with earning and distributing nontaxable
74 income is not an allowable deduction. Limitations on
75 entertainment expenses shall conform to the provisions of the
76 Internal Revenue Code of 1986.

77 (b) Interest. All interest paid or accrued during the
78 taxable year on business indebtedness, except interest upon the
79 indebtedness for the purchase of tax-free bonds, or any stocks,
80 the dividends from which are nontaxable under the provisions of
81 this article; provided, however, in the case of securities
82 dealers, interest payments or accruals on loans, the proceeds of
83 which are used to purchase tax-exempt securities, shall be
84 deductible if income from otherwise tax-free securities is
85 reported as income. Investment interest expense shall be limited
86 to investment income. Interest expense incurred for the purchase
87 of treasury stock, to pay dividends, or incurred as a result of an
88 undercapitalized affiliated corporation may not be deducted unless
89 an ordinary and necessary business purpose can be established to
90 the satisfaction of the commissioner. For the purposes of this
91 paragraph, the phrase "interest upon the indebtedness for the



92 purchase of tax-free bonds" applies only to the indebtedness
93 incurred for the purpose of directly purchasing tax-free bonds and
94 does not apply to any other indebtedness incurred in the regular
95 course of the taxpayer's business. Any corporation, association,
96 organization or other entity taxable under Section 27-7-23(c)
97 shall allocate interest expense as provided in Section
98 27-7-23(c)(3)(I).

99 (c) Taxes. Taxes paid or accrued within the taxable
100 year, except state and federal income taxes, excise taxes based on
101 or measured by net income, estate and inheritance taxes, gift
102 taxes, cigar and cigarette taxes, gasoline taxes, and sales and
103 use taxes unless incurred as an item of expense in a trade or
104 business or in the production of taxable income. In the case of
105 an individual, taxes permitted as an itemized deduction under the
106 provisions of subsection (3)(a) of this section are to be claimed
107 thereunder.

108 (d) Business losses.

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

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

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

121 (f) Depreciation. A reasonable allowance for
122 exhaustion, wear and tear of property used in the trade or
123 business, or rental property, and depreciation upon buildings
124 based upon their reasonable value as of March 16, 1912, if



125 acquired prior thereto, and upon cost if acquired subsequent to
126 that date.

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

134 (h) Contributions or gifts. Except as otherwise
135 provided in subsection (3)(a) of this section for individuals,
136 contributions or gifts made by corporations within the taxable
137 year to corporations, organizations, associations or institutions,
138 including Community Chest funds, foundations and trusts created
139 solely and exclusively for religious, charitable, scientific or
140 educational purposes, or for the prevention of cruelty to children
141 or animals, no part of the net earnings of which inure to the
142 benefit of any private stockholder or individual. This deduction
143 shall be allowed in an amount not to exceed twenty percent (20%)
144 of the net income. Such contributions or gifts shall be allowable
145 as deductions only if verified under rules and regulations
146 prescribed by the commissioner, with the approval of the Governor.
147 Contributions made in any form other than cash shall be allowed as
148 a deduction, subject to the limitations herein provided, in an
149 amount equal to the actual market value of the contributions at
150 the time the contribution is actually made and consummated.

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



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

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

171 (i) The plan or trust be irrevocable.

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

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

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



189 (1) Net operating loss carrybacks and carryovers. A
190 net operating loss for any taxable year ending after December 31,
191 1993, and taxable years thereafter, shall be a net operating loss
192 carryback to each of the three (3) taxable years preceding the
193 taxable year of the loss. If the net operating loss for any
194 taxable year is not exhausted by carrybacks to the three (3)
195 taxable years preceding the taxable year of the loss, then there
196 shall be a net operating loss carryover to each of the fifteen
197 (15) taxable years following the taxable year of the loss
198 beginning with any taxable year after December 31, 1991.

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

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

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

210 (ii) No personal exemption deduction shall be
211 allowed.

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

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



222 return for the taxable year of the net operating loss for which
223 the election is to be in effect. The election, once made for any
224 taxable year, shall be irrevocable for that taxable year.

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

231 (n) Dividend distributions - real estate investment
232 trusts. "Real estate investment trust" (hereinafter referred to
233 as REIT) shall have the meaning ascribed to such term in Section
234 856 of the federal Internal Revenue Code of 1986, as amended. A
235 REIT is allowed a dividend distributed deduction if the dividend
236 distributions meet the requirements of Section 857 or are
237 otherwise deductible under Section 858 or 860, federal Internal
238 Revenue Code of 1986, as amended. In addition:

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

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

248 (iii) A holding corporation receiving a dividend
249 from a REIT shall not be allowed the deduction in Section
250 27-7-15(4)(t).

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



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

259 (o) Contributions to college savings trust fund
260 accounts. Contributions or payments to a Mississippi Affordable
261 College Savings Program account are deductible as provided under
262 Section 37-155-113. Payments made under a prepaid tuition
263 contract entered into under the Mississippi Prepaid Affordable
264 College Tuition Program are deductible as provided under Section
265 37-155-17.

266 (2) **Restrictions on the deductibility of certain intangible**
267 **expenses and interest expenses with a related member.**

268 (a) As used in this subsection (2):

269 (i) "Intangible expenses and costs" include:

270 1. Expenses, losses and costs for, related
271 to, or in connection directly or indirectly with the direct or
272 indirect acquisition, use, maintenance or management, ownership,
273 sale, exchange or any other disposition of intangible property to
274 the extent such amounts are allowed as deductions or costs in
275 determining taxable income under this chapter;

276 2. Expenses or losses related to or incurred
277 in connection directly or indirectly with factoring transactions
278 or discounting transactions;

279 3. Royalty, patent, technical and copyright
280 fees;

281 4. Licensing fees; and

282 5. Other similar expenses and costs.

283 (ii) "Intangible property" means patents, patent
284 applications, trade names, trademarks, service marks, copyrights
285 and similar types of intangible assets.

286 (iii) "Interest expenses and cost" means amounts
287 directly or indirectly allowed as deductions for purposes of



288 determining taxable income under this chapter to the extent such
289 interest expenses and costs are directly or indirectly for,
290 related to, or in connection with the direct or indirect
291 acquisition maintenance, management, ownership, sale, exchange or
292 disposition of intangible property.

293 (iv) "Related member" means an entity or person
294 that, with respect to the taxpayer during all or any portion of
295 the taxable year, is a related entity, a component member as
296 defined in the Internal Revenue Code, or is an entity or a person
297 to or from whom there is attribution of stock ownership in
298 accordance with Section 1563(e) of the Internal Revenue Code.

299 (v) "Related entity" means:

300 1. A stockholder who is an individual or a
301 member of the stockholder's family, as defined in regulations
302 prescribed by the commissioner, if the stockholder and the members
303 of the stockholder's family own, directly, indirectly,
304 beneficially or constructively, in the aggregate, at least fifty
305 percent (50%) of the value of the taxpayer's outstanding stock;

306 2. A stockholder, or a stockholder's
307 partnership, limited liability company, estate, trust or
308 corporation, if the stockholder and the stockholder's
309 partnerships, limited liability companies, estates, trusts and
310 corporations own, directly, indirectly, beneficially or
311 constructively, in the aggregate, at least fifty percent (50%) of
312 the value of the taxpayer's outstanding stock;

313 3. A corporation, or a party related to the
314 corporation in a manner that would require an attribution of stock
315 from the corporation to the party or from the party to the
316 corporation, if the taxpayer owns, directly, indirectly,
317 beneficially or constructively, at least fifty percent (50%) of
318 the value of the corporation's outstanding stock under regulation
319 prescribed by the commissioner;



320 4. Any entity or person which would be a
321 related member under this section if the taxpayer were considered
322 a corporation for purposes of this section.

323 (b) In computing net income, a taxpayer shall add back
324 otherwise deductible interest expenses and costs and intangible
325 expenses and costs directly or indirectly paid, accrued to or
326 incurred, in connection directly or indirectly with one or more
327 direct or indirect transactions with one or more related members.

328 (c) The adjustments required by this subsection shall
329 not apply to such portion of interest expenses and costs and
330 intangible expenses and costs that the taxpayer can establish
331 meets one (1) of the following:

332 (i) The related member directly or indirectly
333 paid, accrued or incurred such portion to a person during the same
334 income year who is not a related member; or

335 (ii) The transaction giving rise to the interest
336 expenses and costs or intangible expenses and costs between the
337 taxpayer and related member was done primarily for a valid
338 business purpose other than the avoidance of taxes, and the
339 related member is not primarily engaged in the acquisition, use,
340 maintenance or management, ownership, sale, exchange or any other
341 disposition of intangible property.

342 (d) Nothing in this subsection shall require a taxpayer
343 to add to its net income more than once any amount of interest
344 expenses and costs or intangible expenses and costs that the
345 taxpayer pays, accrues or incurs to a related member.

346 (e) The commissioner may prescribe such regulations as
347 necessary or appropriate to carry out the purposes of this
348 subsection, including, but not limited to, clarifying definitions
349 of terms, rules of stock attribution, factoring and discount
350 transactions.

351 (3) **Individual nonbusiness deductions.**



352 (a) The amount allowable for individual nonbusiness
353 itemized deductions for federal income tax purposes where the
354 individual is eligible to elect, for the taxable year, to itemize
355 deductions on his federal return except the following:

356 (i) The deduction for state income taxes paid;
357 (ii) The deduction for gaming losses from gaming
358 establishments licensed under the Mississippi Gaming Control Act;
359 (iii) The deduction for taxes collected by
360 licensed gaming establishments pursuant to Section 27-7-901.

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

366 (i) Three Thousand Four Hundred Dollars
367 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
368 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
369 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
370 in the case of married individuals filing a joint or combined
371 return;

372 (ii) One Thousand Seven Hundred Dollars
373 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
374 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand
375 Three Hundred Dollars (\$2,300.00) for each calendar year
376 thereafter in the case of married individuals filing separate
377 returns;

378 (iii) Three Thousand Four Hundred Dollars
379 (\$3,400.00) in the case of a head of family; or

380 (iv) Two Thousand Three Hundred Dollars
381 (\$2,300.00) in the case of an individual who is not married.

382 In the case of a husband and wife living together, having
383 separate incomes, and filing combined returns, the standard
384 deduction authorized may be divided in any manner they choose. In



385 the case of separate returns by a husband and wife, the standard
386 deduction shall not be allowed to either if the taxable income of
387 one of the spouses is determined without regard to the standard
388 deduction.

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

396 (d) The amount allowable under Section 1 of House Bill
397 No. _____, 2002 Regular Session, for being graduated from an
398 accredited public or private high school, junior college or
399 community college or institution of higher learning in this state.

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

402 **[From and after July 1, 2003, this section shall read as**
403 **follows:]**

404 27-7-17. In computing taxable income, there shall be allowed
405 as deductions:

406 (1) **Business deductions.**

407 (a) Business expenses. All the ordinary and necessary
408 expenses paid or incurred during the taxable year in carrying on
409 any trade or business, including a reasonable allowance for
410 salaries or other compensation for personal services actually
411 rendered; nonreimbursable traveling expenses incident to current
412 employment, including a reasonable amount expended for meals and
413 lodging while away from home in the pursuit of a trade or
414 business; and rentals or other payments required to be made as a
415 condition of the continued use or possession, for purposes of the
416 trade or business of property to which the taxpayer has not taken
417 or is not taking title or in which he had no equity. Expense



418 incurred in connection with earning and distributing nontaxable
419 income is not an allowable deduction. Limitations on
420 entertainment expenses shall conform to the provisions of the
421 Internal Revenue Code of 1986.

422 (b) Interest. All interest paid or accrued during the
423 taxable year on business indebtedness, except interest upon the
424 indebtedness for the purchase of tax-free bonds, or any stocks,
425 the dividends from which are nontaxable under the provisions of
426 this article; provided, however, in the case of securities
427 dealers, interest payments or accruals on loans, the proceeds of
428 which are used to purchase tax-exempt securities, shall be
429 deductible if income from otherwise tax-free securities is
430 reported as income. Investment interest expense shall be limited
431 to investment income. Interest expense incurred for the purchase
432 of treasury stock, to pay dividends, or incurred as a result of an
433 undercapitalized affiliated corporation may not be deducted unless
434 an ordinary and necessary business purpose can be established to
435 the satisfaction of the commissioner. For the purposes of this
436 paragraph, the phrase "interest upon the indebtedness for the
437 purchase of tax-free bonds" applies only to the indebtedness
438 incurred for the purpose of directly purchasing tax-free bonds and
439 does not apply to any other indebtedness incurred in the regular
440 course of the taxpayer's business. Any corporation, association,
441 organization or other entity taxable under Section 27-7-23(c)
442 shall allocate interest expense as provided in Section
443 27-7-23(c)(4)(H).

444 (c) Taxes. Taxes paid or accrued within the taxable
445 year, except state and federal income taxes, excise taxes based on
446 or measured by net income, estate and inheritance taxes, gift
447 taxes, cigar and cigarette taxes, gasoline taxes, and sales and
448 use taxes unless incurred as an item of expense in a trade or
449 business or in the production of taxable income. In the case of
450 an individual, taxes permitted as an itemized deduction under the



451 provisions of subsection (2)(a) of this section are to be claimed
452 thereunder.

453 (d) Business losses.

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

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

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

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

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

479 (h) Contributions or gifts. Except as otherwise
480 provided in subsection (2)(a) of this section for individuals,
481 contributions or gifts made by corporations within the taxable
482 year to corporations, organizations, associations or institutions,
483 including Community Chest funds, foundations and trusts created



484 solely and exclusively for religious, charitable, scientific or
485 educational purposes, or for the prevention of cruelty to children
486 or animals, no part of the net earnings of which inure to the
487 benefit of any private stockholder or individual. This deduction
488 shall be allowed in an amount not to exceed twenty percent (20%)
489 of the net income. Such contributions or gifts shall be allowable
490 as deductions only if verified under rules and regulations
491 prescribed by the commissioner, with the approval of the Governor.
492 Contributions made in any form other than cash shall be allowed as
493 a deduction, subject to the limitations herein provided, in an
494 amount equal to the actual market value of the contributions at
495 the time the contribution is actually made and consummated.

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

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

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

516 (i) The plan or trust be irrevocable.



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

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

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

534 (1) Net operating loss carrybacks and carryovers. A
535 net operating loss for any taxable year ending after December 31,
536 1993, and taxable years thereafter, shall be a net operating loss
537 carryback to each of the three (3) taxable years preceding the
538 taxable year of the loss. If the net operating loss for any
539 taxable year is not exhausted by carrybacks to the three (3)
540 taxable years preceding the taxable year of the loss, then there
541 shall be a net operating loss carryover to each of the fifteen
542 (15) taxable years following the taxable year of the loss
543 beginning with any taxable year after December 31, 1991.

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



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

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

555 (ii) No personal exemption deduction shall be
556 allowed.

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

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

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

576 (n) Dividend distributions - real estate investment
577 trusts. "Real estate investment trust" (hereinafter referred to
578 as REIT) shall have the meaning ascribed to such term in Section
579 856 of the federal Internal Revenue Code of 1986, as amended. A
580 REIT is allowed a dividend distributed deduction if the dividend
581 distributions meet the requirements of Section 857 or are



582 otherwise deductible under Section 858 or 860, federal Internal
583 Revenue Code of 1986, as amended. In addition:

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

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

593 (iii) A holding corporation receiving a dividend
594 from a REIT shall not be allowed the deduction in Section
595 27-7-15(4)(t).

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

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

604 (o) Contributions to college savings trust fund
605 accounts. Contributions or payments to a Mississippi Affordable
606 College Savings Program account are deductible as provided under
607 Section 37-155-113. Payments made under a prepaid tuition
608 contract entered into under the Mississippi Prepaid Affordable
609 College Tuition Program are deductible as provided under Section
610 37-155-17.

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

612 (a) The amount allowable for individual nonbusiness
613 itemized deductions for federal income tax purposes where the



614 individual is eligible to elect, for the taxable year, to itemize
615 deductions on his federal return except the following:

616 (i) The deduction for state income taxes paid;
617 (ii) The deduction for gaming losses from gaming
618 establishments licensed under the Mississippi Gaming Control Act;
619 (iii) The deduction for taxes collected by
620 licensed gaming establishments pursuant to Section 27-7-901.

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

626 (i) Three Thousand Four Hundred Dollars
627 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
628 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
629 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
630 in the case of married individuals filing a joint or combined
631 return;

632 (ii) One Thousand Seven Hundred Dollars
633 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
634 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand
635 Three Hundred Dollars (\$2,300.00) for each calendar year
636 thereafter in the case of married individuals filing separate
637 returns;

638 (iii) Three Thousand Four Hundred Dollars
639 (\$3,400.00) in the case of a head of family; or

640 (iv) Two Thousand Three Hundred Dollars
641 (\$2,300.00) in the case of an individual who is not married.

642 In the case of a husband and wife living together, having
643 separate incomes, and filing combined returns, the standard
644 deduction authorized may be divided in any manner they choose. In
645 the case of separate returns by a husband and wife, the standard
646 deduction shall not be allowed to either if the taxable income of



647 one of the spouses is determined without regard to the standard
648 deduction.

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

656 (d) The amount allowable under Section 1 of House Bill
657 No. _____, 2002 Regular Session, for being graduated from an
658 accredited public or private high school, junior college or
659 community college or institution of higher learning in this state.

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

662 **SECTION 3.** Nothing in this act shall affect or defeat any
663 claim, assessment, appeal, suit, right or cause of action for
664 taxes due or accrued under the income tax laws before the date on
665 which this act becomes effective, whether such claims,
666 assessments, appeals, suits or actions have been begun before the
667 date on which this act becomes effective or are begun thereafter;
668 and the provisions of the income tax laws are expressly continued
669 in full force, effect and operation for the purpose of the
670 assessment, collection and enrollment of liens for any taxes due
671 or accrued and the execution of any warrant under such laws before
672 the date on which this act becomes effective, and for the
673 imposition of any penalties, forfeitures or claims for failure to
674 comply with such laws.

675 **SECTION 4.** Section 1 of this act shall be codified as a
676 separate Code section in Chapter 7, Title 27, Mississippi Code of
677 1972.

678 **SECTION 5.** This act shall take effect and be in force from
679 and after January 1, 2002.

