

By: Representative Fleming

To: Ways and Means

HOUSE BILL NO. 215

1 AN ACT TO PROVIDE AN INCOME TAX CREDIT FOR TAXPAYERS WHO PAY
2 TUITION TO A NONPUBLIC SCHOOL; TO PROVIDE AN INCOME TAX CREDIT FOR
3 TAXPAYERS THAT INCUR COSTS FOR HOME SCHOOL PURPOSES; AND FOR
4 RELATED PURPOSES.

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

6 **SECTION 1.** (1) For any taxpayer who pays tuition to a
7 nonpublic school, a credit against the taxes imposed by this
8 chapter shall be allowed in the amount provided in subsection (2)
9 of this section. For the purposes of this section:

10 (a) "Tuition" means the monthly, semester, annual or
11 other term charge and all required fees imposed as a condition of
12 enrollment in a primary or secondary nonpublic school; and

13 (b) "Nonpublic school" means an institution for the
14 teaching of children in the primary or secondary, or both, grades,
15 consisting of a physical plant (whether owned or leased),
16 instructional staff and students, and which is in session each
17 school year and maintains educational standards equivalent to the
18 standards established by the State Department of Education for the
19 state schools as outlined in the Approval Requirements of the
20 State Board of Education for Nonpublic Schools. The term
21 "nonpublic school" includes, but is not necessarily limited to,
22 private, church and parochial schools.

23 (2) The income tax credit provided in subsection (1) of this
24 section shall be equal to one-third (1/3) of the amount of the
25 tuition paid to a nonpublic school during the taxable year, not to
26 exceed the amount of income tax due the State of Mississippi from
27 the taxpayer for the taxable year reduced by the sum of all other
28 credits allowable to such taxpayer under the state income tax

29 laws, except credit for tax payments made by or on behalf of the
30 taxpayer. In the case of married individuals filing separate
31 returns, each person may claim an amount not to exceed one-half
32 (1/2) of the tax credit which would have been allowed for a joint
33 return. Any unused portion of the credit may be carried forward
34 for the next five (5) succeeding tax years.

35 (3) Any amount of tuition payments made by a taxpayer which
36 is applied toward the credit provided in this section may not be
37 used as a deduction by the taxpayer for state income tax purposes.

38 **SECTION 2.** (1) For any taxpayer who is a parent, guardian
39 or custodian of a home school student, a credit against the taxes
40 imposed by this chapter shall be allowed in the amount provided in
41 subsection (2) of this section. For the purposes of this section,
42 the term "home school student" means a compulsory-school-age child
43 taught by private teachers, parents, guardians or custodians in a
44 legitimate home instruction program as defined under the
45 Mississippi Compulsory School Attendance Law (Section 37-13-91).

46 (2) The income tax credit provided in subsection (1) of this
47 section shall be equal to one-third (1/3) of the amount of the
48 costs incurred by the taxpayer for educational supplies and
49 materials necessary for the home school student to participate in
50 a home instruction program during the taxable year, not to exceed
51 the amount of income tax due the State of Mississippi from the
52 taxpayer for the taxable year reduced by the sum of all other
53 credits allowable to such taxpayer under the state income tax
54 laws, except credit for tax payments made by or on behalf of the
55 taxpayer. In the case of married individuals filing separate
56 returns, each person may claim an amount not to exceed one-half
57 (1/2) of the tax credit which would have been allowed for a joint
58 return. Any unused portion of the credit may be carried forward
59 for the next five (5) succeeding tax years.

60 (3) Any amount of costs incurred by a taxpayer for such
61 purposes which is applied toward the credit provided in this

62 section may not be used as a deduction by the taxpayer for state
63 income tax purposes.

64 **SECTION 3.** Sections 1 and 2 of this act shall be codified as
65 a separate section in Chapter 7, Title 27, Mississippi Code of
66 1972.

67 **SECTION 4.** Nothing in this act shall affect or defeat any
68 claim, assessment, appeal, suit, right or cause of action for
69 taxes due or accrued under the income tax laws before the date on
70 which this act becomes effective, whether such claims,
71 assessments, appeals, suits or actions have been begun before the
72 date on which this act becomes effective or are begun thereafter;
73 and the provisions of the income tax laws are expressly continued
74 in full force, effect and operation for the purpose of the
75 assessment, collection and enrollment of liens for any taxes due
76 or accrued and the execution of any warrant under such laws before
77 the date on which this act becomes effective, and for the
78 imposition of any penalties, forfeitures or claims for failure to
79 comply with such laws.

80 **SECTION 5.** This act shall take effect and be in force from
81 and after July 1, 2004.