

By: Representative Fleming

To: Ways and Means

HOUSE BILL NO. 1638

1 AN ACT TO PROVIDE AN INCOME TAX CREDIT FOR ANY TAXPAYER WHO
2 PAYS CERTAIN HIGHER EDUCATION TUITION AND FEES FOR A STUDENT THAT
3 THE TAXPAYER CLAIMS AS A PERSONAL EXEMPTION FOR FEDERAL AND STATE
4 INCOME TAX PURPOSES; TO LIMIT THE AMOUNT OF THE CREDIT THAT MAY BE
5 CLAIMED UNDER THIS ACT; TO PROVIDE THAT IF THE AMOUNT OF CREDIT
6 CLAIMED BY A TAXPAYER EXCEEDS THE AMOUNT OF INCOME TAX IMPOSED
7 UPON THE TAXPAYER FOR THE TAXABLE YEAR, THEN THE TAXPAYER SHALL
8 RECEIVE A REFUND FROM THE STATE TAX COMMISSION FOR THE AMOUNT OF
9 SUCH EXCESS; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** (1) Any taxpayer who incurs qualified higher
12 education expenses for an eligible student, for which the taxpayer
13 claims a personal exemption on his federal and state individual
14 income tax returns, shall be allowed a refundable credit against
15 the taxes imposed under this chapter in the manner prescribed in
16 this section. For the purposes of this section:

17 (a) "Eligible student" means a student who is:

18 (i) Enrolled at and attending a public or private
19 university, college, community college or junior college;

20 (ii) Legally claimed as a personal exemption on
21 the federal and state individual income tax returns of the
22 taxpayer; and

23 (iii) Not in default on any higher education
24 student loan.

25 (b) "Qualified higher education expenses" means tuition
26 and mandatory fees paid in a taxable year by an eligible student
27 or by a taxpayer on behalf of an eligible student, less any
28 refunds, scholarships and other forms of financial assistance
29 received but not subject to repayment.

30 (2) The amount of the credit authorized under this section
31 shall be equal to the lesser of fifty percent (50%) of qualified
32 higher education expenses incurred for an eligible student during
33 the taxable year or Three Hundred Dollars (\$300.00), provided that
34 the amount claimed as a credit when added to any federal education
35 tax credit claimed for an eligible student may not exceed the
36 amount of qualified higher education expenses incurred by or on
37 behalf of the eligible student. If the amount of credit claimed
38 by a taxpayer exceeds the amount of income tax imposed upon the
39 taxpayer for the taxable year reduced by the sum of all other
40 credits allowable to the taxpayer under the state income tax laws,
41 except credit for tax payments made by or on behalf of the
42 taxpayer, then the taxpayer shall receive a refund from the State
43 Tax Commission for the amount of such excess.

44 (3) To obtain the credit provided for in this section, a
45 taxpayer must provide to the State Tax Commission proof of the
46 higher education expenses incurred for which the credit is claimed
47 and any other information required by the State Tax Commission.
48 The State Tax Commission shall have all powers necessary to
49 implement and administer the provisions of this section and shall
50 promulgate rules and regulations, in accordance with the
51 Mississippi Administrative Procedures Law, necessary for the
52 implementation of this section.

53 **SECTION 2.** Section 1 of this act shall be codified as a
54 separate section in Chapter 7, Title 27, Mississippi Code of 1972.

55 **SECTION 3.** Nothing in this act shall affect or defeat any
56 claim, assessment, appeal, suit, right or cause of action for
57 taxes due or accrued under the income tax laws before the date on
58 which this act becomes effective, whether such claims,
59 assessments, appeals, suits or actions have been begun before the
60 date on which this act becomes effective or are begun thereafter;
61 and the provisions of the income tax laws are expressly continued
62 in full force, effect and operation for the purpose of the

63 assessment, collection and enrollment of liens for any taxes due
64 or accrued and the execution of any warrant under such laws before
65 the date on which this act becomes effective, and for the
66 imposition of any penalties, forfeitures or claims for failure to
67 comply with such laws.

68 **SECTION 4.** This act shall take effect and be in force from
69 and after January 1, 2007.