

**Adopted  
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**House Bill No. 1108**

**BY: Committee**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

13        **SECTION 1.**    (1)    The following words and phrases shall have  
14    the meanings as defined in this section unless the context clearly  
15    indicates otherwise:

16                    (a)    "Eligible taxpayer" means any railroad that is  
17    classified by the United States Surface Transportation Board as a  
18    Class II or Class III railroad.

19                    (b)    "Eligible transferee" means any taxpayer having a  
20    liability for taxes under this chapter.

21                    (c)    "Qualified railroad reconstruction or replacement  
22    expenditures" means gross expenditures for maintenance,



reconstruction or replacement of railroad infrastructure,  
including track, roadbed, bridges, industrial leads and sidings,  
and track-related structures owned or leased by a Class II or  
Class III railroad in Mississippi as of January 1, 2022.

(d) "Qualified new rail infrastructure expenditures"  
means gross expenditures for new construction of industrial leads,  
switches, spurs and sidings and extensions of existing sidings,  
for serving new customer locations or expansions in Mississippi,  
by a Class II or Class III railroad located in Mississippi.

(2) Subject to the provisions of this section, an eligible  
taxpayer making qualified railroad reconstruction or replacement  
expenditures shall be allowed a credit against the taxes imposed  
under this chapter. The credit shall be for an amount equal to  
the lesser of fifty percent (50%) of an eligible taxpayer's  
qualified railroad reconstruction or replacement expenditures for  
the taxable year or the product of Five Thousand Dollars  
(\$5,000.00) multiplied by the number of miles of railroad track  
owned or leased within the State of Mississippi by the eligible  
taxpayer as of the close of the taxable year. For qualified new  
rail infrastructure expenditures, the credit shall be for an  
amount equal to the lesser of fifty percent (50%) of an eligible  
taxpayer's qualified new rail infrastructure expenditures for the  
taxable year, capped at One Million Dollars (\$1,000,000.00) per  
new rail-served customer project. However, the tax credit shall  
not exceed the amount of tax imposed upon the taxpayer for the



48 taxable year reduced by the sum of all other credits allowable to  
49 the taxpayer under this chapter, except credit for tax payments  
50 made by or on behalf of the taxpayer. Any tax credit claimed  
51 under this section but not used in any taxable year may be carried  
52 forward for five (5) consecutive years from the close of the  
53 taxable year in which the credit was earned. The aggregate amount  
54 of credits that may be claimed by all taxpayers claiming a credit  
55 under this section during a calendar year shall not exceed Eight  
56 Million Dollars (\$8,000,000.00). In addition, an eligible  
57 taxpayer may transfer by written agreement any unused tax credit  
58 to an eligible transferee at any time during the year in which the  
59 credit is earned and the five (5) years following the taxable year  
60 in which the qualified railroad reconstruction or replacement  
61 expenditures or the qualified new rail infrastructure expenditures  
62 are made. The eligible taxpayer and the eligible transferee must  
63 jointly file a copy of the written transfer agreement with the  
64 Department of Revenue within thirty (30) days of the transfer.  
65 The written agreement must contain the: (a) name, address, and  
66 taxpayer identification number of the parties to the transfer; (b)  
67 taxable year the eligible taxpayer incurred the qualified railroad  
68 reconstruction or replacement expenditures or the qualified new  
69 rail infrastructure expenditures; (c) amount of credit being  
70 transferred; and (d) taxable year or years for which the credit  
71 may be claimed by the eligible transferee.



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

74           **SECTION 3.** Nothing in this act shall affect or defeat any  
75 claim, assessment, appeal, suit, right or cause of action for  
76 taxes due or accrued under the income tax laws before the date on  
77 which this act becomes effective, whether such claims,  
78 assessments, appeals, suits or actions have been begun before the  
79 date on which this act becomes effective or are begun thereafter;  
80 and the provisions of the income tax laws are expressly continued  
81 in full force, effect and operation for the purpose of the  
82 assessment, collection and enrollment of liens for any taxes due  
83 or accrued and the execution of any warrant under such laws before  
84 the date on which this act becomes effective, and for the  
85 imposition of any penalties, forfeitures or claims for failure to  
86 comply with such laws.

87           **SECTION 4.** Section 27-7-17, Mississippi Code of 1972, as  
88 amended by Senate Bill No. 2095, 2022 Regular Session, and House  
89 Bill No. 1529, 2022 Regular Session, is amended as follows:

90           **Through February 1, 2022, this section shall read as follows:**

91           27-7-17. In computing taxable income, there shall be allowed  
92 as deductions:

93           (1) **Business deductions.**

94           (a) **Business expenses.** All the ordinary and necessary  
95 expenses paid or incurred during the taxable year in carrying on  
96 any trade or business, including a reasonable allowance for



97 salaries or other compensation for personal services actually  
98 rendered; nonreimbursable traveling expenses incident to current  
99 employment, including a reasonable amount expended for meals and  
100 lodging while away from home in the pursuit of a trade or  
101 business; and rentals or other payments required to be made as a  
102 condition of the continued use or possession, for purposes of the  
103 trade or business of property to which the taxpayer has not taken  
104 or is not taking title or in which he had no equity. Expense  
105 incurred in connection with earning and distributing nontaxable  
106 income is not an allowable deduction. Limitations on  
107 entertainment expenses shall conform to the provisions of the  
108 Internal Revenue Code of 1986.

109           (b) **Interest.** All interest paid or accrued during the  
110 taxable year on business indebtedness, except interest upon the  
111 indebtedness for the purchase of tax-free bonds, or any stocks,  
112 the dividends from which are nontaxable under the provisions of  
113 this article; provided, however, in the case of securities  
114 dealers, interest payments or accruals on loans, the proceeds of  
115 which are used to purchase tax-exempt securities, shall be  
116 deductible if income from otherwise tax-free securities is  
117 reported as income. Investment interest expense shall be limited  
118 to investment income. Interest expense incurred for the purchase  
119 of treasury stock, to pay dividends, or incurred as a result of an  
120 undercapitalized affiliated corporation may not be deducted unless  
121 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) (3) (I).

(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 (3) (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 Internal Revenue Code of 1986.



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

153           (f) **Depreciation.** A reasonable allowance for  
154 exhaustion, wear and tear of property used in the trade or  
155 business, or rental property, and depreciation upon buildings  
156 based upon their reasonable value as of March 16, 1912, if  
157 acquired prior thereto, and upon cost if acquired subsequent to  
158 that date. In the case of new or used aircraft, equipment,  
159 engines, or other parts and tools used for aviation, allowance for  
160 bonus depreciation conforms with the federal bonus depreciation  
161 rates and reasonable allowance for depreciation under this section  
162 is no less than one hundred percent (100%).

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

170           (h) **Contributions or gifts.** Except as otherwise  
171 provided in paragraph (p) of this subsection or subsection (3)(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.





196                   (k)   **Contributions to employee pension plans.**

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

208                   (i)   The plan or trust be irrevocable.

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

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

219           Contributions to all plans or to all trusts of real or  
220   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.

(1) **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 as in effect at the taxable year end or on December 31, 2000, whichever is earlier.

A net operating loss for any taxable year ending after December 31, 2001, and taxable years thereafter, shall be a net operating loss carryback to each of the two (2) 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 two (2) taxable years preceding the taxable year of the loss, then there shall be a net operating loss carryover to each of the twenty (20) taxable years following the taxable year of the loss beginning with any taxable year after the taxable year of the loss.

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 Department of Revenue 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. A 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.

(p) **Contributions of human pharmaceutical products.** To the extent that a "major supplier" as defined in Section 27-13-13(2) (d) contributes human pharmaceutical products in excess of Two Hundred Fifty Million Dollars (\$250,000,000.00) as determined under Section 170 of the Internal Revenue Code, the charitable contribution limitation associated with those donations



shall follow the federal limitation but cannot result in the Mississippi net income being reduced below zero.

(q) **Contributions to ABLE trust fund accounts.**

Contributions or payments to a Mississippi Achieving a Better Life Experience (ABLE) Program account are deductible as provided under Section 43-28-13.

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

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

(i) "Intangible expenses and costs" include:

1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income under this chapter;
2. Expenses or losses related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;
3. Royalty, patent, technical and copyright fees;
4. Licensing fees; and
5. Other similar expenses and costs.



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

(iii) "Interest expenses and cost" means amounts directly or indirectly allowed as deductions for purposes of determining taxable income under this chapter to the extent such interest expenses and costs are directly or indirectly for, related to, or in connection with the direct or indirect acquisition, maintenance, management, ownership, sale, exchange or disposition of intangible property.

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

(v) "Related entity" means:

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

2. A stockholder, or a stockholder's partnership, limited liability company, estate, trust or



corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and corporations own, directly, indirectly, beneficially or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

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

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

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

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





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

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

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

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

(3) **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:



415                   (i)   The deduction for state income taxes paid or  
416 other taxes allowed for federal purposes in lieu of state income  
417 taxes paid;

418                   (ii)   The deduction for gaming losses from gaming  
419 establishments;

420                   (iii)   The deduction for taxes collected by  
421 licensed gaming establishments pursuant to Section 27-7-901;

422                   (iv)   The deduction for taxes collected by gaming  
423 establishments pursuant to Section 27-7-903.

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

429                   (i)   Three Thousand Four Hundred Dollars  
430 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred  
431 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand  
432 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter  
433 in the case of married individuals filing a joint or combined  
434 return;

435                   (ii)   One Thousand Seven Hundred Dollars  
436 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred  
437 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand  
438 Three Hundred Dollars (\$2,300.00) for each calendar year



439 thereafter in the case of married individuals filing separate  
440 returns;

441 (iii) Three Thousand Four Hundred Dollars  
442 (\$3,400.00) in the case of a head of family; or  
443 (iv) Two Thousand Three Hundred Dollars  
444 (\$2,300.00) in the case of an individual who is not married.

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

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

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

461 (5) Notwithstanding any other provision in Title 27,  
462 Mississippi Code of 1972, there shall be allowed an income tax  
463 deduction for otherwise deductible expenses if:



(a) The payment(s) for such deductible expenses are made with the grant or loan program of the Paycheck Protection Program as authorized under (i) the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Consolidated Appropriations Act of 2021, (ii) the COVID-19 Economic Injury Disaster Loan Program, (iii) the 2020 COVID-19 Mississippi Business Assistance Act, (iv) the Rental Assistance Grant Program, (v) the Shuttered Venue Operators Grant Program and Restaurant Revitalization Fund authorized by the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, and amended by the federal American Rescue Plan Act, and/or (vi) the Mississippi Agriculture Stabilization Act; and

(b) Such deductible expenses shall be allowed as deductions for federal income tax purposes.

**From and after February 2, 2022, this section shall read 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



489 lodging while away from home in the pursuit of a trade or  
490 business; and rentals or other payments required to be made as a  
491 condition of the continued use or possession, for purposes of the  
492 trade or business of property to which the taxpayer has not taken  
493 or is not taking title or in which he had no equity. Expense  
494 incurred in connection with earning and distributing nontaxable  
495 income is not an allowable deduction. Limitations on  
496 entertainment expenses shall conform to the provisions of the  
497 Internal Revenue Code of 1986. There shall also be allowed a  
498 deduction for expenses as provided in Section 26 of Senate Bill  
499 No. 2095, 2022 Regular Session.

500           (b) **Interest.** All interest paid or accrued during the  
501 taxable year on business indebtedness, except interest upon the  
502 indebtedness for the purchase of tax-free bonds, or any stocks,  
503 the dividends from which are nontaxable under the provisions of  
504 this article; provided, however, in the case of securities  
505 dealers, interest payments or accruals on loans, the proceeds of  
506 which are used to purchase tax-exempt securities, shall be  
507 deductible if income from otherwise tax-free securities is  
508 reported as income. Investment interest expense shall be limited  
509 to investment income. Interest expense incurred for the purchase  
510 of treasury stock, to pay dividends, or incurred as a result of an  
511 undercapitalized affiliated corporation may not be deducted unless  
512 an ordinary and necessary business purpose can be established to  
513 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) (3) (I) .

(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 (3) (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 Internal Revenue Code of 1986.



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

544           (f) **Depreciation.** A reasonable allowance for  
545 exhaustion, wear and tear of property used in the trade or  
546 business, or rental property, and depreciation upon buildings  
547 based upon their reasonable value as of March 16, 1912, if  
548 acquired prior thereto, and upon cost if acquired subsequent to  
549 that date. In the case of new or used aircraft, equipment,  
550 engines, or other parts and tools used for aviation, allowance for  
551 bonus depreciation conforms with the federal bonus depreciation  
552 rates and reasonable allowance for depreciation under this section  
553 is no less than one hundred percent (100%).

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

561           (h) **Contributions or gifts.** Except as otherwise  
562 provided in paragraph (p) of this subsection or subsection (3)(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.





587 (k) **Contributions to employee pension plans.**

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

599 (i) The plan or trust be irrevocable.

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

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

610 Contributions to all plans or to all trusts of real or  
611 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.

(1) **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 as in effect at the taxable year end or on December 31, 2000, whichever is earlier.

A net operating loss for any taxable year ending after December 31, 2001, and taxable years thereafter, shall be a net operating loss carryback to each of the two (2) 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 two (2) taxable years preceding the taxable year of the loss, then there shall be a net operating loss carryover to each of the twenty (20) taxable years following the taxable year of the loss beginning with any taxable year after the taxable year of the loss.

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 Department of Revenue 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. A 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.



686 (iii) A holding corporation receiving a dividend  
687 from a REIT shall not be allowed the deduction in Section  
688 27-7-15(4) (t) .

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

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

697 (o) **Contributions to college savings trust fund**  
698 **accounts.** Contributions or payments to a Mississippi Affordable  
699 College Savings Program account are deductible as provided under  
700 Section 37-155-113. Payments made under a prepaid tuition  
701 contract entered into under the Mississippi Prepaid Affordable  
702 College Tuition Program are deductible as provided under Section  
703 37-155-17.

704 (p) **Contributions of human pharmaceutical products.** To  
705 the extent that a "major supplier" as defined in Section  
706 27-13-13(2) (d) contributes human pharmaceutical products in excess  
707 of Two Hundred Fifty Million Dollars (\$250,000,000.00) as  
708 determined under Section 170 of the Internal Revenue Code, the  
709 charitable contribution limitation associated with those donations



shall follow the federal limitation but cannot result in the Mississippi net income being reduced below zero.

(q) **Contributions to ABLE trust fund accounts.**

Contributions or payments to a Mississippi Achieving a Better Life Experience (ABLE) Program account are deductible as provided under Section 43-28-13.

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

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

(i) "Intangible expenses and costs" include:

1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income under this chapter;
2. Expenses or losses related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;
3. Royalty, patent, technical and copyright fees;
4. Licensing fees; and
5. Other similar expenses and costs.



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

(iii) "Interest expenses and cost" means amounts directly or indirectly allowed as deductions for purposes of determining taxable income under this chapter to the extent such interest expenses and costs are directly or indirectly for, related to, or in connection with the direct or indirect acquisition, maintenance, management, ownership, sale, exchange or disposition of intangible property.

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

(v) "Related entity" means:

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

2. A stockholder, or a stockholder's partnership, limited liability company, estate, trust or



corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and corporations own, directly, indirectly, beneficially or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

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

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

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

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





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

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

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

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

(3) **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:



806                   (i) The deduction for state income taxes paid or  
807 other taxes allowed for federal purposes in lieu of state income  
808 taxes paid;

809                   (ii) The deduction for gaming losses from gaming  
810 establishments;

811                   (iii) The deduction for taxes collected by  
812 licensed gaming establishments pursuant to Section 27-7-901;

813                   (iv) The deduction for taxes collected by gaming  
814 establishments pursuant to Section 27-7-903.

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

820                   (i) Three Thousand Four Hundred Dollars  
821 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred  
822 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand  
823 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter  
824 in the case of married individuals filing a joint or combined  
825 return;

826                   (ii) One Thousand Seven Hundred Dollars  
827 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred  
828 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand  
829 Three Hundred Dollars (\$2,300.00) for each calendar year



830 thereafter in the case of married individuals filing separate  
831 returns;

832 (iii) Three Thousand Four Hundred Dollars  
833 (\$3,400.00) in the case of a head of family; or  
834 (iv) Two Thousand Three Hundred Dollars  
835 (\$2,300.00) in the case of an individual who is not married.

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

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

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

852 (5) Notwithstanding any other provision in Title 27,  
853 Mississippi Code of 1972, there shall be allowed an income tax  
854 deduction for otherwise deductible expenses if:



855           (a) The payment(s) for such deductible expenses are  
856 made with the grant or loan program of the Paycheck Protection  
857 Program as authorized under (i) the Coronavirus Aid, Relief, and  
858 Economic Security (CARES) Act and the Consolidated Appropriations  
859 Act of 2021, (ii) the COVID-19 Economic Injury Disaster Loan  
860 Program, (iii) the 2020 COVID-19 Mississippi Business Assistance  
861 Act, (iv) the Rental Assistance Grant Program, (v) the Shuttered  
862 Venue Operators Grant Program and Restaurant Revitalization Fund  
863 authorized by the Economic Aid to Hard-Hit Small Businesses,  
864 Nonprofits, and Venues Act, and amended by the federal American  
865 Rescue Plan Act, and/or (vi) the Mississippi Agriculture  
866 Stabilization Act; and

867           (b) Such deductible expenses shall be allowed as  
868 deductions for federal income tax purposes.

869           **SECTION 5.** Section 4 of this act shall take effect and be in  
870 force from and after January 1, 2020. The remainder of this act  
871 shall take effect and be in force from and after January 1, 2022,  
872 and shall stand repealed on December 31, 2021.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1           AN ACT TO AUTHORIZE AN INCOME TAX CREDIT FOR CERTAIN RAILROAD  
2 RECONSTRUCTION OR REPLACEMENT EXPENDITURES AND FOR CERTAIN NEW  
3 RAIL INFRASTRUCTURE EXPENDITURES MADE BY CLASS II AND CLASS III  
4 RAILROADS; TO DEFINE CERTAIN TERMS FOR THE PURPOSES OF THIS ACT;  
5 TO PROVIDE THE AMOUNT OF THE TAX CREDIT; TO PROVIDE THAT ANY UNUSED  
6 PORTION OF THE TAX CREDIT MAY BE CARRIED FORWARD; TO PROVIDE THAT  
7 ANY UNUSED PORTION OF THE TAX CREDIT MAY BE TRANSFERRED TO ANOTHER  
8 TAXPAYER; TO AMEND SECTION 27-7-17, MISSISSIPPI CODE OF 1972, AS



9 AMENDED BY SENATE BILL NO. 2095, 2022 REGULAR SESSION, AND HOUSE  
10 BILL NO. 1529, 2022 REGULAR SESSION, TO CONFORM TO THE AMENDMENTS  
11 MADE BY BOTH BILLS; AND FOR RELATED PURPOSES.

