

By: Senator(s) Minor

To: Finance

SENATE BILL NO. 3114

1 AN ACT TO AMEND SECTION 27-7-17, MISSISSIPPI CODE OF 1972, TO  
 2 PROVIDE THAT NET OPERATING LOSSES FOR ANY TAXABLE YEAR ENDING  
 3 AFTER DECEMBER 31, 2001, SHALL BE A NET OPERATING LOSS CARRYBACK  
 4 FOR EACH OF THE TWO TAXABLE YEARS PRECEDING THE LOSS; TO PROVIDE  
 5 THAT IF THE NET OPERATING LOSS FOR ANY TAXABLE YEAR IS NOT  
 6 EXHAUSTED BY CARRYBACKS TO SUCH PRECEDING YEARS, THEN THERE SHALL  
 7 BE A NET OPERATING LOSS CARRYOVER TO EACH OF THE TWENTY TAXABLE  
 8 YEARS FOLLOWING THE TAXABLE YEAR OF THE LOSS; AND FOR RELATED  
 9 PURPOSES.

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

11 **SECTION 1.** Section 27-7-17, Mississippi Code of 1972, is  
 12 amended as follows:

13 **[From and after January 1, 2002, through June 30, 2003, this**  
 14 **section shall read as follows:]**

15 27-7-17. In computing taxable income, there shall be allowed  
 16 as deductions:

17 (1) **Business deductions.**

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



31 entertainment expenses shall conform to the provisions of the  
32 Internal Revenue Code of 1986.

33           (b) **Interest.** All interest paid or accrued during the  
34 taxable year on business indebtedness, except interest upon the  
35 indebtedness for the purchase of tax-free bonds, or any stocks,  
36 the dividends from which are nontaxable under the provisions of  
37 this article; provided, however, in the case of securities  
38 dealers, interest payments or accruals on loans, the proceeds of  
39 which are used to purchase tax-exempt securities, shall be  
40 deductible if income from otherwise tax-free securities is  
41 reported as income. Investment interest expense shall be limited  
42 to investment income. Interest expense incurred for the purchase  
43 of treasury stock, to pay dividends, or incurred as a result of an  
44 undercapitalized affiliated corporation may not be deducted unless  
45 an ordinary and necessary business purpose can be established to  
46 the satisfaction of the commissioner. For the purposes of this  
47 paragraph, the phrase "interest upon the indebtedness for the  
48 purchase of tax-free bonds" applies only to the indebtedness  
49 incurred for the purpose of directly purchasing tax-free bonds and  
50 does not apply to any other indebtedness incurred in the regular  
51 course of the taxpayer's business. Any corporation, association,  
52 organization or other entity taxable under Section 27-7-23(c)  
53 shall allocate interest expense as provided in Section  
54 27-7-23(c)(3)(I).

55           (c) **Taxes.** Taxes paid or accrued within the taxable  
56 year, except state and federal income taxes, excise taxes based on  
57 or measured by net income, estate and inheritance taxes, gift  
58 taxes, cigar and cigarette taxes, gasoline taxes, and sales and  
59 use taxes unless incurred as an item of expense in a trade or  
60 business or in the production of taxable income. In the case of  
61 an individual, taxes permitted as an itemized deduction under the  
62 provisions of subsection (3)(a) of this section are to be claimed  
63 thereunder.



64 (d) **Business losses.**

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

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

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

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

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

90 (h) **Contributions or gifts.** Except as otherwise  
91 provided in subsection (3)(a) of this section for individuals,  
92 contributions or gifts made by corporations within the taxable  
93 year to corporations, organizations, associations or institutions,  
94 including Community Chest funds, foundations and trusts created  
95 solely and exclusively for religious, charitable, scientific or  
96 educational purposes, or for the prevention of cruelty to children



97 or animals, no part of the net earnings of which inure to the  
98 benefit of any private stockholder or individual. This deduction  
99 shall be allowed in an amount not to exceed twenty percent (20%)  
100 of the net income. Such contributions or gifts shall be allowable  
101 as deductions only if verified under rules and regulations  
102 prescribed by the commissioner, with the approval of the Governor.  
103 Contributions made in any form other than cash shall be allowed as  
104 a deduction, subject to the limitations herein provided, in an  
105 amount equal to the actual market value of the contributions at  
106 the time the contribution is actually made and consummated.

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

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

115 (k) **Contributions to employee pension plans.**  
116 Contributions made by an employer to a plan or a trust forming  
117 part of a pension plan, stock bonus plan, disability or  
118 death-benefit plan, or profit-sharing plan of such employer for  
119 the exclusive benefit of some or all of his, their, or its  
120 employees, or their beneficiaries, shall be deductible from his,  
121 their, or its income only to the extent that, and for the taxable  
122 year in which, the contribution is deductible for federal income  
123 tax purposes under the Internal Revenue Code of 1986 and any other  
124 provisions of similar purport in the Internal Revenue Laws of the  
125 United States, and the rules, regulations, rulings and  
126 determinations promulgated thereunder, provided that:

127 (i) The plan or trust be irrevocable.

128 (ii) The plan or trust constitute a part of a  
129 pension plan, stock bonus plan, disability or death-benefit plan,



130 or profit-sharing plan for the exclusive benefit of some or all of  
131 the employer's employees and/or officers, or their beneficiaries,  
132 for the purpose of distributing the corpus and income of the plan  
133 or trust to such employees and/or officers, or their  
134 beneficiaries.

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

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

145 (1) **Net operating loss carrybacks and carryovers.** A  
146 net operating loss for any taxable year ending after December 31,  
147 1993, and taxable years thereafter, shall be a net operating loss  
148 carryback to each of the three (3) taxable years preceding the  
149 taxable year of the loss. If the net operating loss for any  
150 taxable year is not exhausted by carrybacks to the three (3)  
151 taxable years preceding the taxable year of the loss, then there  
152 shall be a net operating loss carryover to each of the fifteen  
153 (15) taxable years following the taxable year of the loss  
154 beginning with any taxable year after December 31, 1991.

155 For any taxable year ending after December 31, 1997, the  
156 period for net operating loss carrybacks and net operating loss  
157 carryovers shall be the same as those established by the Internal  
158 Revenue Code and the rules, regulations, rulings and  
159 determinations promulgated thereunder as in effect at the taxable  
160 year end or on December 31, 2000, whichever is earlier.

161 A net operating loss for any taxable year ending after  
162 December 31, 2001, and taxable years thereafter, shall be a net



163 operating loss carryback to each of the two (2) taxable years  
164 preceding the taxable year of the loss. If the net operating loss  
165 for any taxable year is not exhausted by carrybacks to the two (2)  
166 taxable years preceding the taxable year of the loss, then there  
167 shall be a net operating loss carryover to each of the twenty (20)  
168 taxable years following the taxable year of the loss beginning  
169 with any taxable year after the taxable year of the loss. The  
170 term "net operating loss," for the purposes of this paragraph,  
171 shall be the excess of the deductions allowed over the gross  
172 income; provided, however, the following deductions shall not be  
173 allowed in computing same:

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

176 (ii) No personal exemption deduction shall be  
177 allowed.

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

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

191 (m) **Amortization of pollution or environmental control**  
192 **facilities. Allowance of deduction.** Every taxpayer, at his  
193 election, shall be entitled to a deduction for pollution or  
194 environmental control facilities to the same extent as that



195 allowed under the Internal Revenue Code and the rules,  
196 regulations, rulings and determinations promulgated thereunder.

197           (n) **Dividend distributions - real estate investment**  
198 **trusts.** "Real estate investment trust" (hereinafter referred to  
199 as REIT) shall have the meaning ascribed to such term in Section  
200 856 of the federal Internal Revenue Code of 1986, as amended. A  
201 REIT is allowed a dividend distributed deduction if the dividend  
202 distributions meet the requirements of Section 857 or are  
203 otherwise deductible under Section 858 or 860, federal Internal  
204 Revenue Code of 1986, as amended. In addition:

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

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

214           (iii) A holding corporation receiving a dividend  
215 from a REIT shall not be allowed the deduction in Section  
216 27-7-15(4)(t).

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

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

225           (o) **Contributions to college savings trust fund**  
226 **accounts.** Contributions or payments to a Mississippi Affordable  
227 College Savings Program account are deductible as provided under



228 Section 37-155-113. Payments made under a prepaid tuition  
229 contract entered into under the Mississippi Prepaid Affordable  
230 College Tuition Program are deductible as provided under Section  
231 37-155-17.

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

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

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

236 1. Expenses, losses and costs for, related  
237 to, or in connection directly or indirectly with the direct or  
238 indirect acquisition, use, maintenance or management, ownership,  
239 sale, exchange or any other disposition of intangible property to  
240 the extent such amounts are allowed as deductions or costs in  
241 determining taxable income under this chapter;

242 2. Expenses or losses related to or incurred  
243 in connection directly or indirectly with factoring transactions  
244 or discounting transactions;

245 3. Royalty, patent, technical and copyright  
246 fees;

247 4. Licensing fees; and

248 5. Other similar expenses and costs.

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

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

259 (iv) "Related member" means an entity or person  
260 that, with respect to the taxpayer during all or any portion of





261 the taxable year, is a related entity, a component member as  
262 defined in the Internal Revenue Code, or is an entity or a person  
263 to or from whom there is attribution of stock ownership in  
264 accordance with Section 1563(e) of the Internal Revenue Code.

265 (v) "Related entity" means:

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

272 2. A stockholder, or a stockholder's  
273 partnership, limited liability company, estate, trust or  
274 corporation, if the stockholder and the stockholder's  
275 partnerships, limited liability companies, estates, trusts and  
276 corporations own, directly, indirectly, beneficially or  
277 constructively, in the aggregate, at least fifty percent (50%) of  
278 the value of the taxpayer's outstanding stock;

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

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

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



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

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

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

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

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

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

318 (a) The amount allowable for individual nonbusiness  
319 itemized deductions for federal income tax purposes where the  
320 individual is eligible to elect, for the taxable year, to itemize  
321 deductions on his federal return except the following:

322 (i) The deduction for state income taxes paid;

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

325 (iii) The deduction for taxes collected by  
326 licensed gaming establishments pursuant to Section 27-7-901.



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

332 (i) Three Thousand Four Hundred Dollars  
333 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred  
334 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand  
335 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter  
336 in the case of married individuals filing a joint or combined  
337 return;

338 (ii) One Thousand Seven Hundred Dollars  
339 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred  
340 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand  
341 Three Hundred Dollars (\$2,300.00) for each calendar year  
342 thereafter in the case of married individuals filing separate  
343 returns;

344 (iii) Three Thousand Four Hundred Dollars  
345 (\$3,400.00) in the case of a head of family; or

346 (iv) Two Thousand Three Hundred Dollars  
347 (\$2,300.00) in the case of an individual who is not married.

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

355 (c) A nonresident individual shall be allowed the same  
356 individual nonbusiness deductions as are authorized for resident  
357 individuals in paragraph (a) or (b) of this subsection; however,  
358 the nonresident individual is entitled only to that proportion of  
359 the individual nonbusiness deductions as his net income from



360 sources within the State of Mississippi bears to his total or  
361 entire net income from all sources.

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

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

366 27-7-17. In computing taxable income, there shall be allowed  
367 as deductions:

368 (1) **Business deductions.**

369 (a) **Business expenses.** All the ordinary and necessary  
370 expenses paid or incurred during the taxable year in carrying on  
371 any trade or business, including a reasonable allowance for  
372 salaries or other compensation for personal services actually  
373 rendered; nonreimbursable traveling expenses incident to current  
374 employment, including a reasonable amount expended for meals and  
375 lodging while away from home in the pursuit of a trade or  
376 business; and rentals or other payments required to be made as a  
377 condition of the continued use or possession, for purposes of the  
378 trade or business of property to which the taxpayer has not taken  
379 or is not taking title or in which he had no equity. Expense  
380 incurred in connection with earning and distributing nontaxable  
381 income is not an allowable deduction. Limitations on  
382 entertainment expenses shall conform to the provisions of the  
383 Internal Revenue Code of 1986.

384 (b) **Interest.** All interest paid or accrued during the  
385 taxable year on business indebtedness, except interest upon the  
386 indebtedness for the purchase of tax-free bonds, or any stocks,  
387 the dividends from which are nontaxable under the provisions of  
388 this article; provided, however, in the case of securities  
389 dealers, interest payments or accruals on loans, the proceeds of  
390 which are used to purchase tax-exempt securities, shall be  
391 deductible if income from otherwise tax-free securities is  
392 reported as income. Investment interest expense shall be limited



393 to investment income. Interest expense incurred for the purchase  
394 of treasury stock, to pay dividends, or incurred as a result of an  
395 undercapitalized affiliated corporation may not be deducted unless  
396 an ordinary and necessary business purpose can be established to  
397 the satisfaction of the commissioner. For the purposes of this  
398 paragraph, the phrase "interest upon the indebtedness for the  
399 purchase of tax-free bonds" applies only to the indebtedness  
400 incurred for the purpose of directly purchasing tax-free bonds and  
401 does not apply to any other indebtedness incurred in the regular  
402 course of the taxpayer's business. Any corporation, association,  
403 organization or other entity taxable under Section 27-7-23(c)  
404 shall allocate interest expense as provided in Section  
405 27-7-23(c)(4)(H).

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

415 (d) **Business losses.**

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

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

422 (e) **Bad debts.** Losses from debts ascertained to be  
423 worthless and charged off during the taxable year, if sustained in  
424 the conduct of the regular trade or business of the taxpayer;  
425 provided, that such losses shall be allowed only when the taxpayer



426 has reported as income, on the accrual basis, the amount of such  
427 debt or account.

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

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

441           (h) **Contributions or gifts.** Except as otherwise  
442 provided in subsection (2)(a) of this section for individuals,  
443 contributions or gifts made by corporations within the taxable  
444 year to corporations, organizations, associations or institutions,  
445 including Community Chest funds, foundations and trusts created  
446 solely and exclusively for religious, charitable, scientific or  
447 educational purposes, or for the prevention of cruelty to children  
448 or animals, no part of the net earnings of which inure to the  
449 benefit of any private stockholder or individual. This deduction  
450 shall be allowed in an amount not to exceed twenty percent (20%)  
451 of the net income. Such contributions or gifts shall be allowable  
452 as deductions only if verified under rules and regulations  
453 prescribed by the commissioner, with the approval of the Governor.  
454 Contributions made in any form other than cash shall be allowed as  
455 a deduction, subject to the limitations herein provided, in an  
456 amount equal to the actual market value of the contributions at  
457 the time the contribution is actually made and consummated.



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

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

466           (k) **Contributions to employee pension plans.**  
467 Contributions made by an employer to a plan or a trust forming  
468 part of a pension plan, stock bonus plan, disability or  
469 death-benefit plan, or profit-sharing plan of such employer for  
470 the exclusive benefit of some or all of his, their, or its  
471 employees, or their beneficiaries, shall be deductible from his,  
472 their, or its income only to the extent that, and for the taxable  
473 year in which, the contribution is deductible for federal income  
474 tax purposes under the Internal Revenue Code of 1986 and any other  
475 provisions of similar purport in the Internal Revenue Laws of the  
476 United States, and the rules, regulations, rulings and  
477 determinations promulgated thereunder, provided that:

478                   (i) The plan or trust be irrevocable.

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

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

489           Contributions to all plans or to all trusts of real or  
490 personal property (or real and personal property combined) or to



491 insured plans created under a retirement plan for which provision  
492 has been made under the laws of the United States of America,  
493 making such contributions deductible from income for federal  
494 income tax purposes, shall be deductible only to the same extent  
495 under the Income Tax Laws of the State of Mississippi.

496 (1) **Net operating loss carrybacks and carryovers.** A  
497 net operating loss for any taxable year ending after December 31,  
498 1993, and taxable years thereafter, shall be a net operating loss  
499 carryback to each of the three (3) taxable years preceding the  
500 taxable year of the loss. If the net operating loss for any  
501 taxable year is not exhausted by carrybacks to the three (3)  
502 taxable years preceding the taxable year of the loss, then there  
503 shall be a net operating loss carryover to each of the fifteen  
504 (15) taxable years following the taxable year of the loss  
505 beginning with any taxable year after December 31, 1991.

506 For any taxable year ending after December 31, 1997, the  
507 period for net operating loss carrybacks and net operating loss  
508 carryovers shall be the same as those established by the Internal  
509 Revenue Code and the rules, regulations, rulings and  
510 determinations promulgated thereunder as in effect at the taxable  
511 year end or on December 31, 2000, whichever is earlier.

512 A net operating loss for any taxable year ending after  
513 December 31, 2001, and taxable years thereafter, shall be a net  
514 operating loss carryback to each of the two (2) taxable years  
515 preceding the taxable year of the loss. If the net operating loss  
516 for any taxable year is not exhausted by carrybacks to the two (2)  
517 taxable years preceding the taxable year of the loss, then there  
518 shall be a net operating loss carryover to each of the twenty (20)  
519 taxable years following the taxable year of the loss beginning  
520 with any taxable year after the taxable year of the loss.

521 The term "net operating loss," for the purposes of this  
522 paragraph, shall be the excess of the deductions allowed over the





523 gross income; provided, however, the following deductions shall  
524 not be allowed in computing same:

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

527 (ii) No personal exemption deduction shall be  
528 allowed.

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

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

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

548 (n) **Dividend distributions - real estate investment**  
549 **trusts.** "Real estate investment trust" (hereinafter referred to  
550 as REIT) shall have the meaning ascribed to such term in Section  
551 856 of the federal Internal Revenue Code of 1986, as amended. A  
552 REIT is allowed a dividend distributed deduction if the dividend  
553 distributions meet the requirements of Section 857 or are  
554 otherwise deductible under Section 858 or 860, federal Internal  
555 Revenue Code of 1986, as amended. In addition:



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

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

565 (iii) A holding corporation receiving a dividend  
566 from a REIT shall not be allowed the deduction in Section  
567 27-7-15(4)(t).

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

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

576 (o) **Contributions to college savings trust fund**  
577 **accounts.** Contributions or payments to a Mississippi Affordable  
578 College Savings Program account are deductible as provided under  
579 Section 37-155-113. Payments made under a prepaid tuition  
580 contract entered into under the Mississippi Prepaid Affordable  
581 College Tuition Program are deductible as provided under Section  
582 37-155-17.

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

584 (a) The amount allowable for individual nonbusiness  
585 itemized deductions for federal income tax purposes where the  
586 individual is eligible to elect, for the taxable year, to itemize  
587 deductions on his federal return except the following:

588 (i) The deduction for state income taxes paid;



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

591 (iii) The deduction for taxes collected by  
592 licensed gaming establishments pursuant to Section 27-7-901.

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

598 (i) Three Thousand Four Hundred Dollars  
599 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred  
600 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand  
601 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter  
602 in the case of married individuals filing a joint or combined  
603 return;

604 (ii) One Thousand Seven Hundred Dollars  
605 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred  
606 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand  
607 Three Hundred Dollars (\$2,300.00) for each calendar year  
608 thereafter in the case of married individuals filing separate  
609 returns;

610 (iii) Three Thousand Four Hundred Dollars  
611 (\$3,400.00) in the case of a head of family; or

612 (iv) Two Thousand Three Hundred Dollars  
613 (\$2,300.00) in the case of an individual who is not married.

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



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

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

630           **SECTION 2.** This act shall take effect and be in force from  
631 and after January 1, 2002.

