

By: Senator(s) Clarke, Burton, Flowers,  
Doxey, Chaney, Wilemon

To: Finance

SENATE BILL NO. 3114

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO  
2 EXCLUDE FROM GROSS INCOME UNDER THE INCOME TAX LAW, AMOUNTS  
3 EXPENDED BY A TEACHER FROM HIS OR HER PERSONAL FUNDS FOR CLASSROOM  
4 SUPPLIES, INSTRUCTIONAL MATERIALS OR EQUIPMENT TO BE USED BY  
5 STUDENTS IN A SCHOOL CLASSROOM; TO AMEND SECTION 27-7-17,  
6 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED  
7 PURPOSES.

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

9 **SECTION 1.** Section 27-7-15, Mississippi Code of 1972, is  
10 amended as follows:

11 27-7-15. (1) For the purposes of this article, except as  
12 otherwise provided, the term "gross income" means and includes the  
13 income of a taxpayer derived from salaries, wages, fees or  
14 compensation for service, of whatever kind and in whatever form  
15 paid, including income from governmental agencies and subdivisions  
16 thereof; or from professions, vocations, trades, businesses,  
17 commerce or sales, or renting or dealing in property, or  
18 reacquired property; also from annuities, interest, rents,  
19 dividends, securities, insurance premiums, reinsurance premiums,  
20 considerations for supplemental insurance contracts, or the  
21 transaction of any business carried on for gain or profit, or  
22 gains, or profits, and income derived from any source whatever and  
23 in whatever form paid. The amount of all such items of income  
24 shall be included in the gross income for the taxable year in  
25 which received by the taxpayer. The amount by which an eligible  
26 employee's salary is reduced pursuant to a salary reduction  
27 agreement authorized under Section 25-17-5 shall be excluded from  
28 the term "gross income" within the meaning of this article.

29           (2) In determining gross income for the purpose of this  
30 section, the following, under regulations prescribed by the  
31 commissioner, shall be applicable:

32           (a) **Dealers in property.** Federal rules, regulations  
33 and revenue procedures shall be followed with respect to  
34 installment sales unless a transaction results in the shifting of  
35 income from inside the state to outside the state.

36           (b) **Casual sales of property.**

37           (i) Prior to January 1, 2001, federal rules,  
38 regulations and revenue procedures shall be followed with respect  
39 to installment sales except they shall be applied and administered  
40 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the  
41 106th Congress, had not been enacted. This provision will  
42 generally affect taxpayers, reporting on the accrual method of  
43 accounting, entering into installment note agreements on or after  
44 December 17, 1999. Any gain or profit resulting from the casual  
45 sale of property will be recognized in the year of sale.

46           (ii) From and after January 1, 2001, federal  
47 rules, regulations and revenue procedures shall be followed with  
48 respect to installment sales except as provided in this  
49 subparagraph (ii). Gain or profit from the casual sale of  
50 property shall be recognized in the year of sale. When a taxpayer  
51 recognizes gain on the casual sale of property in which the gain  
52 is deferred for federal income tax purposes, a taxpayer may elect  
53 to defer the payment of tax resulting from the gain as allowed and  
54 to the extent provided under regulations prescribed by the  
55 commissioner. If the payment of the tax is made on a deferred  
56 basis, the tax shall be computed based on the applicable rate for  
57 the income reported in the year the payment is made. Except as  
58 otherwise provided in subparagraph (iii) of this paragraph (b),  
59 deferring the payment of the tax shall not affect the liability  
60 for the tax. If at any time the installment note is sold,  
61 contributed, transferred or disposed of in any manner and for any

62 purpose by the original note holder, or the original note holder  
63 is merged, liquidated, dissolved or withdrawn from this state,  
64 then all deferred tax payments under this section shall  
65 immediately become due and payable.

66 (iii) If the selling price of the property is  
67 reduced by any alteration in the terms of an installment note,  
68 including default by the purchaser, the gain to be recognized is  
69 recomputed based on the adjusted selling price in the same manner  
70 as for federal income tax purposes. The tax on this amount, less  
71 the previously paid tax on the recognized gain, is payable over  
72 the period of the remaining installments. If the tax on the  
73 previously recognized gain has been paid in full to this state,  
74 the return on which the payment was made may be amended for this  
75 purpose only. The statute of limitations in Section 27-7-49 shall  
76 not bar an amended return for this purpose.

77 (c) **Reserves of insurance companies.** In the case of  
78 insurance companies, any amounts in excess of the legally required  
79 reserves shall be included as gross income.

80 (d) **Affiliated companies or persons.** As regards sales,  
81 exchanges or payments for services from one to another of  
82 affiliated companies or persons or under other circumstances where  
83 the relation between the buyer and seller is such that gross  
84 proceeds from the sale or the value of the exchange or the payment  
85 for services are not indicative of the true value of the subject  
86 matter of the sale, exchange or payment for services, the  
87 commissioner shall prescribe uniform and equitable rules for  
88 determining the true value of the gross income, gross sales,  
89 exchanges or payment for services, or require consolidated returns  
90 of affiliates.

91 (e) **Alimony and separate maintenance payments.** The  
92 federal rules, regulations and revenue procedures in determining  
93 the deductibility and taxability of alimony payments shall be  
94 followed in this state.

95           (f) **Reimbursement for expenses of moving.** There shall  
96 be included in gross income (as compensation for services) any  
97 amount received or accrued, directly or indirectly, by an  
98 individual as a payment for or reimbursement of expenses of moving  
99 from one residence to another residence which is attributable to  
100 employment or self-employment.

101           (3) In the case of taxpayers other than residents, gross  
102 income includes gross income from sources within this state.

103           (4) The words "gross income" do not include the following  
104 items of income which shall be exempt from taxation under this  
105 article:

106           (a) The proceeds of life insurance policies and  
107 contracts paid upon the death of the insured. However, the income  
108 from the proceeds of such policies or contracts shall be included  
109 in the gross income.

110           (b) The amount received by the insured as a return of  
111 premium or premiums paid by him under life insurance policies,  
112 endowment, or annuity contracts, either during the term or at  
113 maturity or upon surrender of the contract.

114           (c) The value of property acquired by gift, bequest,  
115 devise or descent, but the income from such property shall be  
116 included in the gross income.

117           (d) Interest upon the obligations of the United States  
118 or its possessions, or securities issued under the provisions of  
119 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the  
120 War Finance Corporation, or obligations of the State of  
121 Mississippi or political subdivisions thereof.

122           (e) The amounts received through accident or health  
123 insurance as compensation for personal injuries or sickness, plus  
124 the amount of any damages received for such injuries or such  
125 sickness or injuries, or through the War Risk Insurance Act, or  
126 any law for the benefit or relief of injured or disabled members  
127 of the military or naval forces of the United States.

128           (f) Income received by any religious denomination or by  
129 any institution or trust for moral or mental improvements,  
130 religious, Bible, tract, charitable, benevolent, fraternal,  
131 missionary, hospital, infirmary, educational, scientific,  
132 literary, library, patriotic, historical or cemetery purposes or  
133 for two (2) or more of such purposes, if such income be used  
134 exclusively for carrying out one or more of such purposes.

135           (g) Income received by a domestic corporation which is  
136 "taxable in another state" as this term is defined in this  
137 article, derived from business activity conducted outside this  
138 state. Domestic corporations taxable both within and without the  
139 state shall determine Mississippi income on the same basis as  
140 provided for foreign corporations under the provisions of this  
141 article.

142           (h) In case of insurance companies, there shall be  
143 excluded from gross income such portion of actual premiums  
144 received from an individual policyholder as is paid back or  
145 credited to or treated as an abatement of premiums of such  
146 policyholder within the taxable year.

147           (i) Income from dividends that has already borne a tax  
148 as dividend income under the provisions of this article, when such  
149 dividends may be specifically identified in the possession of the  
150 recipient.

151           (j) Amounts paid by the United States to a person as  
152 added compensation for hazardous duty pay as a member of the Armed  
153 Forces of the United States in a combat zone designated by  
154 Executive Order of the President of the United States.

155           (k) Amounts received as retirement allowances,  
156 pensions, annuities or optional retirement allowances paid under  
157 the federal Social Security Act, the Railroad Retirement Act, the  
158 Federal Civil Service Retirement Act, or any other retirement  
159 system of the United States government, retirement allowances paid  
160 under the Mississippi Public Employees' Retirement System,

161 Mississippi Highway Safety Patrol Retirement System or any other  
162 retirement system of the State of Mississippi or any political  
163 subdivision thereof. The exemption allowed under this paragraph  
164 (k) shall be available to the spouse or other beneficiary at the  
165 death of the primary retiree.

166 (l) Amounts received as retirement allowances,  
167 pensions, annuities or optional retirement allowances paid by any  
168 public or governmental retirement system not designated in  
169 paragraph (k) or any private retirement system or plan of which  
170 the recipient was a member at any time during the period of his  
171 employment. Amounts received as a distribution under a Roth  
172 Individual Retirement Account shall be treated in the same manner  
173 as provided under the Internal Revenue Code of 1986, as amended.  
174 The exemption allowed under this paragraph (l) shall be available  
175 to the spouse or other beneficiary at the death of the primary  
176 retiree.

177 (m) Compensation not to exceed the aggregate sum of  
178 Five Thousand Dollars (\$5,000.00) for any taxable year received by  
179 a member of the National Guard or Reserve Forces of the United  
180 States as payment for inactive duty training, active duty training  
181 and state active duty.

182 (n) Compensation received for active service as a  
183 member below the grade of commissioned officer and so much of the  
184 compensation as does not exceed the maximum enlisted amount  
185 received for active service as a commissioned officer in the Armed  
186 Forces of the United States for any month during any part of which  
187 such members of the Armed Forces (i) served in a combat zone as  
188 designated by Executive Order of the President of the United  
189 States or a qualified hazardous duty area as defined by federal  
190 law, or both; or (ii) was hospitalized as a result of wounds,  
191 disease or injury incurred while serving in such combat zone. For  
192 the purposes of this paragraph (n), the term "maximum enlisted

193 amount" means and has the same definition as that term has in 26  
194 USCS 112.

195 (o) The proceeds received from federal and state  
196 forestry incentives programs.

197 (p) The amount representing the difference between the  
198 increase of gross income derived from sales for export outside the  
199 United States as compared to the preceding tax year wherein gross  
200 income from export sales was highest, and the net increase in  
201 expenses attributable to such increased exports. In the absence  
202 of direct accounting the ratio of net profits to total sales may  
203 be applied to the increase in export sales. This paragraph (p)  
204 shall only apply to businesses located in this state engaging in  
205 the international export of Mississippi goods and services. Such  
206 goods or services shall have at least fifty percent (50%) of value  
207 added at a location in Mississippi.

208 (q) Amounts paid by the federal government for the  
209 construction of soil conservation systems as required by a  
210 conservation plan adopted pursuant to 16 USCS 3801 et seq.

211 (r) The amount deposited in a medical savings account,  
212 and any interest accrued thereon, that is a part of a medical  
213 savings account program as specified in the Medical Savings  
214 Account Act under Sections 71-9-1 through 71-9-9; provided,  
215 however, that any amount withdrawn from such account for purposes  
216 other than paying eligible medical expense or to procure health  
217 coverage shall be included in gross income.

218 (s) Amounts paid by the Mississippi Soil and Water  
219 Conservation Commission from the Mississippi Soil and Water  
220 Cost-Share Program for the installation of water quality best  
221 management practices.

222 (t) Dividends received by a holding corporation, as  
223 defined in Section 27-13-1, from a subsidiary corporation, as  
224 defined in Section 27-13-1.

225 (u) Interest, dividends, gains or income of any kind on  
226 any account in the Mississippi Affordable College Savings Trust  
227 Fund, as established in Sections 37-155-101 through 37-155-125, to  
228 the extent that such amounts remain on deposit in the MACS Trust  
229 Fund or are withdrawn pursuant to a qualified withdrawal, as  
230 defined in Section 37-155-105.

231 (v) Interest, dividends or gains accruing on the  
232 payments made pursuant to a prepaid tuition contract, as provided  
233 for in Section 37-155-17.

234 (w) Income resulting from transactions with a related  
235 member where the related member subject to tax under this chapter  
236 was required to, and did in fact, add back the expense of such  
237 transactions as required by Section 27-7-17(2). Under no  
238 circumstances may the exclusion from income exceed the deduction  
239 add-back of the related member, nor shall the exclusion apply to  
240 any income otherwise excluded under this chapter.

241 (x) Amounts that are subject to the tax levied pursuant  
242 to Section 27-7-901, and are paid to patrons by gaming  
243 establishments licensed under the Mississippi Gaming Control Act.

244 (y) Amounts that are subject to the tax levied pursuant  
245 to Section 27-7-903, and are paid to patrons by gaming  
246 establishments not licensed under the Mississippi Gaming Control  
247 Act.

248 (z) Amounts expended by a teacher from his or her  
249 personal funds for classroom supplies, instructional materials or  
250 equipment to be used by students in a school classroom. The  
251 amounts shall be documented pursuant to the regulations of the  
252 State Tax Commission.

253 (5) Prisoners of war, missing in action-taxable status.

254 (a) **Members of the Armed Forces.** Gross income does not  
255 include compensation received for active service as a member of  
256 the Armed Forces of the United States for any month during any  
257 part of which such member is in a missing status, as defined in



258 paragraph (d) of this subsection, during the Vietnam Conflict as a  
259 result of such conflict.

260 (b) **Civilian employees.** Gross income does not include  
261 compensation received for active service as an employee for any  
262 month during any part of which such employee is in a missing  
263 status during the Vietnam Conflict as a result of such conflict.

264 (c) **Period of conflict.** For the purpose of this  
265 subsection, the Vietnam Conflict began February 28, 1961, and ends  
266 on the date designated by the President by Executive Order as the  
267 date of the termination of combatant activities in Vietnam. For  
268 the purpose of this subsection, an individual is in a missing  
269 status as a result of the Vietnam Conflict if immediately before  
270 such status began he was performing service in Vietnam or was  
271 performing service in Southeast Asia in direct support of military  
272 operations in Vietnam. "Southeast Asia," as used in this  
273 paragraph, is defined to include Cambodia, Laos, Thailand and  
274 waters adjacent thereto.

275 (d) "Missing status" means the status of an employee or  
276 member of the Armed Forces who is in active service and is  
277 officially carried or determined to be absent in a status of (i)  
278 missing; (ii) missing in action; (iii) interned in a foreign  
279 country; (iv) captured, beleaguered or besieged by a hostile  
280 force; or (v) detained in a foreign country against his will; but  
281 does not include the status of an employee or member of the Armed  
282 Forces for a period during which he is officially determined to be  
283 absent from his post of duty without authority.

284 (e) "Active service" means active federal service by an  
285 employee or member of the Armed Forces of the United States in an  
286 active duty status.

287 (f) "Employee" means one who is a citizen or national  
288 of the United States or an alien admitted to the United States for  
289 permanent residence and is a resident of the State of Mississippi

290 and is employed in or under a federal executive agency or  
291 department of the Armed Forces.

292 (g) "Compensation" means (i) basic pay; (ii) special  
293 pay; (iii) incentive pay; (iv) basic allowance for quarters; (v)  
294 basic allowance for subsistence; and (vi) station per diem  
295 allowances for not more than ninety (90) days.

296 (h) If refund or credit of any overpayment of tax for  
297 any taxable year resulting from the application of subsection (5)  
298 of this section is prevented by the operation of any law or rule  
299 of law, such refund or credit of such overpayment of tax may,  
300 nevertheless, be made or allowed if claim therefor is filed with  
301 the State Tax Commission within three (3) years after the date of  
302 the enactment of this subsection.

303 (i) The provisions of this subsection shall be  
304 effective for taxable years ending on or after February 28, 1961.

305 (6) A shareholder of an S corporation, as defined in Section  
306 27-8-3(1)(g), shall take into account the income, loss, deduction  
307 or credit of the S corporation only to the extent provided in  
308 Section 27-8-7(2).

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

311 27-7-17. In computing taxable income, there shall be allowed  
312 as deductions:

313 (1) **Business deductions.**

314 (a) **Business expenses.** All the ordinary and necessary  
315 expenses paid or incurred during the taxable year in carrying on  
316 any trade or business, including a reasonable allowance for  
317 salaries or other compensation for personal services actually  
318 rendered; nonreimbursable traveling expenses incident to current  
319 employment, including a reasonable amount expended for meals and  
320 lodging while away from home in the pursuit of a trade or  
321 business; and rentals or other payments required to be made as a  
322 condition of the continued use or possession, for purposes of the

323 trade or business of property to which the taxpayer has not taken  
324 or is not taking title or in which he had no equity. Expense  
325 incurred in connection with earning and distributing nontaxable  
326 income is not an allowable deduction. Limitations on  
327 entertainment expenses shall conform to the provisions of the  
328 Internal Revenue Code of 1986.

329           (b) **Interest.** All interest paid or accrued during the  
330 taxable year on business indebtedness, except interest upon the  
331 indebtedness for the purchase of tax-free bonds, or any stocks,  
332 the dividends from which are nontaxable under the provisions of  
333 this article; provided, however, in the case of securities  
334 dealers, interest payments or accruals on loans, the proceeds of  
335 which are used to purchase tax-exempt securities, shall be  
336 deductible if income from otherwise tax-free securities is  
337 reported as income. Investment interest expense shall be limited  
338 to investment income. Interest expense incurred for the purchase  
339 of treasury stock, to pay dividends, or incurred as a result of an  
340 undercapitalized affiliated corporation may not be deducted unless  
341 an ordinary and necessary business purpose can be established to  
342 the satisfaction of the commissioner. For the purposes of this  
343 paragraph, the phrase "interest upon the indebtedness for the  
344 purchase of tax-free bonds" applies only to the indebtedness  
345 incurred for the purpose of directly purchasing tax-free bonds and  
346 does not apply to any other indebtedness incurred in the regular  
347 course of the taxpayer's business. Any corporation, association,  
348 organization or other entity taxable under Section 27-7-23(c)  
349 shall allocate interest expense as provided in Section  
350 27-7-23(c)(3)(I).

351           (c) **Taxes.** Taxes paid or accrued within the taxable  
352 year, except state and federal income taxes, excise taxes based on  
353 or measured by net income, estate and inheritance taxes, gift  
354 taxes, cigar and cigarette taxes, gasoline taxes, and sales and  
355 use taxes unless incurred as an item of expense in a trade or

356 business or in the production of taxable income. In the case of  
357 an individual, taxes permitted as an itemized deduction under the  
358 provisions of subsection (3)(a) of this section are to be claimed  
359 thereunder.

360 (d) **Business losses.**

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

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

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

373 (f) **Depreciation.** A reasonable allowance for  
374 exhaustion, wear and tear of property used in the trade or  
375 business, or rental property, and depreciation upon buildings  
376 based upon their reasonable value as of March 16, 1912, if  
377 acquired prior thereto, and upon cost if acquired subsequent to  
378 that date.

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

386 (h) **Contributions or gifts.** Except as otherwise  
387 provided in subsection (3)(a) of this section for individuals,  
388 contributions or gifts made by corporations within the taxable

389 year to corporations, organizations, associations or institutions,  
390 including Community Chest funds, foundations and trusts created  
391 solely and exclusively for religious, charitable, scientific or  
392 educational purposes, or for the prevention of cruelty to children  
393 or animals, no part of the net earnings of which inure to the  
394 benefit of any private stockholder or individual. This deduction  
395 shall be allowed in an amount not to exceed twenty percent (20%)  
396 of the net income. Such contributions or gifts shall be allowable  
397 as deductions only if verified under rules and regulations  
398 prescribed by the commissioner, with the approval of the Governor.  
399 Contributions made in any form other than cash shall be allowed as  
400 a deduction, subject to the limitations herein provided, in an  
401 amount equal to the actual market value of the contributions at  
402 the time the contribution is actually made and consummated.

403           (i) **Reserve funds - insurance companies.** In the case  
404 of insurance companies the net additions required by law to be  
405 made within the taxable year to reserve funds when such reserve  
406 funds are maintained for the purpose of liquidating policies at  
407 maturity.

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

411           (k) **Contributions to employee pension plans.**  
412 Contributions made by an employer to a plan or a trust forming  
413 part of a pension plan, stock bonus plan, disability or  
414 death-benefit plan, or profit-sharing plan of such employer for  
415 the exclusive benefit of some or all of his, their, or its  
416 employees, or their beneficiaries, shall be deductible from his,  
417 their, or its income only to the extent that, and for the taxable  
418 year in which, the contribution is deductible for federal income  
419 tax purposes under the Internal Revenue Code of 1986 and any other  
420 provisions of similar purport in the Internal Revenue Laws of the

421 United States, and the rules, regulations, rulings and  
422 determinations promulgated thereunder, provided that:

423 (i) The plan or trust be irrevocable.

424 (ii) The plan or trust constitute a part of a  
425 pension plan, stock bonus plan, disability or death-benefit plan,  
426 or profit-sharing plan for the exclusive benefit of some or all of  
427 the employer's employees and/or officers, or their beneficiaries,  
428 for the purpose of distributing the corpus and income of the plan  
429 or trust to such employees and/or officers, or their  
430 beneficiaries.

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

434 Contributions to all plans or to all trusts of real or  
435 personal property (or real and personal property combined) or to  
436 insured plans created under a retirement plan for which provision  
437 has been made under the laws of the United States of America,  
438 making such contributions deductible from income for federal  
439 income tax purposes, shall be deductible only to the same extent  
440 under the Income Tax Laws of the State of Mississippi.

441 (1) **Net operating loss carrybacks and carryovers.** A  
442 net operating loss for any taxable year ending after December 31,  
443 1993, and taxable years thereafter, shall be a net operating loss  
444 carryback to each of the three (3) taxable years preceding the  
445 taxable year of the loss. If the net operating loss for any  
446 taxable year is not exhausted by carrybacks to the three (3)  
447 taxable years preceding the taxable year of the loss, then there  
448 shall be a net operating loss carryover to each of the fifteen  
449 (15) taxable years following the taxable year of the loss  
450 beginning with any taxable year after December 31, 1991.

451 For any taxable year ending after December 31, 1997, the  
452 period for net operating loss carrybacks and net operating loss  
453 carryovers shall be the same as those established by the Internal

454 Revenue Code and the rules, regulations, rulings and  
455 determinations promulgated thereunder as in effect at the taxable  
456 year end or on December 31, 2000, whichever is earlier.

457 A net operating loss for any taxable year ending after  
458 December 31, 2001, and taxable years thereafter, shall be a net  
459 operating loss carryback to each of the two (2) taxable years  
460 preceding the taxable year of the loss. If the net operating loss  
461 for any taxable year is not exhausted by carrybacks to the two (2)  
462 taxable years preceding the taxable year of the loss, then there  
463 shall be a net operating loss carryover to each of the twenty (20)  
464 taxable years following the taxable year of the loss beginning  
465 with any taxable year after the taxable year of the loss.

466 The term "net operating loss," for the purposes of this  
467 paragraph, shall be the excess of the deductions allowed over the  
468 gross income; provided, however, the following deductions shall  
469 not be allowed in computing same:

470 (i) No net operating loss deduction shall be  
471 allowed.

472 (ii) No personal exemption deduction shall be  
473 allowed.

474 (iii) Allowable deductions which are not  
475 attributable to taxpayer's trade or business shall be allowed only  
476 to the extent of the amount of gross income not derived from such  
477 trade or business.

478 Any taxpayer entitled to a carryback period as provided by  
479 this paragraph may elect to relinquish the entire carryback period  
480 with respect to a net operating loss for any taxable year ending  
481 after December 31, 1991. The election shall be made in the manner  
482 prescribed by the State Tax Commission and shall be made by the  
483 due date, including extensions of time, for filing the taxpayer's  
484 return for the taxable year of the net operating loss for which  
485 the election is to be in effect. The election, once made for any  
486 taxable year, shall be irrevocable for that taxable year.

487                   (m) **Amortization of pollution or environmental control**  
488 **facilities.** Allowance of deduction. Every taxpayer, at his  
489 election, shall be entitled to a deduction for pollution or  
490 environmental control facilities to the same extent as that  
491 allowed under the Internal Revenue Code and the rules,  
492 regulations, rulings and determinations promulgated thereunder.

493                   (n) **Dividend distributions - real estate investment**  
494 **trusts.** "Real estate investment trust" (hereinafter referred to  
495 as REIT) shall have the meaning ascribed to such term in Section  
496 856 of the federal Internal Revenue Code of 1986, as amended. A  
497 REIT is allowed a dividend distributed deduction if the dividend  
498 distributions meet the requirements of Section 857 or are  
499 otherwise deductible under Section 858 or 860, federal Internal  
500 Revenue Code of 1986, as amended. In addition:

501                   (i) A dividend distributed deduction shall only be  
502 allowed for dividends paid by a publicly traded REIT. A qualified  
503 REIT subsidiary shall be allowed a dividend distributed deduction  
504 if its owner is a publicly traded REIT.

505                   (ii) Income generated from real estate contributed  
506 or sold to a REIT by a shareholder or related party shall not give  
507 rise to a dividend distributed deduction, unless the shareholder  
508 or related party would have received the dividend distributed  
509 deduction under this chapter.

510                   (iii) A holding corporation receiving a dividend  
511 from a REIT shall not be allowed the deduction in Section  
512 27-7-15(4)(t).

513                   (iv) Any REIT not allowed the dividend distributed  
514 deduction in the federal Internal Revenue Code of 1986, as  
515 amended, shall not be allowed a dividend distributed deduction  
516 under this chapter.

517                   The commissioner is authorized to promulgate rules and  
518 regulations consistent with the provisions in Section 269 of the



519 federal Internal Revenue Code of 1986, as amended, so as to  
520 prevent the evasion or avoidance of state income tax.

521 (o) **Contributions to college savings trust fund**  
522 **accounts.** Contributions or payments to a Mississippi Affordable  
523 College Savings Program account are deductible as provided under  
524 Section 37-155-113. Payments made under a prepaid tuition  
525 contract entered into under the Mississippi Prepaid Affordable  
526 College Tuition Program are deductible as provided under Section  
527 37-155-17.

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

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

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

532 1. Expenses, losses and costs for, related  
533 to, or in connection directly or indirectly with the direct or  
534 indirect acquisition, use, maintenance or management, ownership,  
535 sale, exchange or any other disposition of intangible property to  
536 the extent such amounts are allowed as deductions or costs in  
537 determining taxable income under this chapter;

538 2. Expenses or losses related to or incurred  
539 in connection directly or indirectly with factoring transactions  
540 or discounting transactions;

541 3. Royalty, patent, technical and copyright  
542 fees;

543 4. Licensing fees; and

544 5. Other similar expenses and costs.

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

548 (iii) "Interest expenses and cost" means amounts  
549 directly or indirectly allowed as deductions for purposes of  
550 determining taxable income under this chapter to the extent such  
551 interest expenses and costs are directly or indirectly for,

552 related to, or in connection with the direct or indirect  
553 acquisition, maintenance, management, ownership, sale, exchange or  
554 disposition of intangible property.

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

561 (v) "Related entity" means:

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

568 2. A stockholder, or a stockholder's  
569 partnership, limited liability company, estate, trust or  
570 corporation, if the stockholder and the stockholder's  
571 partnerships, limited liability companies, estates, trusts and  
572 corporations own, directly, indirectly, beneficially or  
573 constructively, in the aggregate, at least fifty percent (50%) of  
574 the value of the taxpayer's outstanding stock;

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

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

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

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

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

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

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

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

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

614                 (a) The amount allowable for individual nonbusiness  
615 itemized deductions for federal income tax purposes where the  
616 individual is eligible to elect, for the taxable year, to itemize  
617 deductions on his federal return except the following:

618 (i) The deduction for state income taxes paid;  
619 (ii) The deduction for gaming losses from gaming  
620 establishments;  
621 (iii) The deduction for taxes collected by  
622 licensed gaming establishments pursuant to Section 27-7-901;  
623 (iv) The deduction for taxes collected by gaming  
624 establishments pursuant to Section 27-7-903;  
625 (vi) The deduction for amounts expended by a  
626 teacher from his or her personal funds for classroom supplies,  
627 instructional materials or equipment to be used by students in a  
628 school classroom that is excluded from gross income pursuant to  
629 Section 27-7-15.

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

635 (i) Three Thousand Four Hundred Dollars  
636 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred  
637 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand  
638 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter  
639 in the case of married individuals filing a joint or combined  
640 return;

641 (ii) One Thousand Seven Hundred Dollars  
642 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred  
643 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand  
644 Three Hundred Dollars (\$2,300.00) for each calendar year  
645 thereafter in the case of married individuals filing separate  
646 returns;

647 (iii) Three Thousand Four Hundred Dollars  
648 (\$3,400.00) in the case of a head of family; or  
649 (iv) Two Thousand Three Hundred Dollars  
650 (\$2,300.00) in the case of an individual who is not married.

651           In the case of a husband and wife living together, having  
652 separate incomes, and filing combined returns, the standard  
653 deduction authorized may be divided in any manner they choose. In  
654 the case of separate returns by a husband and wife, the standard  
655 deduction shall not be allowed to either if the taxable income of  
656 one of the spouses is determined without regard to the standard  
657 deduction.

658           (c) A nonresident individual shall be allowed the same  
659 individual nonbusiness deductions as are authorized for resident  
660 individuals in paragraph (a) or (b) of this subsection; however,  
661 the nonresident individual is entitled only to that proportion of  
662 the individual nonbusiness deductions as his net income from  
663 sources within the State of Mississippi bears to his total or  
664 entire net income from all sources.

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

667           **SECTION 3.** This act shall take effect and be in force from  
668 and after January 1, 2005.