

By: Representatives Williams, Simpson

To: Ways and Means

## HOUSE BILL NO. 1576

1 AN ACT TO CREATE THE MISSISSIPPI SPECIAL FUEL TAX LAW TO  
2 COMBINE UNDER ONE ARTICLE THE TAXATION OF FUELS FORMERLY KNOWN AS  
3 "OTHER MOTOR FUEL" AND "OTHER OILS"; TO PROVIDE FOR THE  
4 ADMINISTRATION OF THE MISSISSIPPI SPECIAL FUEL TAX LAW BY THE  
5 STATE TAX COMMISSION; TO PROVIDE FOR THE ISSUANCE OF SPECIAL FUEL  
6 PERMITS TO DISTRIBUTORS OF SPECIAL FUEL; TO PROVIDE THAT ALL BONDS  
7 AND PERMITS ISSUED UNDER THE PROVISIONS OF THE OTHER MOTOR FUEL  
8 TAX LAW AND THE OIL TAX LAW IN EFFECT PRIOR TO THE EFFECTIVE DATE  
9 OF THIS ACT SHALL REMAIN IN FULL FORCE AND EFFECT AND ALL  
10 REFERENCES IN SUCH BONDS AND PERMITS TO OIL AND OTHER MOTOR FUEL  
11 SHALL MEAN SPECIAL FUEL; TO PROVIDE FOR THE EXCISE TAX ON SPECIAL  
12 FUEL; TO PROVIDE FOR THE DUTIES AND RESPONSIBILITIES OF  
13 DISTRIBUTORS IN REGARD TO THIS ACT; TO PROVIDE CERTAIN CREDIT AND  
14 EXEMPTIONS REGARDING THE SPECIAL FUEL TAX; TO PROVIDE FOR THE  
15 REGULATION OF DYED DIESEL FUEL AND KEROSENE; TO GIVE THE STATE TAX  
16 COMMISSION CERTAIN POWERS WITH REGARD TO THE ENFORCEMENT OF THIS  
17 ACT; TO PROVIDE FOR PENALTIES FOR VIOLATIONS OF THIS ACT; TO LEVY  
18 A TAX ON UNDYED DIESEL FUEL ON WHICH THE OTHER MOTOR FUEL TAX HAS  
19 NOT BEEN PAID THAT IS HELD IN STORAGE AT A BULK PLANT OR RETAIL  
20 LOCATION ON JULY 1, 1999; TO AMEND SECTION 27-5-101, MISSISSIPPI  
21 CODE OF 1972, TO PROVIDE FOR THE APPORTIONMENT OF TAXES ON SPECIAL  
22 FUELS; TO AMEND SECTION 27-55-12, MISSISSIPPI CODE OF 1972, TO  
23 PROVIDE THE MANNER IN WHICH CERTAIN PERSONS OBTAIN THE EXEMPTION  
24 FROM EXCISE TAXES ON GASOLINE, SPECIAL FUEL AND COMPRESSED GAS; TO  
25 AMEND SECTIONS 7-7-2, 27-55-19, 27-61-3, 27-61-5, 27-61-11,  
26 27-61-12, 49-17-403, 49-17-407, 65-1-8 AND 65-39-35, MISSISSIPPI  
27 CODE OF 1972, IN CONFORMITY THERETO; TO REPEAL SECTIONS 27-55-301  
28 THROUGH 27-55-361, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE  
29 TAXATION OF OTHER MOTOR FUELS; TO REPEAL SECTION 27-55-401,  
30 MISSISSIPPI CODE OF 1972, WHICH APPLIES CERTAIN TAX INCREASES TO  
31 FUELS HELD IN STORAGE; TO REPEAL SECTIONS 27-57-301 THROUGH  
32 27-57-371, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE  
33 TAXATION OF OTHER OILS; TO REPEAL SECTIONS 27-57-361 AND  
34 27-57-363, MISSISSIPPI CODE OF 1972, WHICH REQUIRES PERSONS  
35 TRANSPORTING CERTAIN AMOUNTS OF OIL TO STOP AT CERTAIN INSPECTION  
36 STATIONS AND WHICH GIVE THE STATE TAX COMMISSION CERTAIN POWERS  
37 REGARDING THE REGULATION OF OIL IN CASE OF WAR; AND FOR RELATED  
38 PURPOSES. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF  
39 MISSISSIPPI:

40  
41 SECTION 1. (1) This act may be cited as the "Mississippi  
42 Special Fuel Tax Law."

43 (2) The State Tax Commission is hereby vested with the sole  
44 power and authority, and is charged with the duty of administering  
45 and enforcing the terms and provisions of this act.

46

47        SECTION 2. It is declared to be the purpose and intention of  
48 the Legislature to impose an excise tax, to provide highways,  
49 streets and roads, on all persons engaged in business as  
50 distributors of special fuel in this state, computed at the rates  
51 stated in this article, subject to the exemptions and refunds  
52 herein enumerated; to inquire into all violations; and to impose  
53 and inflict the penalties herein provided; and especially are the  
54 chancery courts of this state authorized and empowered to require  
55 any and all persons to disclose and discover full information with  
56 reference to their dealing in and handling of special fuel as  
57 herein provided. Any and all persons making the disclosures and  
58 discoveries prayed for by any bill filed in the chancery courts of  
59 the State of Mississippi shall be, and are, hereby given full and  
60 complete immunity from all fines and jail sentences imposed by  
61 this article.

62        SECTION 3. The following words, terms and phrases as used in  
63 this act shall have the following meanings unless the context  
64 requires otherwise:

65            (a) "Special fuel" means kerosene, diesel fuel, fuel  
66 oils, and any petroleum fuel or any other product other than  
67 gasoline or compressed gas which is usable as fuel in an internal  
68 combustion engine, and any combustible liquid other than gasoline  
69 or compressed gas used or capable of being used as a fuel in  
70 aircraft.

71            (b) "Bunker oil" means a residual product obtained in  
72 the refining of crude petroleum intended for use for the  
73 generation of heat in a firebox or furnace when its flash point,  
74 as determined by use of the Pensky-Martens tester, shall not be  
75 less than one hundred fifty (150) degrees Fahrenheit and when its  
76 viscosity at one hundred (100) degrees Fahrenheit shall not be  
77 less than one hundred fifty (150) seconds when determined by use  
78 of the Saybolt Universal Tubes.

79            (c) "Person" means any individual, firm, copartnership,  
80 joint venture, association, corporation, estate, trust, or any

81 group or combination acting as a unit, and the plural as well as  
82 the singular number unless the intention to give a more limited  
83 meaning is disclosed by the context.

84 (d) "Distributor of special fuel" means (i) any person  
85 importing special fuel into this state; (ii) any person who shall  
86 receive, purchase, acquire, use, store or sell any special fuel in  
87 this state on which the excise tax hereinafter imposed by this  
88 article has not been paid; (iii) any person exporting special  
89 fuel; and (iv) any person engaged in the distribution of special  
90 fuel by tank car or tank truck or both; provided, that no person  
91 may qualify as a distributor of special fuel for the sole purpose  
92 of using special fuel, as defined in this article, as a fuel to  
93 propel a vehicle or vehicles owned or operated by him on the  
94 highways of this state. The term "distributor of special fuel"  
95 shall also include all persons meeting the definition of  
96 "refiners," "processors," "terminal operator," "blenders" and any  
97 person licensed to sell motor fuel in another state or  
98 jurisdiction who is authorized by that state or jurisdiction to  
99 collect the special fuel excise tax imposed by this article.

100 (e) "Bonded distributor of special fuel" means any  
101 person holding a valid distributor of special fuel permit issued  
102 by the State Tax Commission.

103 (f) "Refiner" or "processor" means every person who  
104 shall receive, produce, manufacture, refine, distill, blend or  
105 compound special fuel in this state, when such person shall engage  
106 in any business incident to or necessary for refining or  
107 processing petroleum products in this state; provided further,  
108 that such refiner or processor must have at least two (2)  
109 ten-thousand-gallon or larger tanks for product storage, and the  
110 blending or mixing process produces a finished product that has  
111 entirely different physical and chemical properties from the  
112 original products.

113 (g) "For nonhighway purposes" means special fuel which  
114 is not used for operating motor vehicles or motor-propelled

115 machines of any description along the public roads, streets,  
116 alleys or highways of this state as defined in this article.

117 (h) "Highway" means every way or place of whatever  
118 nature, including public roads, toll roads, streets and alleys of  
119 this state generally open to the use of the public or to be opened  
120 or reopened to the use of the public for the purpose of vehicular  
121 travel, and notwithstanding that the same may be temporarily  
122 closed for the purpose of construction, reconstruction,  
123 maintenance or repair. Provided, that the confines of a highway  
124 shall include the entire width and length of the right-of-way.

125 (i) "Commission" means the State Tax Commission of the  
126 State of Mississippi, acting either directly or through its duly  
127 authorized officers, agents or employees.

128 (j) "Terminal" means a tank farm within the State of  
129 Mississippi with storage capacity for the receipt of a full barge  
130 delivery or common carrier pipeline delivery of taxable petroleum  
131 products when such products are to be distributed within the  
132 state.

133 (k) "Marine dealer" means any person selling special  
134 fuel from marine or dockside storage facilities when such special  
135 fuel is for use in boats, vessels, barges or ships.

136 (l) "United States Government" shall include all  
137 purchasing officers of the Armed Forces of the United States and  
138 the United States Property and Fiscal Officer for the State of  
139 Mississippi or any other state appointed pursuant to Section 708,  
140 Title 32, United States Code, when purchasing special fuel with  
141 federal funds for the account of and use by a component of the  
142 Armed Forces as herein defined.

143 (m) "Armed Forces" means all components of the Armed  
144 Forces of the United States including the Army National Guard, the  
145 Army National Guard of the United States, the Air National Guard  
146 and the Air National Guard of the United States, as those terms  
147 are defined in Section 101, Title 10, United States Code, and any  
148 other reserve component of the Armed Forces of the United States

149 enumerated in Section 261, Title 10, United States Code.

150 (n) "Motor vehicle" means every vehicle designed,  
151 constructed for or used on the highways of this state which is  
152 self-propelled, except a farm tractor, using the highways solely  
153 in hauling or transporting farm products of the soil from the farm  
154 to a gin or market when the title to such products is still in the  
155 producer, or a farm tractor used in transporting fertilizer or  
156 food to a farm when the title to such products is still in the  
157 user.

158 (o) "Consumer" means, in addition to its ordinary  
159 meaning, a person who purchases undyed diesel fuel to be used for  
160 nonhighway purposes and who does not resell such undyed diesel  
161 fuel.

162 (p) "Retail dealer" means any person who operates a  
163 retail station.

164 (q) "Dyed diesel fuel" means diesel fuel that is dyed  
165 in accordance with United States Environmental Protection Agency  
166 or Internal Revenue Service requirements.

167 (r) "Dyed kerosene" means kerosene that is dyed in  
168 accordance with United States Environmental Protection Agency or  
169 Internal Revenue Service requirements.

170 (s) "Undyed diesel fuel" means diesel fuel that does  
171 not meet the dyeing requirements prescribed by United States  
172 Environmental Protection Agency or Internal Revenue Service  
173 Regulations.

174 (t) "Fuel oil" means a general classification for one  
175 of the petroleum fractions produced in conventional distillation  
176 operations. For the purposes of this article, "Fuel oil" is No.  
177 1, No. 2 and No. 4 fuel oils and No. 1, No. 2 and No. 4 diesel  
178 fuels.

179 (u) "Blender" means any person who blends or compounds  
180 any product to produce special fuel.

181 (v) "Terminal operator" means any person who owns,  
182 operates or otherwise controls a terminal.

183       SECTION 4. Before any person shall engage in business as a  
184 distributor of special fuel in this state, he shall first make  
185 application to the commission, upon forms prescribed by the  
186 commission, for a permit to engage in said business.

187       If the application is approved by the commission, the  
188 applicant shall enter into a good and sufficient surety bond,  
189 written by a company qualified to write such bonds in this state.

190       The bond shall be made payable to the State of Mississippi in a  
191 sum not less than One Thousand Dollars (\$1,000.00) nor more than  
192 Two Hundred Fifty Thousand Dollars (\$250,000.00), the amount to be  
193 determined by the commission; or, in lieu thereof, the applicant  
194 may deposit with the commission a cash bond in the amount so  
195 determined. A personal bond in the amount so determined shall  
196 also be acceptable in lieu of a surety bond if the same is  
197 adequately secured by the pledge or assignment of a pledgeable or  
198 assignable bond, or bonds, of the State of Mississippi or the  
199 United States Government. Such bond or bonds shall be in an  
200 amount not to exceed Two Hundred Fifty Thousand Dollars  
201 (\$250,000.00), and not to exceed the special fuel taxes estimated  
202 to become due by the distributor of special fuel for any  
203 ninety-day period. The bond required by this section shall be  
204 increased within the limits hereinabove set forth from time to  
205 time if deemed insufficient by the commission, giving to the  
206 distributor of special fuel fifteen (15) days' notice, in writing,  
207 to increase such bond, such notice to state the amount of increase  
208 demanded.

209       The condition of such bond shall be that the distributor of  
210 special fuel shall fully comply with all laws pertaining to  
211 distributors of special fuel and pertaining to the transportation  
212 of special fuel as regulated by this act, and that he shall pay  
213 the special fuel taxes, and the penalties provided.

214       SECTION 5. Any person engaging in business as a distributor  
215 of special fuel in this state without having the permit required  
216 by Section 4 of this act, shall be guilty of a misdemeanor and

217 upon conviction shall be punished by a fine of One Thousand  
218 Dollars (\$1,000.00) or imprisonment in the county jail for six (6)  
219 months, or both.

220       SECTION 6. If the commission approves the application and  
221 bond, it shall issue a permit authorizing such applicant to engage  
222 in business as a bonded distributor of special fuel, and the  
223 permit shall not be assignable or otherwise transferable. Permits  
224 may be revoked for any single business location or all such  
225 locations by the commission at any time upon ten (10) days'  
226 written notice, if the distributor shall fail to pay the special  
227 fuel taxes and penalties due within the time provided by law, or  
228 shall fail in any way to comply with all of the provisions of this  
229 act, but the cancellation shall not relieve such distributor of  
230 special fuel or his sureties from liability on his distributor of  
231 special fuel bond. No permit shall be issued to any applicant who  
232 is in arrears or default to this state, or any subdivision  
233 thereof, for any taxes.

234       All bonds issued under the provisions of the other motor fuel  
235 tax law and the oil tax law in effect prior to the effective date  
236 of this act shall remain in full force and effect and all  
237 references in such bonds to oil and/or other motor fuel shall mean  
238 special fuel.

239       All permits issued under the provisions of the other motor  
240 fuel tax law and the oil tax law in effect prior to the effective  
241 date of this act shall remain in full force and effect and all  
242 references on said permits to oil and/or other motor fuel shall  
243 mean special fuel.

244       SECTION 7. (1) The commission may adopt rules and  
245 regulations to provide for the issuance of permits to persons  
246 performing contracts for construction, reconstruction, maintenance  
247 or repairs, where such contracts are entered into with the State  
248 of Mississippi, any political subdivision of the State of  
249 Mississippi, any department, agency or institution of the State of  
250 Mississippi or any political subdivision thereof, allowing or

251 requiring such persons to purchase special fuel for use in  
252 performing such contracts without the payment to the distributor  
253 of the tax levied in this act, and to provide that such persons  
254 report and pay such tax directly to the commission in instances  
255 where the commission determines that such payment will facilitate  
256 and expedite the collection of the tax which may be due on special  
257 fuel used by the permittee.

258 (2) The distributor of special fuel is relieved of  
259 collecting and remitting the taxes levied in this act, when  
260 furnished with a copy of a permit issued pursuant to this section  
261 and the person holding the permit shall become liable for such  
262 taxes instead of the distributor. The full enforcement provisions  
263 of this act shall apply in the collection of the tax from the  
264 permittee.

265 (3) The commission may require the permittee to execute and  
266 file with the commission a good and valid bond written by a surety  
267 company authorized to do business in this state. The bond shall  
268 be conditioned that all taxes which may accrue to the State of  
269 Mississippi under the provisions of this article will be paid when  
270 due. Provided, further, the commission may accept a bond filed  
271 under the provisions of Section 27-65-21, Mississippi Code of  
272 1972, when such bond is conditioned upon the payment of the taxes  
273 imposed by this act.

274 SECTION 8. Before any person shall purchase and store diesel  
275 fuel or kerosene in marine storage, dockside storage or in barges  
276 for sale or delivery to boats, such person shall make application  
277 to the commission for a marine diesel fuel or kerosene permit. If  
278 the commission approves the application, it shall issue a permit  
279 authorizing the applicant to engage in business as a marine diesel  
280 fuel or kerosene dealer, and said permit shall not be assignable  
281 or otherwise transferable.

282 SECTION 9. The commission may adopt rules and regulations  
283 allowing retail dealers to sell dyed diesel fuel. Such retail  
284 dealers shall comply with all rules and regulations pertaining to



285 retail dealers selling dyed diesel fuel. The commission may  
286 require such retailers to execute and file with the commission a  
287 good and valid bond, written by a surety company authorized to do  
288 business in the state, conditioned that all taxes which may accrue  
289 to the State of Mississippi under the provisions of this act will  
290 be paid when due.

291 SECTION 10. (1) Any person engaged in business as a  
292 distributor of special fuel or who acts as a distributor of  
293 special fuel, as defined in Section 3 of this act, shall pay for  
294 the privilege of engaging in such business or acting as such  
295 distributor an excise tax on all special fuel stored, used, sold,  
296 distributed, manufactured, refined, distilled, blended or  
297 compounded in this state or received in this state for sale,  
298 storage, distribution or for any purpose, adjusted to sixty (60)  
299 degrees Fahrenheit.

300 The excise tax shall become due and payable when:

301 (a) Special fuel is withdrawn from storage at a  
302 refinery, marine or pipeline terminal, except when withdrawal is  
303 by barge or pipeline.

304 (b) Special fuel imported by a common carrier is  
305 unloaded by that carrier unless the special fuel is unloaded  
306 directly into the storage tanks of a refinery, marine or pipeline  
307 terminal.

308 (c) Special fuel imported by any person other than a  
309 common carrier enters the State of Mississippi unless the special  
310 fuel is unloaded directly into the storage tanks of a refinery,  
311 marine or pipeline terminal.

312 (d) Special fuel is blended in this state unless such  
313 blending occurs in a refinery, marine or pipeline terminal.

314 (e) Special fuel is acquired tax free.

315 (2) The special fuel excise tax shall be as follows:

316 (a) Eighteen Cents (18¢) per gallon on undyed diesel  
317 fuel until the date specified in Section 69-39-35, Mississippi  
318 Code of 1972, and Fourteen and Three-fourths Cents (14.75¢) per

319 gallon thereafter;

320 (b) Five and Three-fourths Cents (5.75¢) per gallon on  
321 all special fuel except undyed diesel fuel and special fuel used  
322 as fuels in aircraft; and

323 (c) Five and One-fourth Cents (5.25¢) per gallon on  
324 special fuel used as fuel in aircraft.

325 SECTION 11. (1) An excise tax at the rate of Eighteen Cents  
326 (18¢) per gallon until the date specified in Section 69-39-35,  
327 Mississippi Code of 1972, and Fourteen and Three-fourths Cents  
328 (14.75¢) per gallon thereafter is levied on any person engaged in  
329 business as a distributor of special fuel or who acts as such who  
330 sells:

331 (a) Special fuel for use in performing contracts for  
332 construction, reconstruction, maintenance or repairs, where such  
333 contracts are entered into with the State of Mississippi, any  
334 political subdivision of the State of Mississippi, or any  
335 department, agency, institution of the State of Mississippi or any  
336 political subdivision thereof.

337 (b) Dyed diesel fuel or kerosene to a state or local  
338 governmental entity for use on the highways in a motor vehicle.

339 (c) Special fuel for use on the highway.

340 (2) An excise tax at the rate of Eighteen Cents (18¢) per  
341 gallon until the date specified in Section 69-39-35, Mississippi  
342 Code of 1972, and Fourteen and Three-fourths Cents (14.75¢) per  
343 gallon thereafter is levied on any person who:

344 (a) Uses dyed diesel fuel or kerosene in a motor  
345 vehicle on the highways of this state in violation of Section 20  
346 of this act.

347 (b) Purchases or acquires undyed diesel fuel or  
348 kerosene for nonhighway use and subsequently uses such diesel fuel  
349 or kerosene in a motor vehicle on the highways of this state.

350 (c) Purchases or acquires special fuel for use in  
351 performing contracts as specified in this section.

352 SECTION 12. For the purpose of determining the amount of his

353 liability for the tax imposed by this act, each bonded distributor  
354 of special fuel shall, not later than the twentieth day of the  
355 month next following the month in which this act becomes  
356 effective, and not later than the twentieth day of each month  
357 thereafter, file with the commission a monthly report which shall  
358 include a statement of the number of gallons of special fuel  
359 received and sold by such distributor of special fuel within this  
360 state during the preceding calendar month, and such other  
361 information as may be reasonably necessary for the proper  
362 administration of this act.

363         At the time of filing each monthly report with the  
364 commission, a distributor may take a credit for the number of  
365 gallons of special fuel that he purchased during the preceding  
366 calendar month from a distributor who pays the excise tax imposed  
367 by this act on such special fuel.

368         At the time of filing each monthly report with the  
369 commission, each distributor of special fuel shall pay to the  
370 commission the full amount of the special fuel tax due from such  
371 distributor for the preceding calendar month.

372         Reports and payments sent to the commission by mail must be  
373 postmarked by the due date in order to be considered timely filed,  
374 except when the due date falls on a weekend or holiday, in which  
375 case such reports and payments must be postmarked by the first  
376 working day following the due date in order to be considered  
377 timely filed.

378         The monthly report of the distributor of special fuel shall  
379 be prepared and filed with the commission on forms prescribed by  
380 the commission, or the distributor of special fuel may, with the  
381 approval of the commission, furnish the required information on  
382 machine-prepared schedules. Such monthly reports or schedules  
383 shall be signed by the distributor or his duly authorized agent  
384 and shall contain a declaration that the statements contained in  
385 such report are true and correct and are made under the penalty of  
386 perjury.

387           When special fuel, which would otherwise be taxable under the  
388 provisions of this act, is imported, sold, delivered, or exported,  
389 under conditions which will exclude such special fuel from the tax  
390 levied under this act by reasons of one or more of the exemptions  
391 provided in this act, deduction for such exempt special fuel may  
392 be taken without prior approval of the commission on the monthly  
393 report of the bonded distributor of special fuel importing,  
394 selling, delivering, or exporting such special fuel. However, the  
395 commission may require proof to be furnished of such deduction for  
396 exempt special fuel.

397           When the Five and Three-fourths Cents (5.75¢) per gallon tax  
398 has accrued or has been paid on special fuel that is taxed at  
399 Eighteen Cents (18¢) per gallon, a deduction of Five and  
400 Three-fourths Cents (5.75¢) per gallon may be made.

401           SECTION 13. Every person, other than a bonded distributor of  
402 special fuel, who shall purchase, or otherwise acquire special  
403 fuel within this state on which the tax has not been paid or  
404 covered by a bond of a distributor of special fuel, or otherwise  
405 exempt, shall be subject with respect to such special fuel, to all  
406 the provisions that apply to a bonded distributor of special fuel  
407 and shall be further subject to the additional penalties  
408 hereinafter provided.

409           SECTION 14. (1) There shall not be included in the measure  
410 of the tax levied in this act any special fuel:

411           (a) Sold or delivered by a bonded distributor of  
412 special fuel to a second bonded distributor of special fuel within  
413 this state, but nothing in this exclusion shall exempt the second  
414 bonded distributor of special fuel from paying the tax unless the  
415 second bonded distributor of special fuel sells or delivers said  
416 special fuel to a third bonded distributor of special fuel, in  
417 which event the third bonded distributor of special fuel shall be  
418 liable for the tax.

419           (b) Sold to the United States Government for use of the  
420 Armed Forces only, and delivered in quantities of not less than

421 four thousand (4,000) gallons.

422 (c) Delivered to a bonded warehouse for storage within  
423 this state for the United States Department of Interior.

424 (d) Exported to a destination beyond the borders of  
425 this state by a bonded distributor of special fuel when the tax on  
426 such special fuel has been paid or on which the tax liability  
427 imposed by this act has accrued against such bonded distributor.

428 (e) Imported by, or sold to, any refiner or processor  
429 in this state for the purpose of being refined or further  
430 processed.

431 (f) Sold or delivered to any person within this state  
432 to be used as a herbicide or as a solvent for insecticides, wood  
433 preservatives, and like products, or when so used in a commercial  
434 process that they become a component part of any manufactured  
435 product or where used as a processing agent in the treatment of  
436 raw material in manufacturing any product.

437 (g) Sold or delivered to be used for test purposes at  
438 any regularly established testing laboratory in this state.

439 (h) Sold to be consumed as fuel by any boat, vessel,  
440 ship, towboat or dredgeboat, or sold to the holder of a Marine  
441 Dealers Permit for resale or distribution as fuel for a boat,  
442 vessel, ship, towboat or dredgeboat.

443 (i) Sold as bunker oil or sold to be used for the  
444 generation of heat in a firebox or furnace.

445 (j) Sold or delivered to be used for the purpose of  
446 generating electricity.

447 (k) Sold for use as fuel in a railroad locomotive when  
448 subject to the tax levied by Section 27-59-301 et seq.

449 (2) The exemptions set forth in paragraphs (f), (h), (i) and  
450 (j) of subsection (1) of this section shall not apply to special  
451 fuel used in performing contracts for construction,  
452 reconstruction, maintenance, or repairs, where such contracts are  
453 entered into with the State of Mississippi, any political  
454 subdivision of the State of Mississippi, or any department, agency

455 or institution of the State of Mississippi or any political  
456 subdivision thereof.

457 (3) Evidence of exempt transactions provided in this section  
458 and the subsections thereof shall consist of copies of invoices,  
459 documents or any other evidence that may be required by the  
460 commission.

461 (4) Any person other than a bonded distributor of special  
462 fuel who has delivered or sold special fuel on which the tax has  
463 been paid by him to the vendor may, if the special fuel is subject  
464 to exemption under this act, assign his claim for exemption to any  
465 bonded distributor of special fuel in this state. Such  
466 distributor may deduct the amount of the tax exemption from his  
467 next special fuel report, provided the distributor furnishes  
468 evidence satisfactory to the commission that the claim for  
469 exemption is valid.

470 (5) When special fuel is withdrawn from the storage tank of  
471 a refiner, processor, marine or pipeline terminal operator and the  
472 tax is paid on such special fuel and it or any part thereof cannot  
473 be delivered to a purchaser, said refiner, processor, marine or  
474 pipeline terminal operator may deduct the tax on all or that  
475 portion of such special fuel not delivered to a purchaser from its  
476 next special fuel distributor's tax report, provided that such  
477 refiner, processor, marine or pipeline terminal operator submits  
478 with such tax report: (a) a written report setting forth the  
479 reasons why such delivery could not be made, and (b) proof or  
480 evidence satisfactory to the commission that the tax in question  
481 had theretofore been paid to the commission, and (c) proof or  
482 evidence satisfactory to the commission that the nondelivered  
483 special fuel was actually returned to the refinery, processor,  
484 marine or pipeline terminal from which it was taken for the  
485 purpose of delivering it to a purchaser; and provided further,  
486 that immediately upon ascertainment by the refiner, processor,  
487 marine or pipeline terminal operator that said special fuel cannot  
488 be delivered, he or it shall immediately notify the commission of

489 this fact and before moving his or its truck or other means of  
490 transporting such special fuel from the intended point of  
491 delivery; and should the commission desire to inspect such truck  
492 or other means of conveyance, such refiner, processor, marine or  
493 pipeline terminal operator shall arrange for such inspection at  
494 that point or at such other point that may be designated by the  
495 commission.

496 (6) In order to claim exemptions provided for under this  
497 act, the distributor of special fuel must file claims therefor  
498 within three (3) years from the date of sale or delivery;  
499 otherwise, claims for such exemptions shall be disallowed.

500 SECTION 15. (1) A bonded distributor of special fuel may  
501 sell undyed diesel fuel to a consumer for nonhighway use.

502 (2) The distributor of special fuel who sells undyed diesel  
503 fuel to a consumer for nonhighway use may exempt from such sale  
504 all but Five and Three-fourths Cents (5.75¢) per gallon of the tax  
505 levied in Section 10 of this act.

506 (3) The distributor may deduct the amount of tax exempted on  
507 his special fuels tax report.

508 SECTION 16. The commission, in its discretion, may  
509 promulgate rules setting forth requirements for marking or  
510 identifying diesel fuel or kerosene to be used for nonhighway  
511 purposes.

512 Storage facilities for nonhighway use diesel fuel or for  
513 nonhighway use kerosene shall be plainly marked "NONHIGHWAY DIESEL  
514 FUEL" or "NONHIGHWAY KEROSENE" in lettering of not less than four  
515 (4) inches in height on a contrasting background. Where such  
516 storage facilities are underground, then all pumps or dispensing  
517 equipment shall be plainly marked as required in this section.  
518 Where such diesel fuel or kerosene is delivered directly into the  
519 fuel tank or equipment for nonhighway use, either the fuel tank or  
520 some part of such equipment as near to the fuel tank as possible  
521 shall be plainly marked "NONHIGHWAY DIESEL FUEL" or "NONHIGHWAY  
522 KEROSENE" in lettering of not less than four (4) inches in height

523 on a contrasting background. Separate storage facilities are  
524 required for highway use diesel fuel and kerosene and shall be  
525 marked "FOR HIGHWAY USE" in lettering of not less than four (4)  
526 inches in height on a contrasting background.

527 Any person who purchases, receives, acquires or uses any  
528 nonhighway diesel fuel or kerosene shall be liable for the tax  
529 levied by Sections 10 and 11 of this act, if such diesel fuel or  
530 kerosene is used on the highways of this state or for any purpose  
531 taxable under such sections.

532 All sales of diesel fuel for nonhighway use shall be  
533 evidenced in writing and such invoice shall bear the name of the  
534 purchaser and seller, the date of delivery of such diesel fuel,  
535 the kind and quantity of the product delivered and the use for  
536 which such nonhighway diesel fuel was purchased. Such invoices  
537 shall be retained by the purchaser of nonhighway diesel fuel for a  
538 period of not less than three (3) years. Invoices made to cash  
539 shall not be considered as complying with the terms of this act.

540 SECTION 17. (1) When gasoline and special fuel on which the  
541 tax has been paid are accidentally mixed, the distributor of  
542 special fuel or other person owning such mixture may claim credit  
543 for the gasoline tax and/or special fuel tax on the gasoline and  
544 special fuel constituting such mixture.

545 (2) When dyed special fuel and undyed special fuel are  
546 accidentally mixed and the mixture is converted to nonhighway use  
547 special fuel, the distributor of special fuel or other person  
548 owning such mixture may claim credit for any taxes exceeding Five  
549 and Three-fourths Cents (5.75¢) per gallon which have been paid on  
550 such mixture.

551 (3) Proof satisfactory to the commission must be submitted  
552 with any claim for credit made pursuant to this section or the  
553 claim will be disallowed.

554 (4) The special fuels distributor or other person owning a  
555 mixture described in this section shall notify the commission  
556 immediately after gaining knowledge of such mixture.



557 (5) Upon receipt of the claim for credit, the commission  
558 shall determine the amount of refund or tax credit due the  
559 claimant and, in the case of a refund, the amount shall be  
560 refunded as provided in Section 27-55-19, Mississippi Code of  
561 1972.

562 SECTION 18. When special fuel is lost or destroyed in  
563 quantities of seven hundred fifty (750) gallons or more through  
564 explosion, fire, collision, storage tank wreckage, wreckage of  
565 loading or unloading facilities such as pumps and lines, or acts  
566 of Providence while in storage in this state or while being  
567 transported in this state, the owner of such special fuel shall be  
568 entitled to tax credit or refund of the tax paid thereon.

569 The commission shall be notified by the owner of such lost or  
570 destroyed special fuel within five (5) days after the loss or  
571 destruction is discovered. The commission shall make such  
572 investigation of the facts and circumstances surrounding such loss  
573 or destruction as may be reasonably necessary for the effective  
574 administration of this act.

575 The claim shall be made in the name of the owner of such lost  
576 or destroyed special fuel and shall be signed by the owner or his  
577 authorized agent and filed within three (3) years after the date  
578 of loss. All such claims must be accompanied by proof  
579 satisfactory to the commission that the special fuel for which  
580 credit is claimed was destroyed by or through one of the means set  
581 forth in the first paragraph of this section, and in all cases  
582 where the special fuel alleged to have been destroyed was covered  
583 by insurance, the commission shall not approve such claims unless  
584 and until the insurer has acknowledged and actually paid the loss.

585 Upon receipt of the claim, the commission shall determine the  
586 amount of refund or tax credit due the claimant and in the case of  
587 refund the amount shall be refunded to the claimant as provided in  
588 Section 27-55-19.

589 If the commission determines that any refund claim shall not  
590 be paid, it shall notify the claimant stating the reason or

591 reasons why such claim is disallowed.

592 A claimant may, within thirty (30) days after receipt of  
593 written notice of the disallowance of his claim, appeal to the  
594 board of review as provided in Section 27-55-41.

595 SECTION 19. All administrative provisions of the Mississippi  
596 Sales Tax Law, including those which fix damages, penalties and  
597 interest for nonpayment of taxes, failure to file returns, and for  
598 other noncompliance with the provisions of such chapter, and all  
599 other requirements and duties imposed upon taxpayers, shall apply  
600 to all persons liable for taxes under the provisions of this act,  
601 and the commission shall exercise all the power and authority and  
602 perform all the duties with respect to taxpayers under this act as  
603 are provided in the sales tax law, except that in cases of  
604 conflict, then the provisions of this act shall control.

605 SECTION 20. It shall be unlawful to use dyed diesel fuel or  
606 kerosene in a motor vehicle on a highway unless that use is  
607 permitted under Section 4082 of the Internal Revenue Code. A  
608 person who operates on a highway a motor vehicle whose supply tank  
609 contains dyed diesel fuel or kerosene whose use is unlawful under  
610 this section shall be liable for a penalty of One Thousand Dollars  
611 (\$1,000.00) which shall be in addition to any taxes that may be  
612 due.

613 SECTION 21. Every common or contract carrier transporting  
614 special fuel, by whatever means, from a point outside this state  
615 to any point in this state, shall report, in writing, all  
616 deliveries of special fuel to points within this state to the  
617 commission on forms prescribed by the commission or, with the  
618 approval of the commission, furnish the required information on  
619 machine-prepared schedules, and such other information as may be  
620 necessary for the proper administration of this act.

621 The reports required in this section shall be for information  
622 purposes only and the commission may, in its discretion, waive the  
623 filing of any of these reports not necessary for proper  
624 administration of this act. The reports required in this section

625 shall be signed and contain a declaration that the statements  
626 contained therein are true and are made under penalty of perjury.

627 Such reports required in this section shall be filed with the  
628 commission on or before the 20th day of each month following the  
629 month in which the transaction occurred.

630 Any such person failing or refusing to file such report on or  
631 before the date required by law, or who shall omit any shipment of  
632 diesel fuel, kerosene or special fuel from such report, shall be  
633 subject to a penalty which shall be a percentage of the tax  
634 imposed by law on the total amount of the taxable products  
635 involved as follows:

636 (a) Not more than ten percent (10%) for the first  
637 failure, refusal or omission; and

638 (b) Not more than twenty percent (20%) for the second  
639 and any subsequent failure, refusal or omission.

640 The commission may waive such penalty upon good cause shown.

641 SECTION 22. A gallonage measuring meter shall be installed  
642 on each pipeline used for the withdrawal of special fuel, subject  
643 to excise taxes provided in this act, from the storage tank of any  
644 refinery, pipeline terminal, water terminal or any terminal that  
645 does not have stationary bulk storage tanks at such terminal  
646 within the State of Mississippi, and no such special fuel shall be  
647 withdrawn except through gallonage measuring meters. No bypass  
648 installation shall be constructed around the meters. The meters  
649 shall be installed and maintained as required by the commission.

650 The commission is authorized to verify the accuracy of meters  
651 used for the input or withdrawal of special fuel at a refinery or  
652 terminal. All meters shall be sealed by either the terminal  
653 operator or the commission.

654 It shall also be unlawful for any person to withdraw any  
655 taxable special fuel, from storage tanks as covered by this act  
656 except through the meters prescribed herein. The violation of any  
657 of the provisions of this section shall constitute a misdemeanor  
658 and, upon conviction, such person shall be subject to fine of not

659 less than Five Hundred Dollars (\$500.00) nor more than One  
660 Thousand Dollars (\$1,000.00), or to imprisonment for not more than  
661 sixty (60) days in jail, or to both such fine and imprisonment.

662 SECTION 23. Each distributor of special fuel shall maintain  
663 and keep for a period of three (3) years a record of all special  
664 fuel purchased, received, procured, manufactured, refined,  
665 compounded, used, sold, stored, or delivered within this state by  
666 such distributor, together with invoices, bills of lading, and  
667 other pertinent records and papers as may be reasonably required  
668 by the commission.

669 It shall be the duty of every person purchasing special fuel  
670 from a distributor of special fuel or other person for the purpose  
671 of sale or distribution to maintain and keep for a period of three  
672 (3) years a record of all special fuel received, together with  
673 delivery tickets, invoices, bills of lading, and such other  
674 records as the commission may require.

675 All sales made by a distributor of special fuel, other than  
676 retail sales from a service station, shall be evidenced in  
677 writing, signed by the seller, or his agent, shall bear the date  
678 of purchase, name and address of the purchaser and the seller, and  
679 shall show the kind and quantity of the product purchased. Sales  
680 tickets and invoices made to cash shall not be considered as  
681 complying with the terms of this act.

682 If, in the normal conduct of business of a distributor of  
683 special fuel or purchaser, the records of such distributor or  
684 purchaser are maintained and kept at an office outside this state,  
685 it shall be a sufficient compliance with this section if the  
686 records shall be made available for audit and examination by the  
687 commission at such office located outside Mississippi. If a  
688 distributor or purchaser fails or refuses to permit the commission  
689 or any of its employees to check and audit its records during the  
690 usual business hours of the day, the commission shall have  
691 authority to subpoena said records and have them brought to the  
692 office of the commission within ten (10) days after the subpoena

693 is served on the distributor of special fuel or purchaser.

694 If a distributor of special fuel or purchaser fails to  
695 maintain adequate records, or if an audit of the records of said  
696 distributor or purchaser, or any report filed by him or any other  
697 information discloses that taxes are due and unpaid, the  
698 commission shall make assessments of taxes, damages and interest  
699 from any information available, which shall be prima facie  
700 correct.

701 All actions by this state for the recovery of additional  
702 amounts claimed as tax due under this act must be commenced within  
703 a period of three (3) years from the date of the filing of the  
704 required report with the commission, provided that in the case of  
705 a fraudulent or false report with intent to evade tax or of a  
706 failure to file a report, action may be commenced at any time.  
707 However, when an examination of a taxpayer's records to verify  
708 returns made under this act has been initiated and the taxpayer  
709 notified thereof by certified mail, within the thirty-six-month  
710 examination period provided herein, the determination of the  
711 correct tax liability may be made by the commission after the  
712 expiration of said thirty-six-month examination period, provided  
713 that said determination shall be made with reasonable promptness  
714 and diligence.

715 SECTION 24. The commissioner and his agents and employees  
716 shall have full access, ingress, and egress at all reasonable  
717 hours to and from any place or building where special fuel may be  
718 received, stored, transported, sold, offered or exposed for sale,  
719 manufactured, refined, distilled, compounded or blended. The  
720 commissioner and his agents and employees shall have the right to  
721 open and inspect any case, package, or other container, any tank,  
722 pump, tank car or storage tank in which special fuel is kept and  
723 enter upon any barge, vessel, or other vehicle transporting  
724 special fuel and, with instruments conforming to the weights and  
725 measures adopted by the United States Bureau of Standards, check  
726 any measuring device or volume of weight of the contents of any

727 such container.

728         The commission, its employees or agents and enforcement  
729 officers of the Mississippi Department of Transportation are  
730 authorized to inspect any vehicle transporting special fuel over  
731 the highways of this state, or any boat, barge or vessel  
732 transporting special fuel over the waters of this state, to  
733 examine the contents of such vehicle, boat, barge or vessel, to  
734 take a sample, not to exceed one (1) gallon, of the special fuel  
735 contained in such vehicle, boat, barge or vessel, and to inspect  
736 the bills of lading, manifest, invoices or other records  
737 pertaining to the special fuel being transported.

738         The commission, its employees or agents and enforcement  
739 officers of the Mississippi Department of Transportation are  
740 hereby authorized to stop any motor vehicle traveling the highways  
741 of this state; to inspect the contents of the motor vehicle's fuel  
742 supply tank; to take a sample, not to exceed one (1) gallon, of  
743 the contents of the fuel supply tank of such motor vehicle and to  
744 examine any invoices, receipts or other documents pertaining to  
745 the contents of the motor vehicle's fuel supply tank.

746         Any person who refuses to allow an inspection as authorized  
747 in this section shall be guilty of a misdemeanor and, upon  
748 conviction thereof, shall be punished by a fine of not more than  
749 One Thousand Dollars (\$1,000.00), or imprisonment in the county  
750 jail for not more than six (6) months, or both such fine and  
751 imprisonment.

752         SECTION 25. Any person aggrieved by any order or act of the  
753 commission in the administration of this act may appeal in the  
754 same manner and under the same conditions as provided for appeals  
755 from acts or orders of the commission pertaining to gasoline taxes  
756 in Section 27-55-41.

757         SECTION 26. The commission is hereby authorized and  
758 empowered to institute legal proceedings for any and all  
759 violations of this act, to recover taxes, damages or penalties due  
760 under this act. All taxes and damages recovered in any

761 proceedings by the commission shall be paid over and disposed of  
762 as any and all other special fuel taxes are required to be. Any  
763 chancellor or judge authorized to grant remedial writs shall grant  
764 writs of sequestration for the impounding of special fuel on which  
765 the excise tax or penalty is owed. Before any writ of  
766 sequestration shall be issued under this section, the complainant  
767 shall make an affidavit showing that it had good cause to believe,  
768 and does believe, that there is an excise tax or penalty owed the  
769 State of Mississippi on the special fuel sought to be sequestered  
770 and that unless said special fuel is sequestered and impounded,  
771 said special fuel will be removed, concealed, or disposed of.  
772 Upon such affidavit being presented to any chancellor or judge  
773 authorized to grant remedial writs, said chancellor or judge shall  
774 order said writ to be issued upon the filing of a bill of  
775 complaint for the collection of the excise tax on said special  
776 fuel. The writ of sequestration shall then be issued and the  
777 property dealt with in the manner now provided by law for other  
778 writs of sequestration. Where the State of Mississippi is the  
779 complainant, no bond shall be required of said state for the  
780 issuance of said writ of sequestration.

781         The State of Mississippi shall have a lien upon all of the  
782 property of every distributor or person acting as a distributor of  
783 special fuel without a permit, used in the operation of his  
784 business as such distributor, for the excise taxes levied by this  
785 act and due or to become due the State of Mississippi. Such liens  
786 or encumbrances of whatever character shall be paramount to  
787 private liens and to the rights of any holder of the legal title  
788 in or to any pumps, tanks, inventories of special fuel and other  
789 petroleum products, motor vehicles, or other personal property  
790 used in the operation of said business.

791         The commission shall have the right, when taxes due the State  
792 of Mississippi are delinquent under this act, or where any person  
793 acting as a distributor of special fuel without a permit receives  
794 special fuel in this state without paying the tax thereon, to

795 cause a writ of summons and seizure to issue, returnable to the  
796 court having jurisdiction thereof, in like manner as such writs  
797 are authorized to be issued by Chapter 7 of Title 85, Mississippi  
798 Code of 1972. Such writ shall be directed to the proper officer  
799 or to the commission commanding the officer or the commission, as  
800 the case may be, to seize the property upon which a lien exists as  
801 hereinabove provided. After the issuance of such writ, such  
802 actions and proceedings shall be had on such writ as presently  
803 provided for the enforcement of purchase money security interests  
804 by the statutes of this state. The commission shall have the  
805 right to stop and hold any moving or movable equipment subject to  
806 seizure pursuant to the provisions of this paragraph pending the  
807 issuance of process.

808 It is expressly provided that the remedies set out in the  
809 foregoing paragraph shall be cumulative and that no action taken  
810 by the commission shall be construed to be an election on the part  
811 of this state or any of its officers to pursue any remedy  
812 hereunder to the exclusion of any other remedy for which provision  
813 is made in this act.

814 SECTION 27. In the event that any taxes or penalties imposed  
815 by this act have been erroneously or illegally collected from a  
816 distributor or other person, the commission may permit such  
817 distributor or other person to take credit against  
818 a subsequent tax report for the amount of the erroneous  
819 overpayment, or the amount thereof may be refunded to the  
820 distributor or other person in the same manner as provided in  
821 Section 27-55-19.

822 No refunds shall be made under the provisions of this section  
823 unless a written claim is filed setting forth the circumstances by  
824 reason of which such refund should be allowed. Such claim shall  
825 be in the form as the commission shall prescribe and shall be  
826 filed with the commission within three (3) years from the date of  
827 payment of the taxes erroneously or illegally collected. Nothing  
828 in this act shall be construed to prohibit a refund or credit for



829 tax paid on special fuel not subject to tax or which is exempt  
830 from tax, provided there has not been a willful disregard of the  
831 provisions of this act and further provided that the claim  
832 therefor is filed within three (3) years.

833       SECTION 28. All funds collected by the commission under  
834 provisions of this act, or under the provisions of any other law,  
835 which may now or in the future be collected by said commission,  
836 are hereby designated as public funds of the State of Mississippi  
837 and shall be by it deposited in accordance with Section 7-9-21.  
838 Allocations of gasoline, diesel fuel or kerosene tax to the  
839 counties shall be made by the commission as provided by law and  
840 reported to the State Treasurer at the end of each month. The  
841 State Treasurer shall issue his requisition in payment thereof on  
842 the State Fiscal Officer, who shall issue his warrant on the State  
843 Treasurer, as is provided for the disbursement of other state  
844 funds.

845       SECTION 29. The commission shall, upon request received from  
846 officials entrusted with the enforcement of special fuel taxes of  
847 any other state or taxing authority, forward to such officials any  
848 information which it may have in its possession relative to the  
849 manufacture, receipt, sale, use, transportation and/or shipment by  
850 any person of special fuel.

851       SECTION 30. Every person hauling, transporting or conveying  
852 more than fifty (50) gallons of special fuel over the highways,  
853 streets, alleys or waters of this state, or into this state over  
854 any highway, street, alley or water route, shall, during the  
855 entire time he is so engaged, have in his possession a bill of  
856 sale, bills of lading, invoices or other written evidence, each of  
857 which shall be serially numbered, showing the kind and amount of  
858 special fuel being transported, the name and address of the person  
859 from whom such special fuel was received, and the name and address  
860 of the person to whom delivery is to be made. The vehicle or boat  
861 conveying such special fuel shall have clearly printed on it the  
862 name and address of the person transporting the special fuel on

863 both sides of the vehicle or boat in well-balanced letters of not  
864 less than two (2) inches in height on a contrasting background.

865 Any person other than a common or contract carrier bringing  
866 special fuel into this state in quantities of more than fifty (50)  
867 gallons shall give notice to the commission of his intent to  
868 import such special fuel. The commission is authorized to  
869 promulgate rules setting forth the manner in which such notice is  
870 to be given. However, if information on special fuel imported  
871 into this state can be accurately secured from other sources by  
872 the commission, it may waive the requirements of such notice.

873 If any person, other than a common or contract carrier, shall  
874 transport special fuel over the highways of this state by motor  
875 vehicle without having given the notice required by this section,  
876 or if a copy of such notice is not carried in such motor vehicle  
877 as required by this section, the entire amount of the state excise  
878 tax upon such special fuel being transported shall be deemed due  
879 and payable, plus a penalty of twenty-five percent (25%) of the  
880 amount of such tax, and any authorized representative of the  
881 commission or enforcement officers of the Mississippi Department  
882 of Transportation shall have the right to seize or impound the  
883 motor vehicle in which such special fuel is being transported  
884 until such excise tax together with the penalty thereon has been  
885 paid. Provided, however, that the penalty shall not apply when  
886 the driver of the truck stops at the first weighing station in the  
887 line of travel and secures the signature of the officer on duty on  
888 the import notice.

889 SECTION 31. The amount received on special fuel as defined  
890 in this act shall be paid and apportioned in accordance with  
891 Section 27-5-101.

892 SECTION 32. The commission is hereby given power and  
893 authority to make all rules and regulations, not inconsistent with  
894 the provisions of this act, with reference to all petroleum excise  
895 tax provisions and exemptions governing the making of reports and  
896 contents of same and doing any and all other duties pertaining to

897 the making of reports and payment of taxes, and such other matters  
898 as will, in the judgment of the commission, contribute to a more  
899 efficient administration of all the petroleum excise tax  
900 provisions of this act. Such rules and regulations, when made,  
901 shall have the same binding force and effect as if incorporated in  
902 this act.

903 SECTION 33. This act shall not release or relinquish any  
904 liability or penalty incurred or right accrued under the laws of  
905 this state as they existed before the effective date of this act  
906 and such laws shall be considered as remaining in force for the  
907 purpose of instituting or sustaining any proper action or  
908 prosecution for the enforcement of any such liability, penalty, or  
909 right. Such laws shall govern the reporting and payment of taxes  
910 on oil and other motor fuel received, sold, distributed or used by  
911 bonded distributors or other persons before the effective date of  
912 this act. Any and all matters, orders, hearings, and proceedings  
913 pending before the commission or before any court under provisions  
914 of such prior laws shall continue with the same effect as though  
915 such prior laws were not amended or repealed.

916 SECTION 34. (1) A tax at a rate of Twelve and One-fourth  
917 Cents (12.25¢) per gallon shall apply to all undyed diesel fuel,  
918 on which the other motor fuel tax has not been paid, held in  
919 storage at a bulk plant or retail location on July 1, 1999, by any  
920 distributor of special fuel.

921 (2) The commission shall determine the time and manner of  
922 reporting the quantities of undyed diesel fuel in storage on July  
923 1, 1999, and the payment of any taxes due.

924 SECTION 35. Section 7-7-2, Mississippi Code of 1972, is  
925 amended as follows:

926 7-7-2. (1) The Mississippi General Accounting Office and the  
927 State Fiscal Officer, acting through the Bureau of Budget and  
928 Fiscal Management, shall be the Department of Public Accounts  
929 formerly in the Office of the State Auditor of Public Accounts.

930 (2) The words "State Auditor of Public Accounts," "State

931 Auditor" and "Auditor" appearing in the laws of this state in  
932 connection with the performance of Auditor's functions shall mean  
933 the State Fiscal Officer, and, more particularly, such words or  
934 terms shall mean the State Fiscal Officer whenever they appear in  
935 Sections 5-1-57, 5-1-59, 5-3-23, 7-1-33, 7-1-63, 7-3-29, 7-5-31,  
936 7-11-25, 17-13-11, 9-1-36, 9-3-7, 9-3-23, 9-3-27, 9-3-29, 9-3-45,  
937 11-35-11, 11-45-1, 21-33-47, 21-33-401, 23-5-215, 25-1-75,  
938 25-1-81, 25-1-95, 25-1-98, 25-3-41, 25-3-51, 25-3-53, 25-3-55,  
939 25-3-57, 25-3-59, 25-3-97, 25-7-7, 25-7-83, 25-9-135, 25-31-8,  
940 25-31-10, 25-31-37, 27-1-35, 27-3-43, 27-3-45, 27-3-57, 27-3-59,  
941 27-5-22, 27-5-103, 27-7-45, 27-7-313, 27-9-49, 27-11-3, 27-13-55,  
942 27-15-203, 27-15-239, 27-15-241, 27-21-13, 27-29-1, 27-29-5,  
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945 27-35-149, 27-37-303, 27-39-13, 27-39-319, 27-41-19, 27-41-23,  
946 27-41-25, 27-41-27, 27-41-41, 27-41-75, 27-45-1, 27-45-13,  
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958 37-13-33, 37-19-27, 37-19-29, 37-19-45, 37-19-47, 37-25-27,  
959 37-27-17, 37-29-165, 37-31-41, 37-33-31, 37-33-71, 37-43-47,  
960 37-101-103, 37-101-149, 37-109-25, 37-113-5, 37-133-7, 39-1-31,  
961 39-3-109, 41-3-13, 41-4-19, 41-7-25, 41-73-71, 43-9-35, 43-13-113,  
962 43-29-29, 45-1-11, 45-1-23, 45-23-7, 47-5-77, 47-5-155, 49-1-65,  
963 49-5-21, 49-5-97, 49-17-69, 49-19-1, 51-5-15, 51-33-77, 51-33-79,  
964 51-33-81, 51-33-87, 53-1-77, 55-3-41, 57-4-21, 57-9-5, 57-10-123,

965 57-13-7, 57-13-19, 57-15-5, 59-5-53, 59-7-103, 59-9-71, 59-17-47,  
966 63-19-51, 65-1-111, 65-1-117, 65-9-9, 65-9-17, 65-9-25, 65-11-43,  
967 65-11-45, 65-23-107, 65-26-7, 65-26-35, 69-9-5, 69-15-113,  
968 71-5-359, 73-5-5, 73-6-9, 73-19-13, 73-36-17, 75-75-109, 77-3-89,  
969 77-9-493, 77-11-201, 81-1-49, 83-1-13, 83-1-37, 83-1-39, 83-43-7,  
970 83-43-21, 89-11-27, 97-11-29, 97-21-1, 97-21-61 and 99-15-19,  
971 Mississippi Code of 1972.

972 SECTION 36. Section 27-5-101, Mississippi Code of 1972, is  
973 amended as follows:

974 **[With regard to any county which is exempt from the**  
975 **provisions of Section 19-2-3, this section shall read as follows:]**

976 27-5-101. Unless otherwise provided in this section, on or  
977 before the fifteenth day of each month, all gasoline, diesel fuel  
978 or kerosene taxes which are levied under the laws of this state  
979 and collected during the previous month shall be paid and  
980 apportioned by the State Tax Commission as follows:

981 (a) (i) From the gross amount of gasoline, diesel fuel  
982 or kerosene taxes produced by the state, there shall be deducted  
983 an amount equal to one-sixth (1/6) of principal and interest  
984 certified by the State Treasurer to the State Tax Commission to be  
985 due on the next semiannual bond and interest payment date, as  
986 required under the provisions of Chapter 130, Laws of 1938, and  
987 subsequent acts authorizing the issuance of bonds payable from  
988 gasoline, diesel fuel or kerosene tax revenue on a parity with the  
989 bonds issued under authority of said Chapter 130. The State  
990 Treasurer shall certify to the State Tax Commission on or before  
991 the fifteenth day of each month the amount to be paid to the  
992 "Highway Bonds Sinking Fund" as provided by said Chapter 130, Laws  
993 of 1938, and subsequent acts authorizing the issuance of bonds  
994 payable from gasoline, diesel fuel or kerosene tax revenue, on a  
995 parity with the bonds issued under authority of said Chapter 130;  
996 and the State Tax Commission shall, on or before the twenty-fifth  
997 day of each month, pay into the State Treasury for credit to the  
998 "Highway Bonds Sinking Fund" the amount so certified to him by the

999 State Treasurer due to be paid into such fund each month. The  
1000 payments to the "Highway Bonds Sinking Fund" shall be made out of  
1001 gross gasoline, diesel fuel or kerosene tax collections before  
1002 deductions of any nature are considered; however, such payments  
1003 shall be deducted from the allocation to the Mississippi  
1004 Department of Transportation under paragraph (c) of this section.

1005 (ii) From collections derived from the portion of  
1006 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,  
1007 from the portion of the tax on aviation gas under Section 27-55-11  
1008 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the  
1009 portion of the special fuel tax levied under Sections 10 and 11 of  
1010 House Bill No. \_\_\_\_\_, 1999 Regular Session, at Eighteen Cents (18¢)  
1011 per gallon that exceeds Ten Cents (10¢) per gallon, from the  
1012 portion of the taxes levied under Section 10 of House Bill No. \_\_\_\_\_,  
1013 1999 Regular Session, at Five and Three-fourths Cents (5.75¢) per  
1014 gallon) that exceeds One Cent (1¢) per gallon on special fuel and  
1015 Five and One-fourth Cents (5.25¢) per gallon on special fuel used  
1016 as aircraft fuel, from the portion of the excise tax on compressed  
1017 gas used as a motor fuel that exceeds the rate of tax in effect on  
1018 June 30, 1987, and from the portion of the gasoline excise tax in  
1019 excess of Seven Cents (7¢) per gallon and the diesel excise tax in  
1020 excess of Ten Cents (10¢) per gallon under Section 27-61-5 there  
1021 shall be deducted:

1022 1. An amount as provided in Section  
1023 27-65-75(4) to the credit of a special fund designated as the  
1024 "Office of State Aid Road Construction."

1025 2. An amount equal to the tax collections  
1026 derived from Two Cents (2¢) per gallon of the gasoline excise tax  
1027 for distribution to the State Highway Fund to be used exclusively  
1028 for the construction, reconstruction and maintenance of highways  
1029 of the State of Mississippi or the payment of interest and  
1030 principal on bonds when specifically authorized by the Legislature  
1031 for that purpose.

1032 3. The balance shall be deposited in the

1033 State Treasury to the credit of the State Highway Fund.

1034 (b) Subject to the provisions that said basis of  
1035 distribution shall in nowise affect adversely the amount  
1036 specifically pledged in paragraph (a) of this section to be paid  
1037 into the "Highway Bonds Sinking Fund," the following shall be  
1038 deducted from the amount produced by the state tax on gasoline,  
1039 diesel fuel or kerosene tax collections, excluding collections  
1040 derived from the portion of the gasoline excise tax that exceeds  
1041 Seven Cents (7¢) per gallon, from the portion of the tax on  
1042 aviation gas under Section 27-55-11 that exceeds Six and  
1043 Four-tenths Cents (6.4¢) per gallon, from the portion of the  
1044 special fuel tax levied under Sections 10 and 11 of House Bill No.  
1045 \_\_\_\_\_ , 1999 Regular Session, at Eighteen Cents (18¢) per gallon  
1046 that exceeds Ten Cents (10¢) per gallon, from the portion of the  
1047 taxes levied under Section 10 of House Bill No. \_\_\_\_\_ , 1999 Regular  
1048 Session, at Five and Three-fourths Cents (5.75¢) per gallon that  
1049 exceeds One Cent (1¢) per gallon on special fuel and Five and  
1050 One-fourth Cents (5.25¢) per gallon on special fuel used as  
1051 aircraft fuel, from the portion of the excise tax on compressed  
1052 gas used as a motor fuel that exceeds the rate of tax in effect on  
1053 June 30, 1987, and from the portion of the gasoline excise tax in  
1054 excess of Seven Cents (7¢) per gallon and the diesel excise tax in  
1055 excess of Ten Cents (10¢) per gallon under Section 27-61-5:

1056 (i) Twenty percent (20%) of such amount which  
1057 shall be earmarked and set aside for the construction,  
1058 reconstruction and maintenance of the highways and roads of the  
1059 state, provided that if such twenty percent (20%) should reduce  
1060 any county to a lesser amount than that received in the fiscal  
1061 year ending June 30, 1966, then such twenty percent (20%) shall be  
1062 reduced to a percentage to provide that no county shall receive  
1063 less than its portion for the fiscal year ending June 30, 1966;

1064 (ii) The amount allowed as refund on gasoline or  
1065 as tax credit on diesel fuel or kerosene used for agricultural,  
1066 maritime, industrial, domestic, and nonhighway purposes;

1067 (iii) Five percent (5%) of such amount shall be  
1068 paid to the State Highway Fund;

1069 (iv) The amount or portion thereof authorized by  
1070 legislative appropriation to the Fisheries and Wildlife Fund  
1071 created under Section 59-21-25;

1072 (v) The amount for deposit into the special  
1073 aviation fund under paragraph (d) of this section; and

1074 (vi) The remainder shall be divided on a basis of  
1075 nine-fourteenths (9/14) and five-fourteenths (5/14) (being the  
1076 same basis as Four and One-half Cents (4-1/2¢) and Two and  
1077 One-half Cents (2-1/2¢) is to Seven Cents (7¢) on gasoline, and  
1078 six and forty-three one-hundredths (6.43) and three and  
1079 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel  
1080 fuel or kerosene). The amount produced by the nine-fourteenths  
1081 (9/14) division shall be allocated to the Transportation  
1082 Department and paid into the State Treasury as provided in this  
1083 section and in Section 27-5-103 and the five-fourteenths (5/14)  
1084 division shall be returned to the counties of the state on the  
1085 following basis:

1086 1. In each fiscal year, each county shall be  
1087 paid each month the same percentage of the monthly total to be  
1088 distributed as was paid to that county during the same month in  
1089 the fiscal year which ended April 9, 1960, until the county  
1090 receives One Hundred Ninety Thousand Dollars (\$190,000.00) in such  
1091 fiscal year, at which time funds shall be distributed under the  
1092 provisions of paragraph (b)(vi)4 of this section.

1093 2. If after payments in 1 above, any county  
1094 has not received a total of One Hundred Ninety Thousand Dollars  
1095 (\$190,000.00) at the end of the fiscal year ending June 30, 1961,  
1096 and each fiscal year thereafter, then any available funds not  
1097 distributed under 1 above shall be used to bring such county or  
1098 counties up to One Hundred Ninety Thousand Dollars (\$190,000.00)  
1099 or such funds shall be divided equally among such counties not  
1100 reaching One Hundred Ninety Thousand Dollars (\$190,000.00) if



1101 there is not sufficient money to bring all the counties to said  
1102 One Hundred Ninety Thousand Dollars (\$190,000.00).

1103                   3. When a county has been paid an amount  
1104 equal to the total which was paid to the same county during the  
1105 fiscal year ended April 9, 1960, such county shall receive no  
1106 further payments during the then current fiscal year until the  
1107 last month of such current fiscal year, at which time distribution  
1108 will be made under 2 above, except as set out in 4 below.

1109                   4. During the last month of the current  
1110 fiscal year, should it be determined that there are funds  
1111 available in excess of the amount distributed for the year under 1  
1112 and 2 above, then such excess funds shall be distributed among the  
1113 various counties as follows:

1114                   One-third (1/3) of such excess to be divided equally among  
1115 the counties;

1116                   One-third (1/3) of such excess to be paid to the counties in  
1117 the proportion which the population of each county bears to the  
1118 total population of the state according to the last federal  
1119 census;

1120                   One-third (1/3) of such excess to be paid to the counties in  
1121 the proportion which the number of square miles of each county  
1122 bears to the total square miles in the state.

1123                   5. It is the declared purpose and intent of  
1124 the Legislature that no county shall be paid less than was paid  
1125 during the year ended April 9, 1960, unless the amount to be  
1126 distributed to all counties in any year is less than the amount  
1127 distributed to all counties during the year ended April 9, 1960.

1128                   The Municipal Aid Fund as established by Section 27-5-103  
1129 shall not participate in any portion of any funds allocated to any  
1130 county hereunder over and above One Hundred Ninety Thousand  
1131 Dollars (\$190,000.00).

1132                   In any county having countywide road or bridge bonds, or  
1133 supervisors district or district road or bridge bonds outstanding,  
1134 which exceed, in the aggregate, twelve percent (12%) of the

1135 assessed valuation of the taxable property of the county or  
1136 district, it shall be the duty of the board of supervisors to set  
1137 aside not less than sixty percent (60%) of such county's share or  
1138 district's share of the gasoline, diesel fuel or kerosene taxes to  
1139 be used in paying the principal and interest on such road or  
1140 bridge bonds as they mature.

1141 In any county having such countywide road or bridge bonds or  
1142 district road or bridge bonds outstanding which exceed, in the  
1143 aggregate, eight percent (8%) of the assessed valuation of the  
1144 taxable property of the county, but which do not exceed, in the  
1145 aggregate, twelve percent (12%) of the assessed valuation of the  
1146 taxable property of the county, it shall be the duty of the board  
1147 of supervisors to set aside not less than thirty-five percent  
1148 (35%) of such county's share of the gasoline, diesel fuel or  
1149 kerosene taxes to be used in paying the principal and interest of  
1150 such road or bridge bonds as they mature.

1151 In any county having such countywide road or bridge bonds or  
1152 district road or bridge bonds outstanding which exceed, in the  
1153 aggregate, five percent (5%) of the assessed valuation of the  
1154 taxable property of the county, but which do not exceed, in the  
1155 aggregate, eight percent (8%) of the assessed valuation of the  
1156 taxable property of the county, it shall be the duty of the board  
1157 of supervisors to set aside not less than twenty percent (20%) of  
1158 such county's share of the gasoline, diesel fuel or kerosene taxes  
1159 to be used in paying the principal and interest of such road and  
1160 bridge bonds as they mature.

1161 In any county having such countywide road or bridge bonds or  
1162 district road or bridge bonds outstanding which do not exceed, in  
1163 the aggregate, five percent (5%) of the assessed valuation of the  
1164 taxable property of the county, it shall be the duty of the board  
1165 of supervisors to set aside not less than ten percent (10%) of  
1166 such county's share of the gasoline, diesel fuel or kerosene taxes  
1167 to be used in paying the principal and interest on such road or  
1168 bridge bonds as they mature.

1169           The portion of any such county's share of the gasoline,  
1170 diesel fuel or kerosene taxes thus set aside for the payment of  
1171 the principal and interest of road or bridge bonds, as provided  
1172 for in this section, shall be used first in paying the currently  
1173 maturing installments of the principal and interest of such  
1174 countywide road or bridge bonds, if there be any such countywide  
1175 road or bridge bonds outstanding, and secondly, in paying the  
1176 currently maturing installments of principal and interest of  
1177 district road or bridge bonds outstanding. It shall be the duty  
1178 of the board of supervisors to pay bonds and interest maturing in  
1179 each supervisors district out of the supervisors district's share  
1180 of the gasoline, diesel fuel or kerosene taxes of such district.

1181           The remaining portion of such county's share of the gasoline,  
1182 diesel fuel or kerosene taxes, after setting aside the portion  
1183 above provided for the payment of the principal and interest of  
1184 bonds, shall be used in the construction and maintenance of any  
1185 public highways, bridges, or culverts of the county, including the  
1186 roads in special or separate road districts, in the discretion of  
1187 the board of supervisors, or in paying the interest and principal  
1188 of county road and bridge bonds or district road and bridge bonds,  
1189 in the discretion of the board of supervisors.

1190           In any county having no countywide road or bridge bonds or  
1191 district road or bridge bonds outstanding, all such county's share  
1192 of the gasoline, diesel fuel or kerosene taxes shall be used in  
1193 the construction, reconstruction, and maintenance of the public  
1194 highways, bridges, or culverts of the county as the board of  
1195 supervisors may determine.

1196           In every county in which there are county road bonds or  
1197 seawall or road protection bonds outstanding which were issued for  
1198 the purpose of building bridges or constructing public roads or  
1199 seawalls, such funds shall be used in the manner provided by law.

1200           (c) From the amount produced by the nine-fourteenths  
1201 (9/14) division allocated to the Transportation Department, there  
1202 shall be deducted:

1203 (i) The amount paid to the State Treasurer for the  
1204 "Highway Bonds Sinking Fund" under paragraph (a) of this section;

1205 (ii) Any amounts due counties in accordance with  
1206 Section 65-33-45 which have outstanding bonds issued for seawall  
1207 or road protection purposes, issued under provisions of Chapter  
1208 319, Laws of 1924, and amendments thereto;

1209 (iii) Beginning August 15, 2002, and on or before  
1210 the fifteenth day of each month thereafter, an amount equal to  
1211 one-sixth (1/6) of the principal and interest certified by the  
1212 State Treasurer to the State Tax Commission to be due on the next  
1213 semiannual bond and interest payment date for the bonds issued  
1214 under Sections 65-39-5 through 65-39-33. On or before the  
1215 twenty-fifth day of each month the State Tax Commission shall pay  
1216 into the State Treasury for credit to the Gaming Counties Bond  
1217 Sinking Fund created in Section 65-39-3, the amount so certified  
1218 by the State Treasurer.

1219 (iv) The remainder shall be paid by the State Tax  
1220 Commission to the State Treasurer on the fifteenth day of each  
1221 month next succeeding the month in which the gasoline, diesel fuel  
1222 or kerosene taxes were collected to the credit of the State  
1223 Highway Fund.

1224 The funds allocated for the construction, reconstruction, and  
1225 improvement of state highways, bridges, and culverts, or so much  
1226 thereof as may be necessary, shall first be used in conjunction  
1227 with funds supplied by the federal government for such purposes  
1228 and allocated to the State Transportation Department to be  
1229 expended on the state highway system. It is specifically provided  
1230 hereby that the necessary portion of such funds hereinabove  
1231 allocated to the State Transportation Department may be used for  
1232 the prompt payment of principal and interest on highway bonds  
1233 heretofore issued, including such bonds issued or to be issued  
1234 under the provisions of Chapter 312, Laws of 1956, and amendments  
1235 thereto.

1236 Nothing contained in this section shall be construed to

1237 reduce the amount of such gasoline, diesel fuel or kerosene excise  
1238 taxes levied by the state, allotted under the provisions of Title  
1239 65, Chapter 33, Mississippi Code of 1972, to counties in which  
1240 there are outstanding bonds issued for seawall or road protection  
1241 purposes issued under the provisions of Chapter 319, Laws of 1924,  
1242 and amendments thereto; the amount of said gasoline, diesel fuel  
1243 or kerosene excise taxes designated in this section for the  
1244 payment of bonds and interest authorized and issued or to be  
1245 issued under the provisions of Chapter 130, Laws of 1938, and  
1246 subsequent acts authorizing the issuance of bonds payable from  
1247 gasoline, diesel fuel or kerosene tax revenue, shall, in such  
1248 counties, be considered as being paid "into the State Treasury to  
1249 the credit of the State Highway Fund" within the meaning of  
1250 Section 65-33-45 in computing the amount to be paid to such  
1251 counties under the provisions of said section, and this section  
1252 shall be administered in connection with Title 65, Chapter 33,  
1253 Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and  
1254 65-33-49 dealing with seawalls, as if made a part of this section.

1255           (d) The proceeds of the Five and One-fourth Cents  
1256 (5.25¢) of the tax per gallon on oils used as a propellant for jet  
1257 aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax  
1258 per gallon on aviation gasoline and the tax of One Cent (1¢) per  
1259 gallon for each gallon of gasoline for which a refund has been  
1260 made pursuant to Section 27-55-23 because such gasoline was used  
1261 for aviation purposes, shall be paid to the State Treasury into a  
1262 special fund to be used exclusively, pursuant to legislative  
1263 appropriation, for the support and development of aeronautics as  
1264 defined in Section 61-1-3.

1265           (e) State highway funds in an amount equal to the  
1266 difference between Forty-two Million Dollars (\$42,000,000.00) and  
1267 the annual debt service payable on the state's highway revenue  
1268 refunding bonds, Series 1985, shall be expended for the  
1269 construction or reconstruction of highways designated under the  
1270 Four-Lane Highway Program created under Section 65-3-97.

1271 (f) "Gasoline, diesel fuel or kerosene taxes" as used  
1272 in this section shall be deemed to mean and include state  
1273 gasoline, diesel fuel or kerosene taxes levied and imposed on  
1274 distributors of gasoline, diesel fuel or kerosene, and all state  
1275 excise taxes derived from any fuel used to propel vehicles upon  
1276 the highways of this state, when levied by any statute.

1277 **[With regard to any county which is required to operate on a**  
1278 **countywide system of road administration as described in Section**  
1279 **19-2-3, this section shall read as follows:]**

1280 27-5-101. Unless otherwise provided in this section, on or  
1281 before the fifteenth day of each month, all gasoline, diesel fuel  
1282 or kerosene taxes which are levied under the laws of this state  
1283 and collected during the previous month shall be paid and  
1284 apportioned by the State Tax Commission as follows:

1285 (a) (i) From the gross amount of gasoline, diesel fuel  
1286 or kerosene taxes produced by the state, there shall be deducted  
1287 an amount equal to one-sixth (1/6) of principal and interest  
1288 certified by the State Treasurer to the State Tax Commission to be  
1289 due on the next semiannual bond and interest payment date, as  
1290 required under the provisions of Chapter 130, Laws of 1938, and  
1291 subsequent acts authorizing the issuance of bonds payable from  
1292 gasoline, diesel fuel or kerosene tax revenue on a parity with the  
1293 bonds issued under authority of said Chapter 130. The State  
1294 Treasurer shall certify to the State Tax Commission on or before  
1295 the fifteenth day of each month the amount to be paid to the  
1296 "Highway Bonds Sinking Fund" as provided by said Chapter 130, Laws  
1297 of 1938, and subsequent acts authorizing the issuance of bonds  
1298 payable from gasoline, diesel fuel or kerosene tax revenue, on a  
1299 parity with the bonds issued under authority of said Chapter 130;  
1300 and the State Tax Commission shall, on or before the twenty-fifth  
1301 day of each month, pay into the State Treasury for credit to the  
1302 "Highway Bonds Sinking Fund" the amount so certified to him by the  
1303 State Treasurer due to be paid into such fund each month. The  
1304 payments to the "Highway Bonds Sinking Fund" shall be made out of

1305 gross gasoline, diesel fuel or kerosene tax collections before  
1306 deductions of any nature are considered; however, such payments  
1307 shall be deducted from the allocation to the Transportation  
1308 Department under paragraph (c) of this section.

1309 (ii) From collections derived from the portion of  
1310 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,  
1311 from the portion of the tax on aviation gas under Section 27-55-11  
1312 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the  
1313 portion of the special fuel tax levied under Sections 10 and 11 of  
1314 House Bill No. \_\_\_\_\_, 1999 Regular Session, at Eighteen Cents (18¢)  
1315 per gallon that exceeds Ten Cents (10¢) per gallon, from the  
1316 portion of the taxes levied under Section 10 of House Bill No. \_\_\_\_\_,  
1317 1999 Regular Session, at Five and Three-fourths Cents (5.75¢) per  
1318 gallon that exceeds One Cent (1¢) per gallon on special fuel and  
1319 Five and One-fourth Cents (5.25¢) per gallon on special fuel used  
1320 as aircraft fuel, from the portion of the excise tax on compressed  
1321 gas used as a motor fuel that exceeds the rate of tax in effect on  
1322 June 30, 1987, and from the portion of the gasoline excise tax in  
1323 excess of Seven Cents (7¢) per gallon and the diesel excise tax in  
1324 excess of Ten Cents (10¢) per gallon under Section 27-61-5 there  
1325 shall be deducted:

1326 1. An amount as provided in Section  
1327 27-65-75(4) to the credit of a special fund designated as the  
1328 "Office of State Aid Road Construction."

1329 2. An amount equal to the tax collections  
1330 derived from Two Cents (2¢) per gallon of the gasoline excise tax  
1331 for distribution to the State Highway Fund to be used exclusively  
1332 for the construction, reconstruction and maintenance of highways  
1333 of the State of Mississippi or the payment of interest and  
1334 principal on bonds when specifically authorized by the Legislature  
1335 for that purpose.

1336 3. The balance shall be deposited in the  
1337 State Treasury to the credit of the State Highway Fund.

1338 (b) Subject to the provisions that said basis of

1339 distribution shall in nowise affect adversely the amount  
1340 specifically pledged in paragraph (a) of this section to be paid  
1341 into the "Highway Bonds Sinking Fund," the following shall be  
1342 deducted from the amount produced by the state tax on gasoline,  
1343 diesel fuel or kerosene tax collections, excluding collections  
1344 derived from the portion of the gasoline excise tax that exceeds  
1345 Seven Cents (7¢) per gallon, from the portion of the tax on  
1346 aviation gas under Section 27-55-11 that exceeds Six and  
1347 Four-tenths Cents (6.4¢) per gallon, from the portion of the  
1348 special fuel tax levied under Sections 10 and 11 of House Bill No.  
1349 \_\_\_\_\_ , 1999 Regular Session, at Eighteen Cents (18¢) per gallon,  
1350 that exceeds Ten Cents (10¢) per gallon, from the portion of the  
1351 taxes levied under Section 10 of House Bill No. \_\_\_\_\_ , 1999 Regular  
1352 Session, at Five and Three-fourths Cents (5.75¢), that exceeds One  
1353 Cent (1¢) per gallon on special fuel and Five and One-fourth Cents  
1354 (5.25¢) per gallon on special fuel used as aircraft fuel, from the  
1355 portion of the excise tax on compressed gas used as a motor fuel  
1356 that exceeds the rate of tax in effect on June 30, 1987, and from  
1357 the portion of the gasoline excise tax in excess of Seven Cents  
1358 (7¢) per gallon and the diesel excise tax in excess of Ten Cents  
1359 (10¢) per gallon under Section 27-61-5:

1360 (i) Twenty percent (20%) of such amount which  
1361 shall be earmarked and set aside for the construction,  
1362 reconstruction and maintenance of the highways and roads of the  
1363 state, provided that if such twenty percent (20%) should reduce  
1364 any county to a lesser amount than that received in the fiscal  
1365 year ending June 30, 1966, then such twenty percent (20%) shall be  
1366 reduced to a percentage to provide that no county shall receive  
1367 less than its portion for the fiscal year ending June 30, 1966;

1368 (ii) The amount allowed as refund on gasoline or  
1369 as tax credit on diesel fuel or kerosene used for agricultural,  
1370 maritime, industrial, domestic and nonhighway purposes;

1371 (iii) Five percent (5%) of such amount shall be  
1372 paid to the State Highway Fund;



1373 (iv) The amount or portion thereof authorized by  
1374 legislative appropriation to the Fisheries and Wildlife Fund  
1375 created under Section 59-21-25;

1376 (v) The amount for deposit into the special  
1377 aviation fund under paragraph (d) of this section; and

1378 (vi) The remainder shall be divided on a basis of  
1379 nine-fourteenths (9/14) and five-fourteenths (5/14) (being the  
1380 same basis as Four and One-half Cents (4-1/2¢) and Two and  
1381 One-half Cents (2-1/2¢) is to Seven Cents (7¢) on gasoline, and  
1382 six and forty-three one-hundredths (6.43) and three and  
1383 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel  
1384 fuel or kerosene). The amount produced by the nine-fourteenths  
1385 (9/14) division shall be allocated to the Transportation  
1386 Department and paid into the State Treasury as provided in this  
1387 section and in Section 27-5-103 and the five-fourteenths (5/14)  
1388 division shall be returned to the counties of the state on the  
1389 following basis:

1390 1. In each fiscal year, each county shall be  
1391 paid each month the same percentage of the monthly total to be  
1392 distributed as was paid to that county during the same month in  
1393 the fiscal year which ended April 9, 1960, until the county  
1394 receives One Hundred Ninety Thousand Dollars (\$190,000.00) in such  
1395 fiscal year, at which time funds shall be distributed under the  
1396 provisions of paragraph (b)(vi)4 of this section.

1397 2. If after payments in 1 above, any county  
1398 has not received a total of One Hundred Ninety Thousand Dollars  
1399 (\$190,000.00) at the end of the fiscal year ending June 30, 1961,  
1400 and each fiscal year thereafter, then any available funds not  
1401 distributed under 1 above shall be used to bring such county or  
1402 counties up to One Hundred Ninety Thousand Dollars (\$190,000.00)  
1403 or such funds shall be divided equally among such counties not  
1404 reaching One Hundred Ninety Thousand Dollars (\$190,000.00) if  
1405 there is not sufficient money to bring all the counties to said  
1406 One Hundred Ninety Thousand Dollars (\$190,000.00).

1407                   3. When a county has been paid an amount  
1408 equal to the total which was paid to the same county during the  
1409 fiscal year ended April 9, 1960, such county shall receive no  
1410 further payments during the then current fiscal year until the  
1411 last month of such current fiscal year, at which time distribution  
1412 will be made under 2 above, except as set out in 4 below.

1413                   4. During the last month of the current  
1414 fiscal year, should it be determined that there are funds  
1415 available in excess of the amount distributed for the year under 1  
1416 and 2 above, then such excess funds shall be distributed among the  
1417 various counties as follows:

1418                   One-third (1/3) of such excess to be divided equally among  
1419 the counties;

1420                   One-third (1/3) of such excess to be paid to the counties in  
1421 the proportion which the population of each county bears to the  
1422 total population of the state according to the last federal  
1423 census;

1424                   One-third (1/3) of such excess to be paid to the counties in  
1425 the proportion which the number of square miles of each county  
1426 bears to the total square miles in the state.

1427                   5. It is the declared purpose and intent of  
1428 the Legislature that no county shall be paid less than was paid  
1429 during the year ended April 9, 1960, unless the amount to be  
1430 distributed to all counties in any year is less than the amount  
1431 distributed to all counties during the year ended April 9, 1960.

1432                   The Municipal Aid Fund as established by Section 27-5-103  
1433 shall not participate in any portion of any funds allocated to any  
1434 county hereunder over and above One Hundred Ninety Thousand  
1435 Dollars (\$190,000.00).

1436                   In any county having road or bridge bonds outstanding which  
1437 exceed, in the aggregate, twelve percent (12%) of the assessed  
1438 valuation of the taxable property of the county, it shall be the  
1439 duty of the board of supervisors to set aside not less than sixty  
1440 percent (60%) of such county's share of the gasoline, diesel fuel

1441 or kerosene taxes to be used in paying the principal and interest  
1442 on such road or bridge bonds as they mature.

1443 In any county having such road or bridge bonds outstanding  
1444 which exceed, in the aggregate, eight percent (8%) of the assessed  
1445 valuation of the taxable property of the county, but which do not  
1446 exceed, in the aggregate, twelve percent (12%) of the assessed  
1447 valuation of the taxable property of the county, it shall be the  
1448 duty of the board of supervisors to set aside not less than  
1449 thirty-five percent (35%) of such county's share of the gasoline,  
1450 diesel fuel or kerosene taxes to be used in paying the principal  
1451 and interest of such road or bridge bonds as they mature.

1452 In any county having such road or bridge bonds outstanding  
1453 which exceed, in the aggregate, five percent (5%) of the assessed  
1454 valuation of the taxable property of the county, but which do not  
1455 exceed, in the aggregate, eight percent (8%) of the assessed  
1456 valuation of the taxable property of the county, it shall be the  
1457 duty of the board of supervisors to set aside not less than twenty  
1458 percent (20%) of such county's share of the gasoline, diesel fuel  
1459 or kerosene taxes to be used in paying the principal and interest  
1460 of such road and bridge bonds as they mature.

1461 In any county having such road or bridge bonds outstanding  
1462 which do not exceed, in the aggregate, five percent (5%) of the  
1463 assessed valuation of the taxable property of the county, it shall  
1464 be the duty of the board of supervisors to set aside not less than  
1465 ten percent (10%) of such county's share of the gasoline, diesel  
1466 fuel or kerosene taxes to be used in paying the principal and  
1467 interest on such road or bridge bonds as they mature.

1468 The portion of any such county's share of the gasoline,  
1469 diesel fuel or kerosene taxes thus set aside for the payment of  
1470 the principal and interest of road or bridge bonds, as provided  
1471 for in this section, shall be used in paying the currently  
1472 maturing installments of the principal and interest of such road  
1473 or bridge bonds, if there be any such road or bridge bonds  
1474 outstanding.

1475           The remaining portion of such county's share of the gasoline,  
1476 diesel fuel or kerosene taxes, after setting aside the portion  
1477 above provided for the payment of the principal and interest of  
1478 bonds, shall be used in the construction and maintenance of any  
1479 public highways, bridges or culverts of the county, in the  
1480 discretion of the board of supervisors.

1481           In any county having no road or bridge bonds outstanding, all  
1482 such county's share of the gasoline, diesel fuel or kerosene taxes  
1483 shall be used in the construction, reconstruction and maintenance  
1484 of the public highways, bridges or culverts of the county, as the  
1485 board of supervisors may determine.

1486           In every county in which there are county road bonds or  
1487 seawall or road protection bonds outstanding which were issued for  
1488 the purpose of building bridges or constructing public roads or  
1489 seawalls, such funds shall be used in the manner provided by law.

1490           (c) From the amount produced by the nine-fourteenths  
1491 (9/14) division allocated to the Transportation Department, there  
1492 shall be deducted:

1493                   (i) The amount paid to the State Treasurer for the  
1494 "Highway Bonds Sinking Fund" under paragraph (a) of this section;

1495                   (ii) Any amounts due counties in accordance with  
1496 Section 65-33-45 which have outstanding bonds issued for seawall  
1497 or road protection purposes, issued under provisions of Chapter  
1498 319, Laws of 1924, and amendments thereto; and

1499                   (iii) Beginning August 15, 2002, and on or before  
1500 the fifteenth day of each month thereafter, an amount equal to  
1501 one-sixth (1/6) of the principal and interest certified by the  
1502 State Treasurer to the State Tax Commission to be due on the next  
1503 semiannual bond and interest payment date for the bonds issued  
1504 under Sections 65-39-5 through 65-39-33. On or before the  
1505 twenty-fifth day of each month the State Tax Commission shall pay  
1506 into the State Treasury for credit to the Gaming Counties Bond  
1507 Sinking Fund created in Section 65-39-3, the amount certified by  
1508 the State Treasurer.

1509                   (iv) The remainder shall be paid by the State Tax  
1510 Commission to the State Treasurer on the fifteenth day of each  
1511 month next succeeding the month in which the gasoline, diesel fuel  
1512 or kerosene taxes were collected to the credit of the State  
1513 Highway Fund.

1514           The funds allocated for the construction, reconstruction and  
1515 improvement of state highways, bridges and culverts, or so much  
1516 thereof as may be necessary, shall first be used in conjunction  
1517 with funds supplied by the federal government for such purposes  
1518 and allocated to the Transportation Department to be expended on  
1519 the state highway system. It is specifically provided hereby that  
1520 the necessary portion of such funds hereinabove allocated to the  
1521 Transportation Department may be used for the prompt payment of  
1522 principal and interest on highway bonds heretofore issued,  
1523 including such bonds issued or to be issued under the provisions  
1524 of Chapter 312, Laws of 1956, and amendments thereto.

1525           Nothing contained in this section shall be construed to  
1526 reduce the amount of such gasoline, diesel fuel or kerosene excise  
1527 taxes levied by the state, allotted under the provisions of Title  
1528 65, Chapter 33, Mississippi Code of 1972, to counties in which  
1529 there are outstanding bonds issued for seawall or road protection  
1530 purposes issued under the provisions of Chapter 319, Laws of 1924,  
1531 and amendments thereto; the amount of said gasoline, diesel fuel  
1532 or kerosene excise taxes designated in this section for the  
1533 payment of bonds and interest authorized and issued or to be  
1534 issued under the provisions of Chapter 130, Laws of 1938, and  
1535 subsequent acts authorizing the issuance of bonds payable from  
1536 gasoline, diesel fuel or kerosene tax revenue, shall, in such  
1537 counties, be considered as being paid "into the State Treasury to  
1538 the credit of the State Highway Fund" within the meaning of  
1539 Section 65-33-45 in computing the amount to be paid to such  
1540 counties under the provisions of said section, and this section  
1541 shall be administered in connection with Title 65, Chapter 33,  
1542 Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and

1543 65-33-49 dealing with seawalls, as if made a part of this section.

1544 (d) The proceeds of the Five and One-fourth Cents  
1545 (5.25¢) of the tax per gallon on oils used as a propellant for jet  
1546 aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax  
1547 per gallon on aviation gasoline and the tax of One Cent (1¢) per  
1548 gallon for each gallon of gasoline for which a refund has been  
1549 made pursuant to Section 27-55-23 because such gasoline was used  
1550 for aviation purposes, shall be paid to the State Treasury into a  
1551 special fund to be used exclusively, pursuant to legislative  
1552 appropriation, for the support and development of aeronautics as  
1553 defined in Section 61-1-3.

1554 (e) State highway funds in an amount equal to the  
1555 difference between Forty-two Million Dollars (\$42,000,000.00) and  
1556 the annual debt service payable on the state's highway revenue  
1557 refunding bonds, Series 1985, shall be expended for the  
1558 construction or reconstruction of highways designated under the  
1559 Four-Lane Highway Program created under Section 65-3-97.

1560 (f) "Gasoline, diesel fuel or kerosene taxes" as used  
1561 in this section shall be deemed to mean and include state  
1562 gasoline, diesel fuel or kerosene taxes levied and imposed on  
1563 distributors of gasoline, diesel fuel or kerosene, and all state  
1564 excise taxes derived from any fuel used to propel vehicles upon  
1565 the highways of this state, when levied by any statute.

1566 SECTION 37. Section 27-55-12, Mississippi Code of 1972, is  
1567 amended as follows:

1568 27-55-12. (1) The United States Government, the State of  
1569 Mississippi, counties, municipalities, school districts and all  
1570 other political subdivisions of the state shall be exempt from  
1571 excise taxes on gasoline, special fuel and compressed gas as  
1572 follows:

1573 (a) From the excise tax rate in excess of Nine Cents  
1574 (9¢) per gallon of gasoline and from the excise tax rate in excess  
1575 of One Cent (1¢) per gallon of aviation gasoline levied under  
1576 Section 27-55-11, Mississippi Code of 1972, Five and Four-tenths

1577 Cents (5.4¢) thereof shall be exempt as provided in Section  
1578 27-55-19, Mississippi Code of 1972.

1579 (b) From the excise tax rate in excess of Ten Cents  
1580 (10¢) per gallon of special fuel levied at Eighteen Cents (18¢)  
1581 per gallon under Sections 10 and 11 of House Bill No. \_\_\_\_\_, 1999  
1582 Regular Session, Four and Three-fourths Cents (4.75¢) thereof  
1583 shall be exempt.

1584 (c) From the excise tax rate in excess of One Cent (1¢)  
1585 per gallon of special fuel taxed at Five and Three-fourths Cents  
1586 (5.75¢) per gallon and from the excise tax rate in excess of  
1587 One-half Cent (1/2¢) per gallon of special fuel used in aircraft  
1588 levied under Section 10 of House Bill No. \_\_\_\_\_, 1999 Regular  
1589 Session, Four and Three-fourths Cents (4.75¢) thereof shall be  
1590 exempt.

1591 (d) From the portion of the excise tax rate on  
1592 compressed gas used as a motor fuel that exceeds the rate of tax  
1593 in effect on June 30, 1987, Three Cents (3¢) thereof shall be  
1594 exempt.

1595 (2) Any person other than a bonded distributor of gasoline,  
1596 bonded distributor of special fuel or bonded distributor of  
1597 compressed gas who sells or delivers any gasoline, special fuel or  
1598 compressed gas, subject to the exemption set forth in this  
1599 section, is required to obtain credit for such exemption from a  
1600 bonded distributor of gasoline, special fuel or compressed gas.

1601 SECTION 38. Section 27-55-19, Mississippi Code of 1972, is  
1602 amended as follows:

1603 27-55-19. There shall not be included in the measure of the  
1604 tax levied hereunder any gasoline:

1605 (a) Sold or delivered by a bonded distributor of  
1606 gasoline to a second bonded distributor of gasoline within this  
1607 state, but nothing in this exclusion shall exempt the second  
1608 bonded distributor of gasoline from paying the tax, unless the  
1609 second bonded distributor of gasoline sells or delivers said  
1610 gasoline to a third bonded distributor of gasoline in which event

1611 the third bonded distributor of gasoline shall be liable for the  
1612 tax.

1613           (b) Sold to the United States Government for use of the  
1614 Armed Forces only, and delivered in quantities of not less than  
1615 four thousand (4,000) gallons. Any exemption provided in this  
1616 paragraph (b) may be deducted without the prior approval of the  
1617 commission, provided that satisfactory proof of such exemption  
1618 shall be furnished to the commission. However, such exemption may  
1619 be disallowed by the commission if the distributor fails to  
1620 furnish satisfactory proof of such exemption to the commission.

1621           (c) Exported to a destination beyond the borders of  
1622 this state by a bonded distributor of gasoline when the tax on  
1623 such gasoline has been paid or on which the tax liability imposed  
1624 by this article has accrued against such bonded distributor. Any  
1625 exemption provided in this paragraph (c) may be deducted without  
1626 the prior approval of the commission, provided that satisfactory  
1627 proof of such exemption shall be furnished to the commission;  
1628 however, such exemption may be disallowed by the commission if the  
1629 distributor fails to furnish satisfactory proof of such exemption  
1630 to the commission within ninety (90) days from the sale or  
1631 delivery of the gasoline.

1632           (d) Exported by any person to a destination beyond the  
1633 borders of this state in quantities of not less than three  
1634 thousand (3,000) gallons by ship, vessel, barge, railroad tank  
1635 car, or pipeline, or by tank truck if such tank truck is operated  
1636 by a common or contract carrier.

1637           (e) Imported by, or sold to, any refiner or processor  
1638 in this state for the purpose of being refined or further  
1639 processed.

1640           (f) Sold to any manufacturer for blending or  
1641 compounding to the end that it becomes a component part of any  
1642 manufactured product, or where used as a processing agent in the  
1643 treatment of raw material in manufacturing a product which does  
1644 not fall within the meaning of the term "gasoline" as defined in



1645 this article.

1646 (g) Sold or delivered to be used for test purposes at  
1647 any regularly established testing laboratory in this state.

1648 Except as provided in paragraphs (b) and (c) above, evidence  
1649 of exempt transactions provided in this section and subsections  
1650 thereof, satisfactory to the commission, shall be submitted by the  
1651 distributor desiring an allowance of said exemptions to the  
1652 commission with the payment of the excise tax on the gasoline on  
1653 which the exemption is claimed. If the commission decides that  
1654 the distributor is entitled to the exemption and allowance  
1655 claimed, it shall notify said distributor in writing of such  
1656 allowance. The distributor shall then be allowed to deduct from  
1657 the payments made in his next monthly report, after said  
1658 allowance, the amount of tax which he paid on this exempted  
1659 gasoline which amount shall be arrived at by taking the amount of  
1660 exempted gasoline minus two percent (2%) allowed for evaporation,  
1661 shrinkage and other losses on gasoline, and multiplying the  
1662 remainder by the amount of excise tax per gallon. In cases where  
1663 the amount of such tax cannot be absorbed on the estimated tax  
1664 liability of the person making such payments during the next six  
1665 (6) months, the amount shall be refunded to the taxpayer. Such  
1666 amount shall be certified to the State Auditor of Public Accounts  
1667 by the commission. The said Auditor is hereby authorized to make  
1668 such investigation and audit of the claim as he finds necessary.  
1669 If he finds that the commission is correct in its determination,  
1670 the Auditor may issue his warrant to the State Treasurer in favor  
1671 of the taxpayer for the amount of tax erroneously paid, such  
1672 refunds to be made from current gasoline, \* \* \* or special fuel  
1673 tax collections.

1674 Except as otherwise provided in this section, in order to  
1675 claim exemptions provided for under this article, the distributor  
1676 of gasoline must file claims therefor within three (3) years from  
1677 the date of sale or delivery; otherwise, claims for such  
1678 exemptions shall be disallowed.

1679           In case gasoline and special fuel on which the tax has been  
1680 previously paid are accidentally mixed, the distributor of  
1681 gasoline or other person owning such mixture may ship the mixture  
1682 out of the State of Mississippi, or to a Mississippi refinery, and  
1683 may claim credit for the gasoline and/or special fuel tax on the  
1684 gasoline and special fuel so mixed. The distributor of gasoline  
1685 or other person may also ship the mixture to a barge or pipeline  
1686 storage terminal within the State of Mississippi to be brought up  
1687 to gasoline specifications, or lowered to special fuel  
1688 specifications, as the case might be, under the supervision of a  
1689 representative of the commission. It shall be the duty of the  
1690 distributor of gasoline or other person to whom the mixed product  
1691 belongs to notify the commission immediately after knowledge that  
1692 the mixture has occurred.

1693           In case the distributor of gasoline or other person elects to  
1694 ship the mixture to a barge or pipeline terminal for storage  
1695 within this state, the commission shall supervise the unloading of  
1696 the mixture.

1697           In order to perfect a claim for credit for the tax on the  
1698 gasoline and special fuel constituting any such mixture, the  
1699 distributor of gasoline or other person making the claim shall do  
1700 so in writing and shall furnish proof satisfactory to the  
1701 commission that the mixture was either shipped out of this state  
1702 or to a refinery or other approved place of storage within this  
1703 state. The commission shall notify the claimant, in writing,  
1704 whether or not his claim is approved, and, if approved, the  
1705 claimant may deduct the amount of the claim from his next tax  
1706 report. No such claim shall be allowed unless filed within three  
1707 (3) years after the date of such accidental mixture. Bonded  
1708 distributors of gasoline having no gasoline tax liability with the  
1709 commission may assign such tax credit to a bonded distributor of  
1710 gasoline having such tax liability.

1711           No tax liability shall accrue against the operator of a  
1712 refinery when shipments of gasoline are made from such refinery,

1713 either by common carrier or by tank trucks owned and operated by  
1714 the operator of said refinery, to a tax-exempt account within this  
1715 state or to another refinery within this state.

1716         Provided, however, that when gasoline is withdrawn from the  
1717 storage tank of a refiner or processor on which the tax is paid on  
1718 such gasoline and it or any part thereof cannot be delivered to a  
1719 purchaser, said refiner or processor may deduct the tax on all or  
1720 that portion of such gasoline not delivered to a purchaser from  
1721 its next gasoline distributor's tax report; provided that such  
1722 refiner or processor submits with such tax report: (1) a written  
1723 report setting forth the reasons why such delivery could not be  
1724 made, and (2) proof or evidence satisfactory to the commission  
1725 that the tax in question had theretofore been paid to the  
1726 commission, and (3) proof or evidence satisfactory to the  
1727 commission that the nondelivered gasoline was actually returned to  
1728 the refinery or processor from which it was taken for the purpose  
1729 of delivering it to a purchaser; and provided further, that  
1730 immediately upon ascertainment by the refiner or processor that  
1731 said gasoline cannot be delivered, he or it shall immediately  
1732 notify the commission of this fact and before moving his or its  
1733 truck or other means of transporting said gasoline from the  
1734 intended point of delivery; and should the commission desire to  
1735 inspect said truck, or other means of conveyance, such refiner or  
1736 processor shall arrange for such inspection at the point or at  
1737 such other point that may be designated by the commission.

1738         The United States Government, the State of Mississippi,  
1739 counties, municipalities, school districts and all other political  
1740 subdivisions of the state shall be exempt from Five and  
1741 Four-tenths Cents (5.4¢) of the portion of the gasoline excise tax  
1742 rate which exceeds Nine Cents (9¢) per gallon. Any exemption  
1743 provided in this paragraph may be deducted without the prior  
1744 approval of the commission.

1745         SECTION 39. Section 27-61-3, Mississippi Code of 1972, is  
1746 amended as follows:

1747           27-61-3. When used in this chapter, the following words and  
1748 phrases shall have the meaning ascribed to them hereby, except  
1749 where the context clearly describes and indicates a different  
1750 meaning:

1751           (a) Person: Any individual, firm, copartnership, joint  
1752 venture, association, corporation, estate, trust, or any other  
1753 group or combination acting as a unit and the plural as well as  
1754 the singular number unless the intention to give a more limited  
1755 meaning is disclosed by the context.

1756           (b) Motor vehicle: A motor vehicle used, designed or  
1757 maintained for transportation of persons or property and (i)  
1758 having two (2) axles and a gross vehicle weight exceeding  
1759 twenty-six thousand (26,000) pounds; (ii) having three (3) or more  
1760 axles, regardless of weight; or being used in combination when the  
1761 gross vehicle weight of such combination exceeds twenty-six  
1762 thousand (26,000) pounds. The term "motor vehicle" does not  
1763 include recreational vehicles.

1764           (c) Fuel: Any product which is used, or is capable of  
1765 being used, for the generation of power for the operation of a  
1766 motor vehicle.

1767           (d) Commission: The State Tax Commission, either  
1768 acting directly or through its duly authorized officers, agents  
1769 and employees.

1770           (e) Owner: A person who holds the legal title of a  
1771 motor vehicle, or in the event a motor vehicle is the subject of  
1772 an agreement for the conditional sale, lease or transfer of the  
1773 possession, howsoever, thereof, with the right of purchase upon  
1774 performance of conditions stated in the agreement, and with an  
1775 immediate right of possession vested in the conditional vendee,  
1776 lessee, possessor, or in the event such or similar transaction is  
1777 had by means of a mortgage and the mortgagor of a motor vehicle is  
1778 entitled to possession, then such conditional vendee, lessee,  
1779 possessor or mortgagor shall be deemed the owner for the purposes  
1780 of this chapter.

1781           (f) Highway: The entire width between boundary lines  
1782 of every way in the state that is publicly maintained or any part  
1783 of which is publicly maintained and is open or is to be opened to  
1784 use by the public for the purpose of vehicular travel, including  
1785 all streets and alleys in cities and towns.

1786           (g) Operator: Any person, partnership, joint-stock  
1787 company or corporation operating on the public highways of this  
1788 state one or more motor vehicles as the beneficial owner or  
1789 lessee.

1790           (h) Driver: Any person actually in control of, driving  
1791 or operating a motor vehicle at any given time.

1792           (i) The terms "gross weight," "common carrier by motor  
1793 vehicle," "contract carrier by motor vehicle," "private commercial  
1794 carrier of property by motor vehicle," "private commercial carrier  
1795 of passengers by motor vehicle," and "private carrier of property"  
1796 shall, respectively, have the meaning ascribed to them in Sections  
1797 27-19-1 through 27-19-167, Mississippi Code of 1972.

1798           (j) Retail dealer: Any person not licensed as a  
1799 distributor who sells gasoline, special fuel, diesel fuel or  
1800 compressed gas.

1801           (k) Motor carrier: Any person operating a motor  
1802 vehicle, as defined in this section, on the highways of this  
1803 state.

1804           (l) "Recreational vehicle" means vehicles such as motor  
1805 homes, pickup trucks with attached campers, and buses when used  
1806 exclusively for personal pleasure by an individual. In order to  
1807 qualify as a recreational vehicle, the vehicle shall not be used  
1808 in connection with any business endeavor.

1809           SECTION 40. Section 27-61-5, Mississippi Code of 1972, is  
1810 amended as follows:

1811           27-61-5. There is hereby levied and imposed, a privilege tax  
1812 as reasonable compensation for the use of the highways of this  
1813 state, in addition to all other taxes which may be levied for such  
1814 purpose, as follows: upon each owner or operator of a common

1815 carrier by motor vehicle, contract carrier by motor vehicle,  
1816 private commercial carrier of property by motor vehicle, common  
1817 carriers of passengers, contract carriers of passengers, private  
1818 carrier of passengers by motor vehicle, and private carrier of  
1819 property, when any of such carriers operate a motor vehicle or  
1820 motor vehicles that cross the boundary line of the State of  
1821 Mississippi, a privilege tax equal to and computed at the  
1822 prevailing excise tax rates for gasoline, special fuel, diesel  
1823 fuel \* \* \* and compressed gas for highway use on all such fuel  
1824 used in operating any motor vehicle in this state. The operator  
1825 of any motor vehicle or motor vehicles which are so equipped that  
1826 more than one (1) kind of motor fuel can be used shall be liable  
1827 for the tax at the highest prevailing tax rate of the kinds of  
1828 motor fuel so used within this state, with no credit allowed for  
1829 the purchase of fuel with the lesser tax rate.

1830 SECTION 41. Section 27-61-11, Mississippi Code of 1972, is  
1831 amended as follows:

1832 27-61-11. The permittee shall file a quarterly fuel use  
1833 report for the preceding calendar quarter on or before the last  
1834 day of the month following each calendar quarter on forms to be  
1835 prescribed by the commission, or the carriers may, with the  
1836 approval of the commission, furnish the required information on  
1837 machine-prepared schedules. Said report shall show any  
1838 information required by the commission for the administration of  
1839 this chapter. Such report must be filed even though it may  
1840 reflect no Mississippi miles for the quarter or accounting period.

1841 At the time of filing of each quarterly report, each permittee  
1842 shall pay to the commission the full amount of the tax due on all  
1843 fuel used by him in this state at the rate provided for in  
1844 paragraph (a) of Section 27-61-5 of this chapter. The permittee  
1845 in determining the fuel used by him in this state for said period  
1846 may, as to each type of fuel used, determine his average number of  
1847 miles of motor vehicle travel for a gallon of fuel by the use of  
1848 the following formula: There shall first be determined the total

1849 miles traveled by all motor vehicles operated by permittee using a  
1850 particular type of fuel; there shall then be determined the total  
1851 number of gallons of such fuel consumed; the total number of  
1852 gallons of such fuel consumed shall then be divided into the total  
1853 number of miles traveled to determine the average number of miles  
1854 of motor vehicle travel per gallon of fuel used. Proper records  
1855 supporting these computations shall be maintained for a period of  
1856 not less than three (3) years and shall be available to the  
1857 inspection and audit of the commission. Permittee may, however,  
1858 use any standards established by the commission in determining the  
1859 motor vehicle travel per gallon of fuel consumed as to any  
1860 particular type fuel. The permittee, in computing the amount of  
1861 tax due, may take credit for all payments of the taxes levied in  
1862 Sections 27-55-11 \* \* \* and 27-59-11, Mississippi Code of 1972,  
1863 and Sections 10 and 11 of House Bill No. \_\_\_\_\_, 1999 Regular  
1864 Session.

1865 All administrative provisions of the Mississippi Sales Tax  
1866 Law, including those which fix damages, penalties and interest for  
1867 nonpayment of taxes, failure to file returns, and for other  
1868 noncompliance with the provisions of said chapter, and all other  
1869 requirements and duties imposed upon taxpayers, shall apply to all  
1870 persons liable for taxes under the provisions of this chapter, and  
1871 the commission shall exercise all the power and authority and  
1872 perform all the duties with respect to taxpayers under this  
1873 chapter as are provided in said Sales Tax Law, except that in  
1874 cases of conflict, then the provisions of this chapter shall  
1875 control.

1876 In the event that any taxes or penalties imposed by this  
1877 chapter have been erroneously or illegally collected from a  
1878 distributor, user or other person, the commission may permit such  
1879 distributor, user or other person to take credit against a  
1880 subsequent tax report for the amount of the erroneous overpayment,  
1881 or the amount thereof may be refunded to the distributor or other  
1882 person in the same manner as provided in Section 27-55-19.

1883 Provided, however, in cases where the approved claim exceeds  
1884 Twenty-five Thousand Dollars (\$25,000.00), the claimant may not  
1885 take credit on his tax reports for more than Twenty-five Thousand  
1886 Dollars (\$25,000.00) per quarter until such approved amount is  
1887 depleted.

1888 No refunds shall be made under the provisions of this section  
1889 unless a written claim is filed setting forth the circumstances by  
1890 reason of which such refund should be allowed. Said claim shall  
1891 be in such form as the commission shall prescribe, and shall be  
1892 filed with the commission within three (3) years from the date of  
1893 payment of the taxes erroneously or illegally collected. Nothing  
1894 in this chapter shall be construed to prohibit a refund or credit  
1895 for tax paid on fuel tax reports not subject to tax or which is  
1896 exempt from tax, provided there has not been a willful disregard  
1897 of the provisions of this chapter and further provided that the  
1898 claim therefor is filed within three (3) years.

1899 SECTION 42. Section 27-61-12, Mississippi Code of 1972, is  
1900 amended as follows:

1901 27-61-12. The payment of taxes levied in Sections  
1902 27-55-11 \* \* \* and 27-59-11, Mississippi Code of 1972, and  
1903 Sections 10 and 11 of House Bill No. \_\_\_\_\_, 1999 Regular Session,  
1904 on gasoline, special fuel, diesel fuel and compressed gas  
1905 purchased in bulk quantities from a distributor shall be evidenced  
1906 by invoices showing the quantity of fuel purchased, the type of  
1907 fuel, the tax rate, the date of the purchase, the purchaser's name  
1908 and address, and any other information the commission deems  
1909 necessary for the administration of this chapter. The person  
1910 withdrawing fuel from bulk storage facilities shall maintain the  
1911 following records for each withdrawal.

1912 (a) The date the fuel is withdrawn.

1913 (b) The number of gallons.

1914 (c) The fuel type.

1915 (d) The company unit number, or the motor vehicle

1916 license plate number and state.



1917           The payment of the aforesaid taxes on gasoline, special fuel,  
1918 diesel fuel and compressed gas purchased from a distributor or  
1919 retail dealer and placed in the fuel tank of a motor vehicle shall  
1920 be evidenced by invoices showing:

- 1921           (a) The date of sale.
- 1922           (b) The name and station address of the vendor (printed  
1923 or with credit card imprint).
- 1924           (c) The name and address of the purchaser or permittee.
- 1925           (d) The number of gallons sold.
- 1926           (e) The signature of the purchaser.
- 1927           (f) The company unit number, or the motor vehicle  
1928 license plate number and state.

1929           The invoice must be in triplicate except in cases of credit  
1930 card purchases. Invoices omitting any of the aforesaid items are  
1931 not acceptable as proof of purchasing fuel in this state.

1932           When the sale of fuel is through an automated method whereby  
1933 the purchase is automatically applied to the purchaser's account  
1934 and a single invoice is issued for multiple purchases, such  
1935 invoice is acceptable as proof of purchasing fuel in this state.

1936           In cases of a lessee/lessor agreement, invoices will be  
1937 accepted in either name, provided a legal connection can be made  
1938 to the reporting party. When the lessor is the reporting party  
1939 and the lessee is fueling the motor vehicle from his own tax-paid  
1940 bulk storage facility, the lessee must furnish the following  
1941 documentation for each instance tax-paid fuel is placed in the  
1942 motor vehicle:

- 1943           (a) The date the fuel was withdrawn from the bulk  
1944 storage facility.
- 1945           (b) The number of gallons.
- 1946           (c) The fuel type.
- 1947           (d) The company unit number, or the motor vehicle  
1948 license plate number and state.

1949           \* \* \*

1950           The commission is hereby authorized and empowered to change,

1951 by regulation, the requirements, contents and specifications of  
1952 the aforesaid invoices when such change is deemed necessary for  
1953 the administration of this chapter or to achieve uniformity among  
1954 the states with respect to fuel purchase invoices.

1955 SECTION 43. Section 49-17-403, Mississippi Code of 1972, is  
1956 amended as follows:

1957 49-17-403. For the purposes of Sections 49-17-401 through  
1958 49-17-433, the following words and phrases shall have the meaning  
1959 ascribed in this section:

1960 (a) "Active site" means a site of an underground  
1961 storage tank where an owner can be identified and where the tank  
1962 is in use for management and handling of motor fuels.

1963 (b) "Bonded distributor" means any person holding a  
1964 distributor's permit issued under either Section 27-55-7 \* \* \* or  
1965 Section 4 of House Bill No. \_\_\_\_\_, 1999 Regular Session.

1966 (c) "Commission" means the Mississippi Commission on  
1967 Environmental Quality.

1968 (d) "Contamination" means the presence or discharge of  
1969 regulated substances in or on the land or in the waters of the  
1970 state.

1971 (e) "Department" means the Mississippi Department of  
1972 Environmental Quality.

1973 (f) "Director" means the Executive Director of the  
1974 Mississippi Department of Environmental Quality.

1975 (g) "Groundwater" means water located beneath the land  
1976 surface located wholly or partially within the boundaries of the  
1977 state.

1978 (h) "Motor fuels" means gasoline and aviation gasoline  
1979 as defined in Section 27-55-5 \* \* \* and special fuel as defined in  
1980 Section 3 of House Bill No. \_\_\_\_\_, 1999 Regular Session, except for  
1981 those "motor fuels" used in electric power generating plants for  
1982 the commercial production of electricity.

1983 (i) "Operator" means any person in control of, or  
1984 having responsibility for, the daily operation of an underground

1985 storage tank.

1986 (j) "Owner of an underground storage tank" means:

1987 (i) In the case of an underground storage tank in  
1988 use on November 8, 1984, or brought into use after that date, any  
1989 person who owns an underground storage tank used for the storage,  
1990 use or dispensing of regulated substances; and

1991 (ii) In the case of an underground storage tank in  
1992 use before November 8, 1984, but no longer in use on that date,  
1993 any person who owned such tank immediately before the  
1994 discontinuation of its use.

1995 (k) "Person" means an individual, trust, firm,  
1996 joint-stock company, federal agency, corporation, state  
1997 municipality, commission, political subdivision of a state, any  
1998 interstate body, a consortium, a joint venture, a commercial  
1999 entity or the United States Government.

2000 (l) "Regulated substance" means:

2001 (i) Any substance defined in Section 101(14) of  
2002 the Comprehensive Environmental Response, Compensation and  
2003 Liability Act of 1980, Public Law No. 96-510, as amended and  
2004 extended (but not including any substance regulated as a hazardous  
2005 waste under Section 17-17-1 et seq., Mississippi Code of 1972);  
2006 and

2007 (ii) Petroleum, including crude oil or any  
2008 fraction thereof, which is liquid at standard conditions of  
2009 temperature and pressure (sixty (60) degrees Fahrenheit and  
2010 fourteen and seven-tenths (14-7/10) pounds per square inch  
2011 absolute).

2012 (m) "Release" means any spilling, leaking, emitting,  
2013 discharging, escaping, leaching or disposing from an underground  
2014 storage tank into groundwater, surface water or subsurface soils.

2015 (n) "Response action" means any activity, including  
2016 evaluation, planning, design, engineering, construction and  
2017 ancillary services, which is carried out in response to any  
2018 discharge, release or threatened release of motor fuels.

2019           (o) "Response action contractor" means a person who has  
2020 been approved by the commission and is carrying out any response  
2021 action, including a person retained or hired by such person to  
2022 provide services relating to a response action.

2023           (p) "Retailer" means any person other than a bonded  
2024 distributor who sells motor fuel as defined in this section.

2025           (q) "Substantial compliance" means that an owner or  
2026 operator of an underground storage tank has registered that tank  
2027 with the department, and has made a good-faith effort to comply  
2028 with the law; and the rules and regulations adopted pursuant  
2029 thereto.

2030           (r) "Third-party claim" means any civil action brought  
2031 or asserted by any person against any owner of any underground  
2032 storage tank for damages to person or property which damages are  
2033 the direct result of a release of motor fuels from an underground  
2034 storage tank.

2035           (s) "Underground storage tank" means any one or  
2036 combination of containers including tanks, vessels, enclosures or  
2037 structures together with appurtenances thereto used to contain an  
2038 accumulation of regulated substances, and the volume of which,  
2039 including the volume of the underground pipes connected thereto,  
2040 is ten percent (10%) or more beneath the surface of the ground.  
2041 Such term does not include any:

2042                 (i) Farm or residential tanks of one thousand one  
2043 hundred (1,100) gallons or less capacity used for storing motor  
2044 fuel for noncommercial purposes;

2045                 (ii) Tanks used for storing heating oil for  
2046 consumptive use on the premises where stored;

2047                 (iii) Septic tanks;

2048                 (iv) Pipeline facilities (including gathering  
2049 lines regulated under:

2050                         1. The Natural Gas Pipeline Safety Act of  
2051 1968, Public Law No. 90-481, 49 USCS 1671-1684, as amended and  
2052 extended,

2053                               2. The Hazardous Liquid Pipeline Safety Act  
2054 of 1979, Public Law No. 96-129, 49 USCS 2001 et seq., as amended  
2055 and extended, or

2056                               3. An intrastate pipeline facility regulated  
2057 under state laws comparable to the provisions of law in Clause 1  
2058 or 2 of this subparagraph);

2059                               (v) Surface impoundments, pits, ponds or lagoons;

2060                               (vi) Storm water or wastewater collection systems;

2061                               (vii) Flow-through process tanks;

2062                               (viii) Liquid traps or associated gathering lines  
2063 directly related to oil or gas production and gathering operation;

2064                               (ix) Storage tanks situated in an underground area  
2065 such as a basement, cellar, mine working, drift, shaft or tunnel  
2066 if the storage tank is situated upon or above the surface of the  
2067 floor;

2068                               (x) Other tanks exempted by the Administrator of  
2069 the Federal Environmental Protection Agency; and

2070                               (xi) Piping connected to any of the above  
2071 exemptions.

2072                               (t) "User" means any person who purchases or acquires  
2073 motor fuels as defined in this section for consumption.

2074                               SECTION 44. Section 49-17-407, Mississippi Code of 1972, is  
2075 amended as follows:

2076                               49-17-407. (1) (a) An environmental protection fee of  
2077 Four-tenths of One Cent (4/10 of 1¢) per gallon is hereby levied  
2078 upon any bonded distributor, as defined by Sections 49-17-401  
2079 through 49-17-433, who sells or delivers motor fuels to a retailer  
2080 or user in this state.

2081                               (b) Every person, other than a bonded distributor, who  
2082 shall purchase or acquire motor fuels within this state on which  
2083 the environmental protection fee has not accrued, shall be liable  
2084 for the environmental protection fee.

2085                               (c) The environmental protection fee shall be imposed  
2086 only one (1) time on motor fuels sold in the state.

2087 (d) The environmental protection fee shall be collected  
2088 by the State Tax Commission and shall be designated separately  
2089 from the excise taxes on fuels.

2090 (e) Any person liable for the environmental protection  
2091 fee shall be subject to the same requirements and penalties as  
2092 distributors under the provisions of the Mississippi Special Fuel  
2093 Tax Law.

2094 (f) Any person liable for the environmental protection  
2095 fee shall file a report and remit any fees due at the same time  
2096 provided for filing reports under Section 12 of House Bill No.,  
2097 1999 Regular Session, on forms prescribed by the State Tax  
2098 Commission.

2099 (g) The State Tax Commission is hereby authorized and  
2100 empowered to promulgate all rules and regulations necessary for  
2101 the administration of the environmental protection fee.

2102 (2) (a) On or before the fifteenth day of each month the  
2103 environmental protection fees collected during the previous month  
2104 shall be deposited into the Mississippi Groundwater Protection  
2105 Trust Fund established in Section 49-17-405. When the unobligated  
2106 balance in the fund reaches or exceeds Ten Million Dollars  
2107 (\$10,000,000.00), the administrator of the fund shall notify in  
2108 writing the State Tax Commission no later than the twenty-fifth  
2109 day of the month to abate the environmental protection fee. The  
2110 abatement shall become effective on the last day of the month  
2111 succeeding the month in which such notice was given. All  
2112 environmental protection fees accrued shall be reported and paid.

2113 (b) When the fund balance is reduced below Six Million  
2114 Dollars (\$6,000,000.00), the fee shall again be imposed at the  
2115 rate of Four-tenths of One Cent (4/10 of 1¢) per gallon until such  
2116 time as the fund shall reach or exceed Ten Million Dollars  
2117 (\$10,000,000.00). The administrator of the fund shall notify, no  
2118 later than the twenty-fifth day of the month, the State Tax  
2119 Commission to reimpose the environmental protection fee. The  
2120 imposition of the fee shall become effective on the first day of

2121 the second month succeeding the month in which the notice to  
2122 reimpose the fee was given.

2123 (3) This fund shall be used for the purposes set forth in  
2124 Sections 49-17-401 through 49-17-435 and for no other governmental  
2125 purposes, nor shall any portion hereof ever be available to borrow  
2126 from by any branch of government; it being the intent of the  
2127 Legislature that this fund and its increments shall remain intact  
2128 and inviolate. Any interest earned on monies in this fund shall  
2129 remain in this fund.

2130 (4) Monies held in the fund established under Sections  
2131 49-17-401 through 49-17-435 shall be used only at an active site  
2132 and shall be disbursed in accordance with the commission  
2133 requirements and as follows:

2134 (a) Payments shall be made to any third party who  
2135 brings a third-party claim against any owner of an underground  
2136 storage tank and the commission as trustee of the Mississippi  
2137 Groundwater Protection Trust Fund and who obtains a final judgment  
2138 in such action which is valid and enforceable in this state  
2139 against such parties. Payment shall be paid to the third party  
2140 upon filing by such party an application with the department  
2141 attaching the original or a certified copy of the final judgment.

2142 (b) Payments shall be made in reasonable amounts to  
2143 approved response action contractors and other parties involved in  
2144 the site study and cleanup. Payment shall be made to the party  
2145 incurring the costs by filing of a sworn application with the  
2146 department indicating the fair and reasonable value of the costs  
2147 of site rehabilitation, subject to the regulations and limitations  
2148 as set by the department.

2149 (5) Payments from the fund are limited as follows:

2150 (a) For cleanup purposes, a maximum of One Million  
2151 Dollars (\$1,000,000.00) may be disbursed from the fund for any one  
2152 (1) site, per confirmed release occurrence.

2153 (b) For third-party judgments, a maximum of One Million  
2154 Dollars (\$1,000,000.00) may be disbursed from the fund for any one

2155 (1) site, per confirmed release occurrence.

2156 (c) Nothing in Sections 49-17-401 through 49-17-435  
2157 shall establish or create any liability or responsibility on the  
2158 part of the department or the State of Mississippi to pay any  
2159 cleanup costs or third-party claims if the fund created herein is  
2160 insufficient to do so.

2161 (6) Monies held in the fund established under Sections  
2162 49-17-401 through 49-17-435 shall not be used for purchases of  
2163 equipment needed to assist in cleanup operations.

2164 (7) Nothing in Sections 49-17-401 through 49-17-435 shall  
2165 serve to limit any recovery against an owner of an underground  
2166 storage tank in excess of One Million Dollars (\$1,000,000.00).

2167 (8) Substantial compliance shall in no way be construed to  
2168 be an absolute defense to civil liability.

2169 (9) This section shall stand repealed from and after July 1,  
2170 1999.

2171 SECTION 45. Section 65-1-8, Mississippi Code of 1972, is  
2172 amended as follows:

2173 65-1-8. (1) The Mississippi Transportation Commission shall  
2174 have the following general powers, duties and responsibilities:

2175 (a) To coordinate and develop a comprehensive, balanced  
2176 transportation policy for the State of Mississippi;

2177 (b) To promote the coordinated and efficient use of all  
2178 available and future modes of transportation;

2179 (c) To make recommendations to the Legislature  
2180 regarding alterations or modifications in any existing  
2181 transportation policies;

2182 (d) To study means of encouraging travel and  
2183 transportation of goods by the combination of motor vehicle and  
2184 other modes of transportation;

2185 (e) To take such actions as are necessary and proper to  
2186 discharge its duties pursuant to the provisions of Laws, 1992,  
2187 Chapter 496, and any other provision of law;

2188 (f) To receive and provide for the expenditure of any



2189 funds made available to it by the Legislature, the federal  
2190 government, or any other source.

2191 (2) In addition to the general powers, duties and  
2192 responsibilities listed in subsection (1) of this section, the  
2193 Mississippi Transportation Commission shall have the following  
2194 specific powers:

2195 (a) To make rules and regulations whereby the  
2196 transportation department shall change or relocate any and all  
2197 highways herein or hereafter fixed as constituting a part of the  
2198 state highway system, as may be deemed necessary or economical in  
2199 the construction or maintenance thereof; to acquire by gift,  
2200 purchase, condemnation, or otherwise, land or other property  
2201 whatsoever that may be necessary for a state highway system as  
2202 herein provided, with full consideration to be given to the  
2203 stimulation of local public and private investment when acquiring  
2204 such property in the vicinity of Mississippi towns, cities and  
2205 population centers;

2206 (b) To enforce by mandamus, or other proper legal  
2207 remedies, all legal rights or rights of action of the Mississippi  
2208 Transportation Commission with other public bodies, corporations  
2209 or persons;

2210 (c) To make and publish rules, regulations and  
2211 ordinances for the control of and the policing of the traffic on  
2212 the state highways, and to prevent their abuse by any or all  
2213 persons, natural or artificial, by trucks, tractors, trailers or  
2214 any other heavy or destructive vehicles or machines, or by any  
2215 other means whatsoever, by establishing weights of loads or of  
2216 vehicles, types of tires, width of tire surfaces, length and width  
2217 of vehicles, with reasonable variations to meet approximate  
2218 weather conditions, and all other proper police and protective  
2219 regulations, and to provide ample means for the enforcement of  
2220 same. The violation of any of the rules, regulations or  
2221 ordinances so prescribed by the commission shall constitute a  
2222 misdemeanor. No rule, regulation or ordinance shall be made that

2223 conflicts with any statute now in force or which may hereafter be  
2224 enacted, or with any ordinance of municipalities. A monthly  
2225 publication giving general information to the boards of  
2226 supervisors, employees and the public may be issued under such  
2227 rules and regulations as the commission may determine;

2228 (d) To give suitable numbers to highways and to change  
2229 the number of any highway that shall become a part of the state  
2230 highway system. However, nothing herein shall authorize the  
2231 number of any highway to be changed so as to conflict with any  
2232 designation thereof as a U.S. numbered highway. Where, by a  
2233 specific act of the Legislature, the commission has been directed  
2234 to give a certain number to a highway, the commission shall not  
2235 have the authority to change such number;

2236 (e) To make proper and reasonable rules, regulations,  
2237 and ordinances for the placing, erection, removal or relocation of  
2238 telephone, telegraph or other poles, signboards, fences, gas,  
2239 water, sewerage, oil or other pipelines, and other obstructions  
2240 that may, in the opinion of the commission, contribute to the  
2241 hazards upon any of the state highways, or in any way interfere  
2242 with the ordinary travel upon such highways, or the construction,  
2243 reconstruction or maintenance thereof, and to make reasonable  
2244 rules and regulations for the proper control thereof. Any  
2245 violation of such rules or regulations or noncompliance with such  
2246 ordinances shall constitute a misdemeanor.

2247 Whenever the order of the commission shall require the  
2248 removal of, or other changes in the location of telephone,  
2249 telegraph, or other poles, signboards, gas, water, sewerage, oil  
2250 or other pipelines; or other similar obstructions on the  
2251 right-of-way or such other places where removal is required by  
2252 law, the owners thereof shall at their own expense move or change  
2253 the same to conform to the order of the commission. Any violation  
2254 of such rules or regulations or noncompliance with such orders  
2255 shall constitute a misdemeanor;

2256 (f) To regulate and abandon grade crossings on any road

2257 fixed as a part of the state highway system, and whenever the  
2258 commission, in order to avoid a grade crossing with the railroad,  
2259 locates or constructs said road on one side of the railroad, the  
2260 commission shall have the power to abandon and close such grade  
2261 crossing, and whenever an underpass or overhead bridge is  
2262 substituted for a grade crossing, the commission shall have power  
2263 to abandon such grade crossing and any other crossing adjacent  
2264 thereto. Included in the powers herein granted shall be the power  
2265 to require the railroad at grade crossings, where any road of the  
2266 state highway system crosses the same, to place signal posts with  
2267 lights or other warning devices at such crossings at the expense  
2268 of the railroad, and to regulate and abandon underpass or overhead  
2269 bridges and, where abandoned because of the construction of a new  
2270 underpass or overhead bridge, to close such old underpass or  
2271 overhead bridge, or, in its discretion, to return the same to the  
2272 jurisdiction of the county board of supervisors;

2273 (g) To make proper and reasonable rules and regulations  
2274 to control the cutting or opening of the road surfaces for  
2275 subsurface installations;

2276 (h) To make proper and reasonable rules and regulations  
2277 for the removal from the public rights-of-way of any form of  
2278 obstruction, to cooperate in improving their appearance, and to  
2279 prescribe minimum clearance heights for seed conveyors, pipes,  
2280 passageways or other structure of private or other ownership above  
2281 the highways;

2282 (i) To establish, and have the transportation  
2283 department maintain and operate, and to cooperate with the state  
2284 educational institutions in establishing, enlarging, maintaining  
2285 and operating a laboratory or laboratories for testing materials  
2286 and for other proper highway purposes;

2287 (j) To provide, under the direction and with the  
2288 approval of the Department of Finance and Administration, suitable  
2289 offices, shops and barns in the City of Jackson;

2290 (k) To establish and have enforced set-back

2291 regulations;

2292           (1) To cooperate with proper state authorities in  
2293 producing limerock for highway purposes and to purchase same at  
2294 cost;

2295           (m) To provide for the purchase of necessary equipment  
2296 and vehicles and to provide for the repair and housing of same, to  
2297 acquire by gift, purchase, condemnation or otherwise, land or  
2298 lands and buildings in fee simple, and to authorize the  
2299 transportation department to construct, lease or otherwise provide  
2300 necessary and proper permanent district offices for the  
2301 construction and maintenance divisions of the department, and for  
2302 the repair and housing of the equipment and vehicles of the  
2303 department; however, in each Supreme Court district only two (2)  
2304 permanent district offices shall be set up, but a permanent status  
2305 shall not be given to any such offices until so provided by act of  
2306 the Legislature and in the meantime, all shops of the department  
2307 shall be retained at their present location. As many local or  
2308 subdistrict offices, shops or barns may be provided as is  
2309 essential and proper to economical maintenance of the state  
2310 highway system;

2311           (n) To cooperate with the Department of Archives and  
2312 History in having placed and maintained suitable historical  
2313 markers, including those which have been approved and purchased by  
2314 the State Historical Commission, along state highways, and to have  
2315 constructed and maintained roadside driveways for convenience and  
2316 safety in viewing them when necessary; however, no highway or  
2317 bridge shall ever be memorialized to a man while living;

2318           (o) To cooperate, in its discretion, with the  
2319 Mississippi Department of Wildlife, Fisheries and Parks in  
2320 planning and constructing roadside parks upon the right-of-way of  
2321 state highways, whether constructed, under construction, or  
2322 planned; said parks to utilize where practical barrow pits used in  
2323 construction of state highways for use as fishing ponds. Said  
2324 parks shall be named for abundant flora and fauna existing in the

2325 area or for the first flora or fauna found on the site;

2326 (p) Unless otherwise prohibited by law, to make such  
2327 contracts and execute such instruments containing such reasonable  
2328 and necessary appropriate terms, provisions and conditions as in  
2329 its absolute discretion it may deem necessary, proper or  
2330 advisable, for the purpose of obtaining or securing financial  
2331 assistance, grants or loans from the United States of America or  
2332 any department or agency thereof, including contracts with several  
2333 counties of the state pertaining to the expenditure of such funds;

2334 (q) To cooperate with the Federal Highway  
2335 Administration in the matter of location, construction and  
2336 maintenance of the Great River Road, to expend such funds paid to  
2337 the commission by the Federal Highway Administration or other  
2338 federal agency, and to authorize the transportation department to  
2339 erect suitable signs marking this highway, the cost of such signs  
2340 to be paid from state highway funds other than earmarked  
2341 construction funds;

2342 (r) To cooperate, in its discretion, with the  
2343 Mississippi Forestry Commission and the School of Forestry,  
2344 Mississippi State University, in a forestry management program,  
2345 including planting, thinning, cutting and selling, upon the  
2346 right-of-way of any highway, constructed, acquired or maintained  
2347 by the transportation department, and to sell and dispose of any  
2348 and all growing timber standing, lying or being on any  
2349 right-of-way acquired by the commission for highway purposes in  
2350 the future; such sale or sales to be made in accordance with the  
2351 sale of personal property which has become unnecessary for public  
2352 use as provided for in Section 65-1-123, Mississippi Code of 1972;

2353 (s) To expend funds in cooperation with the Division of  
2354 Plant Industry, Mississippi Department of Agriculture and  
2355 Commerce, the United States Government or any department or agency  
2356 thereof, or with any department or agency of this state, to  
2357 control, suppress or eradicate serious insect pests, rodents,  
2358 plant parasites and plant diseases on the state highway

2359 rights-of-way;

2360 (t) To provide for the placement, erection and  
2361 maintenance of motorist services business signs and supports  
2362 within state highway rights-of-way in accordance with current  
2363 state and federal laws and regulations governing the placement of  
2364 traffic control devices on state highways, and to establish and  
2365 collect reasonable fees from the businesses having information on  
2366 such signs;

2367 (u) To request and to accept the use of persons  
2368 convicted of an offense, whether a felony or a misdemeanor, for  
2369 work on any road construction, repair or other project of the  
2370 transportation department. The commission is also authorized to  
2371 request and to accept the use of persons who have not been  
2372 convicted of an offense but who are required to fulfill certain  
2373 court-imposed conditions pursuant to Section 41-29-150(d)(1) or  
2374 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention  
2375 Act, being Sections 99-15-101 through 99-15-127, Mississippi Code  
2376 of 1972. The commission is authorized to enter into any  
2377 agreements with the Department of Corrections, the State Parole  
2378 Board, any criminal court of this state, and any other proper  
2379 official regarding the working, guarding, safekeeping, clothing  
2380 and subsistence of such persons performing work for the  
2381 transportation department. Such persons shall not be deemed  
2382 agents, employees or involuntary servants of the transportation  
2383 department while performing such work or while going to and from  
2384 work or other specified areas;

2385 (v) To provide for the administration of the railroad  
2386 revitalization program pursuant to Section 57-43-1 et seq.;

2387 (w) The Mississippi Transportation Commission is  
2388 further authorized, in its discretion, to expend funds for the  
2389 purchase of service pins for employees of the Mississippi  
2390 Transportation Department;

2391 (x) To cooperate with the State Tax Commission by  
2392 providing for weight enforcement field personnel to collect and

2393 assess taxes, fees and penalties and to perform all duties as  
2394 required pursuant to Sections 1 through 34 of House Bill No. \_\_\_\_\_,  
2395 1999 Regular Session, Sections 27-19-1 et seq., 27-55-1 et  
2396 seq., \* \* \* 27-59-1 et seq. and 27-61-1 et seq., Mississippi Code  
2397 of 1972, with regard to vehicles subject to the jurisdiction of  
2398 the Office of Weight Enforcement. All collections and assessments  
2399 shall be transferred daily to the State Tax Commission;

2400 (y) The Mississippi Transportation Commission may  
2401 delegate the authority to enter into a supplemental agreement to a  
2402 contract previously approved by the commission if the supplemental  
2403 agreement involves an additional expenditure not to exceed One  
2404 Hundred Thousand Dollars (\$100,000.00).

2405 SECTION 46. Section 65-39-35, Mississippi Code of 1972, is  
2406 amended as follows:

2407 65-39-35. The date upon which the taxes and fees levied and  
2408 charged under the provisions of Sections 27-55-11, \* \* \* 27-57-37,  
2409 27-59-11, 27-19-43, 27-19-309, 27-65-75 and Sections 10 and 11 of  
2410 House Bill No. \_\_\_\_\_, 1999 Regular Session, are reduced under such  
2411 sections shall be the first day of the month immediately following  
2412 the date upon which:

2413 (a) The Mississippi Transportation Commission certifies  
2414 to the State Tax Commission that:

2415 (i) The Four-Lane Highway Program created under  
2416 Section 65-3-97 and the Gaming Counties Infrastructure Program  
2417 created under Section 65-39-3, are completed and no funds are any  
2418 longer necessary to pay the costs of such programs; and

2419 (ii) The Mississippi Transportation Commission  
2420 will not declare the necessity for additional borrowings under  
2421 Section 65-9-27, or for additional bonds under Sections 65-39-5  
2422 through 65-39-33; and

2423 (b) The State Treasurer certifies:

2424 (i) That the amount on deposit in the Gaming  
2425 Counties Bond Sinking Fund, together with earnings on investments  
2426 to accrue to such fund, is equal to or greater than the aggregate

2427 of the entire principal, redemption premium (if any), and interest  
2428 due and to become due (until the final maturity date or earlier  
2429 scheduled redemption date) on all general obligation bonds issued  
2430 under Sections 65-39-5 through 65-39-33; and

2431 (ii) That all principal, interest, cost and other  
2432 expenses for all bonds, notes or other borrowings under Section  
2433 65-9-27 (including redemption notes, if any) have been paid and  
2434 are completely satisfied.

2435 SECTION 47. Sections 27-55-301, 27-55-303, 27-55-305,  
2436 27-55-307, 27-55-309, 27-55-313, 27-55-315, 27-55-319, 27-55-323,  
2437 27-55-327, 27-55-329, 27-55-331, 27-55-335, 27-55-337, 27-55-339,  
2438 27-55-341, 27-55-343, 27-55-345, 27-55-347, 27-55-351, 27-55-355,  
2439 27-55-359 and 27-55-361, Mississippi Code of 1972, which provide  
2440 for the taxation of other motor fuels, are repealed.

2441 SECTION 48. Section 25-55-401, Mississippi Code of 1972,  
2442 which applies certain tax increases to fuels held in storage, is  
2443 repealed.

2444 SECTION 49. Sections 27-57-301, 27-57-303, 27-57-305,  
2445 27-57-307, 27-57-309, 27-57-313, 27-57-315, 27-57-317, 27-57-319,  
2446 27-57-327, 27-57-329, 27-57-331, 27-57-333, 27-57-334, 27-57-337,  
2447 27-57-339, 27-57-341, 27-57-343, 27-57-345, 27-57-347, 27-57-349,  
2448 27-57-351, 27-57-353, 27-57-357, 27-57-361, 27-57-363, 27-57-367,  
2449 27-57-369 and 27-57-371, Mississippi Code of 1972, which provide  
2450 for the taxation of other oils, are repealed.

2451 SECTION 50. Nothing in this act shall affect or defeat any  
2452 claim, assessment, appeal, suit, right or cause of action for  
2453 taxes due or accrued under Title 27, Chapter 55, 57 or 61,  
2454 Mississippi Code of 1972, prior to July 1, 1999, whether such  
2455 assessments, appeals, suits, claims or actions shall have been  
2456 begun before July 1, 1999, or shall thereafter be begun; and the  
2457 provisions of the aforesaid laws and amendments thereto are  
2458 expressly continued in full force, effect and operation for the  
2459 purpose of the assessment, collection and enrollment of liens for  
2460 any taxes due or accrued and the executing of any warrant



2461 thereunder prior to July 1, 1999, or for the filing of reports,  
2462 and for the imposition of any penalties, forfeitures or claims for  
2463 failure to comply therewith.

2464 SECTION 51. Section 36 of this act shall take effect and be  
2465 in force from and after September 1, 1999. The remainder of this  
2466 act shall take effect and be in force from and after July 1, 1999.