

By: Senator(s) Bryan

To: Finance

SENATE BILL NO. 3083

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 words, terms and phrases as used in this act
63 shall have the following meanings unless the context requires
64 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" is defined as a residual product
72 obtained in the refining of crude petroleum intended for use for
73 the generation of heat in a firebox or furnace when its flash
74 point, as determined by use of the Pensky-Martens tester, shall
75 not be less than one hundred fifty (150) degrees Fahrenheit and
76 when its viscosity at one hundred (100) degrees Fahrenheit shall
77 not be less than one hundred fifty (150) seconds when determined
78 by use 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" shall mean every person
104 who 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) The term "for nonhighway purposes," as used in this
114 article, shall be construed to mean special fuel which is not used

115 for operating motor vehicles or motor-propelled machines of any
116 description along the public roads, streets, alleys or highways of
117 this state as defined in this article.

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

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

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

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

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

144 (m) For the purposes of this article, the term "Armed
145 Forces" means and includes all components of the Armed Forces of
146 the United States including the Army National Guard, the Army
147 National Guard of the United States, the Air National Guard and
148 the Air National Guard of the United States, as those terms are

149 defined in Section 101, Title 10, United States Code, and any
150 other reserve component of the Armed Forces of the United States
151 enumerated in Section 261, Title 10, United States Code.

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

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

164 (p) "Retail dealer" means any person who operates a
165 retail station.

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

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

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

176 (t) "Fuel oil" means a general classification for one
177 of the petroleum fractions produced in conventional distillation
178 operations. For the purposes of this article, "Fuel oil" is No.
179 1, No. 2 and No. 4 fuel oils and No. 1, No. 2 and No. 4 diesel
180 fuels.

181 (u) "Blender" shall mean any person who blends or
182 compounds any product to produce special fuel.

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

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

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

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

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

216 SECTION 5. Any person engaging in business as a distributor

217 of special fuel in this state without having the permit required
218 by Section 4 of this act, shall be guilty of a misdemeanor and
219 upon conviction shall be punished by a fine of One Thousand
220 Dollars (\$1,000.00) or imprisonment in the county jail for six (6)
221 months or both.

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

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

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

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

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

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

267 (3) The commission may require the permittee to execute and
268 file with the commission a good and valid bond written by a surety
269 company authorized to do business in this state. The bond shall
270 be conditioned that all taxes which may accrue to the State of
271 Mississippi under the provisions of this article will be paid when
272 due. Provided, further, the commission may accept a bond filed
273 under the provisions of Section 27-65-21, Mississippi Code of
274 1972, when such bond is conditioned upon the payment of the taxes
275 imposed by this act.

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

284 SECTION 9. The commission may adopt rules and regulations

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

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

301 The excise tax shall become due and payable when:

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

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

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

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

315 (e) Special fuel is acquired tax free.

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

317 (a) Eighteen Cents (18¢) per gallon on undyed diesel
318 fuel until the date specified in Section 69-39-35 and Fourteen and

319 Three-fourths Cents (14.75¢) per 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 non-highway use and subsequently uses such diesel
349 fuel 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. Provided,
395 however, that the commission may require proof to be furnished of
396 such deduction for 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 said 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
540 article.

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

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

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

555 (4) The special fuels distributor or other person owning a
556 mixture described in this section shall notify the commission

557 immediately after gaining knowledge of such mixture.

558 (5) Upon receipt of the claim for credit, the commission
559 shall determine the amount of refund or tax credit due the
560 claimant and, in the case of a refund, the amount shall be
561 refunded as provided in Section 27-55-19, Mississippi Code of
562 1972.

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

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

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

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

590 If the commission determines that any refund claim shall not

591 be paid, it shall notify the claimant stating the reason or
592 reasons why such claim is disallowed.

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

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

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

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

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

625 administration of this act. The reports required in this section
626 shall be signed and contain a declaration that the statements
627 contained therein are true and are made under penalty of perjury.

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

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

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

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

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

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

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

655 It shall also be unlawful for any person to withdraw any
656 taxable special fuel, from storage tanks as covered by this act
657 except through the meters prescribed herein. The violation of any
658 of the provisions of this section shall constitute a misdemeanor

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

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

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

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

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

693 office of the commission within ten (10) days after the subpoena
694 is served on the distributor of special fuel or purchaser.

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

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

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

727 any measuring device or volume of weight of the contents of any
728 such container.

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

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

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

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

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

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

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

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

795 special fuel in this state without paying the tax thereon, to
796 cause a writ of summons and seizure to issue, returnable to the
797 court having jurisdiction thereof, in like manner as such writs
798 are authorized to be issued by Chapter 7 of Title 85, Mississippi
799 Code of 1972. Such writ shall be directed to the proper officer
800 or to the commission commanding the officer or the commission, as
801 the case may be, to seize the property upon which a lien exists as
802 hereinabove provided. After the issuance of such writ, such
803 actions and proceedings shall be had on such writ as presently
804 provided for the enforcement of purchase money security interests
805 by the statutes of this state. The commission shall have the
806 right to stop and hold any moving or movable equipment subject to
807 seizure pursuant to the provisions of this paragraph pending the
808 issuance of process.

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

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

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

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

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

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

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

863 name and address of the person transporting the special fuel on
864 both sides of the vehicle or boat in well-balanced letters of not
865 less than two (2) inches in height on a contrasting background.

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

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

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

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

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

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

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

922 (2) The commission shall determine the time and manner of
923 reporting the quantities of undyed diesel fuel in storage on July
924 1, 1999, and the payment of any taxes due.

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

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

931 (2) The words "State Auditor of Public Accounts," "State
932 Auditor" and "Auditor" appearing in the laws of this state in
933 connection with the performance of Auditor's functions shall mean
934 the State Fiscal Officer, and, more particularly, such words or
935 terms shall mean the State Fiscal Officer whenever they appear in
936 Sections 5-1-57, 5-1-59, 5-3-23, 7-1-33, 7-1-63, 7-3-29, 7-5-31,
937 7-11-25, 17-13-11, 9-1-36, 9-3-7, 9-3-23, 9-3-27, 9-3-29, 9-3-45,
938 11-35-11, 11-45-1, 21-33-47, 21-33-401, 23-5-215, 25-1-75,
939 25-1-81, 25-1-95, 25-1-98, 25-3-41, 25-3-51, 25-3-53, 25-3-55,
940 25-3-57, 25-3-59, 25-3-97, 25-7-7, 25-7-83, 25-9-135, 25-31-8,
941 25-31-10, 25-31-37, 27-1-35, 27-3-43, 27-3-45, 27-3-57, 27-3-59,
942 27-5-22, 27-5-103, 27-7-45, 27-7-313, 27-9-49, 27-11-3, 27-13-55,
943 27-15-203, 27-15-239, 27-15-241, 27-21-13, 27-29-1, 27-29-5,
944 27-29-11, 27-29-13, 27-29-15, 27-29-17, 27-29-25, 27-29-33,
945 27-31-109, 27-33-11, 27-33-41, 27-33-45, 27-33-47, 27-35-121,
946 27-35-149, 27-37-303, 27-39-13, 27-39-319, 27-41-19, 27-41-23,
947 27-41-25, 27-41-27, 27-41-41, 27-41-75, 27-45-1, 27-45-13,
948 27-45-19, 27-49-5, 27-49-9, 27-55-19, 27-55-47, * * *, 27-57-35,
949 Section 28 of Senate Bill No. 3083, 1999 Regular Session,
950 27-59-51, 27-65-51, 27-65-53, 27-67-29, 27-69-3, 27-69-73,
951 27-69-77, 27-71-301, 27-71-305, 27-71-339, 27-73-1, 27-73-7,
952 27-73-11, 27-103-55, 27-103-67, 27-105-7, 27-105-19, 27-105-21,
953 27-105-23, 27-105-33, 27-107-11, 27-107-59, 27-107-81, 27-107-101,
954 27-107-121, 27-107-141, 27-107-157, 27-107-173, 29-1-27, 29-1-79,
955 29-1-85, 29-1-87, 29-1-93, 29-1-95, 29-1-111, 31-3-17, 31-7-9,
956 31-9-15, 31-17-3, 31-17-59, 31-17-105, 31-19-17, 31-19-19,
957 31-19-21, 31-19-23, 31-5-15, 33-9-11, 35-7-45, 35-9-3, 35-9-5,
958 35-9-27, 35-9-29, 35-9-33, 37-3-7, 37-3-15, 37-3-17, 37-3-39,
959 37-13-33, 37-19-27, 37-19-29, 37-19-45, 37-19-47, 37-25-27,
960 37-27-17, 37-29-165, 37-31-41, 37-33-31, 37-33-71, 37-43-47,
961 37-101-103, 37-101-149, 37-109-25, 37-113-5, 37-133-7, 39-1-31,
962 39-3-109, 41-3-13, 41-4-19, 41-7-25, 41-73-71, 43-9-35, 43-13-113,
963 43-29-29, 45-1-11, 45-1-23, 45-23-7, 47-5-77, 47-5-155, 49-1-65,
964 49-5-21, 49-5-97, 49-17-69, 49-19-1, 51-5-15, 51-33-77, 51-33-79,

965 51-33-81, 51-33-87, 53-1-77, 55-3-41, 57-4-21, 57-9-5, 57-10-123,
966 57-13-7, 57-13-19, 57-15-5, 59-5-53, 59-7-103, 59-9-71, 59-17-47,
967 63-19-51, 65-1-111, 65-1-117, 65-9-9, 65-9-17, 65-9-25, 65-11-43,
968 65-11-45, 65-23-107, 65-26-7, 65-26-35, 69-9-5, 69-15-113,
969 71-5-359, 73-5-5, 73-6-9, 73-19-13, 73-36-17, 75-75-109, 77-3-89,
970 77-9-493, 77-11-201, 81-1-49, 83-1-13, 83-1-37, 83-1-39, 83-43-7,
971 83-43-21, 89-11-27, 97-11-29, 97-21-1, 97-21-61 and 99-15-19,
972 Mississippi Code of 1972.

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

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

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

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

999 "Highway Bonds Sinking Fund" the amount so certified to him by the
1000 State Treasurer due to be paid into such fund each month. The
1001 payments to the "Highway Bonds Sinking Fund" shall be made out of
1002 gross gasoline, diesel fuel or kerosene tax collections before
1003 deductions of any nature are considered; however, such payments
1004 shall be deducted from the allocation to the Mississippi
1005 Department of Transportation under paragraph (c) of this section.

1006 (ii) From collections derived from the portion of
1007 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,
1008 from the portion of the tax on aviation gas under Section 27-55-11
1009 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the
1010 portion of the special fuel tax levied under Sections 10 and 11 of
1011 Senate Bill No. 3083, 1999 Regular Session, at Eighteen Cents
1012 (18¢) per gallon that exceeds Ten Cents (10¢) per gallon, from the
1013 portion of the taxes levied under Section 10 of Senate Bill No.
1014 3083, 1999 Regular Session, at Five and Three-fourths Cents
1015 (5.75¢) per gallon that exceeds One Cent (1¢) per gallon on
1016 special fuel and Five and One-fourth Cents (5.25¢) per gallon on
1017 special fuel used as aircraft fuel, from the portion of the excise
1018 tax on compressed gas used as a motor fuel that exceeds the rate
1019 of tax in effect on June 30, 1987, and from the portion of the
1020 gasoline excise tax in excess of Seven Cents (7¢) per gallon and
1021 the diesel excise tax in excess of Ten Cents (10¢) per gallon
1022 under Section 27-61-5 there shall be deducted:

1023 1. An amount as provided in Section
1024 27-65-75(4) to the credit of a special fund designated as the
1025 "Office of State Aid Road Construction."

1026 2. An amount equal to the tax collections
1027 derived from Two Cents (2¢) per gallon of the gasoline excise tax
1028 for distribution to the State Highway Fund to be used exclusively
1029 for the construction, reconstruction and maintenance of highways
1030 of the State of Mississippi or the payment of interest and
1031 principal on bonds when specifically authorized by the Legislature
1032 for that purpose.

1033 3. The balance shall be deposited in the
1034 State Treasury to the credit of the State Highway Fund.

1035 (b) Subject to the provisions that said basis of
1036 distribution shall in nowise affect adversely the amount
1037 specifically pledged in paragraph (a) of this section to be paid
1038 into the "Highway Bonds Sinking Fund," the following shall be
1039 deducted from the amount produced by the state tax on gasoline,
1040 diesel fuel or kerosene tax collections, excluding collections
1041 derived from the portion of the gasoline excise tax that exceeds
1042 Seven Cents (7¢) per gallon, from the portion of the tax on
1043 aviation gas under Section 27-55-11 that exceeds Six and
1044 Four-tenths Cents (6.4¢) per gallon, from the portion of the
1045 special fuel tax levied under Sections 10 and 11 of Senate Bill
1046 No. 3083, 1999 Regular Session, at Eighteen Cents (18¢) per gallon
1047 that exceeds Ten Cents (10¢) per gallon, from the portion of the
1048 taxes levied under Section 10 of Senate Bill No. 3083, 1999
1049 Regular Session, at Five and Three-fourths Cents (5.75¢) per
1050 gallon that exceeds One Cent (1¢) per gallon on special fuel and
1051 Five and One-fourth Cents (5.25¢) per gallon on special fuel used
1052 as aircraft fuel, from the portion of the excise tax on compressed
1053 gas used as a motor fuel that exceeds the rate of tax in effect on
1054 June 30, 1987, and from the portion of the gasoline excise tax in
1055 excess of Seven Cents (7¢) per gallon and the diesel excise tax in
1056 excess of Ten Cents (10¢) per gallon under Section 27-61-5:

1057 (i) Twenty percent (20%) of such amount which
1058 shall be earmarked and set aside for the construction,
1059 reconstruction and maintenance of the highways and roads of the
1060 state, provided that if such twenty percent (20%) should reduce
1061 any county to a lesser amount than that received in the fiscal
1062 year ending June 30, 1966, then such twenty percent (20%) shall be
1063 reduced to a percentage to provide that no county shall receive
1064 less than its portion for the fiscal year ending June 30, 1966;

1065 (ii) The amount allowed as refund on gasoline or
1066 as tax credit on diesel fuel or kerosene used for agricultural,

1067 maritime, industrial, domestic, and nonhighway purposes;

1068 (iii) Five percent (5%) of such amount shall be
1069 paid to the State Highway Fund;

1070 (iv) The amount or portion thereof authorized by
1071 legislative appropriation to the Fisheries and Wildlife Fund
1072 created under Section 59-21-25;

1073 (v) The amount for deposit into the special
1074 aviation fund under paragraph (d) of this section; and

1075 (vi) The remainder shall be divided on a basis of
1076 nine-fourteenths (9/14) and five-fourteenths (5/14) (being the
1077 same basis as Four and One-half Cents (4-1/2¢) and Two and
1078 One-half Cents (2-1/2¢) is to Seven Cents (7¢) on gasoline, and
1079 six and forty-three one-hundredths (6.43) and three and
1080 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel
1081 fuel or kerosene). The amount produced by the nine-fourteenths
1082 (9/14) division shall be allocated to the Transportation
1083 Department and paid into the State Treasury as provided in this
1084 section and in Section 27-5-103 and the five-fourteenths (5/14)
1085 division shall be returned to the counties of the state on the
1086 following basis:

1087 1. In each fiscal year, each county shall be
1088 paid each month the same percentage of the monthly total to be
1089 distributed as was paid to that county during the same month in
1090 the fiscal year which ended April 9, 1960, until the county
1091 receives One Hundred Ninety Thousand Dollars (\$190,000.00) in such
1092 fiscal year, at which time funds shall be distributed under the
1093 provisions of paragraph (b)(vi)4 of this section.

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

1101 reaching One Hundred Ninety Thousand Dollars (\$190,000.00) if
1102 there is not sufficient money to bring all the counties to said
1103 One Hundred Ninety Thousand Dollars (\$190,000.00).

1104 3. When a county has been paid an amount
1105 equal to the total which was paid to the same county during the
1106 fiscal year ended April 9, 1960, such county shall receive no
1107 further payments during the then current fiscal year until the
1108 last month of such current fiscal year, at which time distribution
1109 will be made under 2 above, except as set out in 4 below.

1110 4. During the last month of the current
1111 fiscal year, should it be determined that there are funds
1112 available in excess of the amount distributed for the year under 1
1113 and 2 above, then such excess funds shall be distributed among the
1114 various counties as follows:

1115 One-third (1/3) of such excess to be
1116 divided equally among the counties;

1117 One-third (1/3) of such excess to be paid
1118 to the counties in the proportion which the population of each
1119 county bears to the total population of the state according to the
1120 last federal census;

1121 One-third (1/3) of such excess to be paid
1122 to the counties in the proportion which the number of square miles
1123 of each county bears to the total square miles in the state.

1124 5. It is the declared purpose and intent of
1125 the Legislature that no county shall be paid less than was paid
1126 during the year ended April 9, 1960, unless the amount to be
1127 distributed to all counties in any year is less than the amount
1128 distributed to all counties during the year ended April 9, 1960.

1129 The Municipal Aid Fund as established by Section 27-5-103
1130 shall not participate in any portion of any funds allocated to any
1131 county hereunder over and above One Hundred Ninety Thousand
1132 Dollars (\$190,000.00).

1133 In any county having countywide road or bridge bonds, or
1134 supervisors district or district road or bridge bonds outstanding,

1135 which exceed, in the aggregate, twelve percent (12%) of the
1136 assessed valuation of the taxable property of the county or
1137 district, it shall be the duty of the board of supervisors to set
1138 aside not less than sixty percent (60%) of such county's share or
1139 district's share of the gasoline, diesel fuel or kerosene taxes to
1140 be used in paying the principal and interest on such road or
1141 bridge bonds as they mature.

1142 In any county having such countywide road or bridge bonds or
1143 district road or bridge bonds outstanding which exceed, in the
1144 aggregate, eight percent (8%) of the assessed valuation of the
1145 taxable property of the county, but which do not exceed, in the
1146 aggregate, twelve percent (12%) of the assessed valuation of the
1147 taxable property of the county, it shall be the duty of the board
1148 of supervisors to set aside not less than thirty-five percent
1149 (35%) of such county's share of the gasoline, diesel fuel or
1150 kerosene taxes to be used in paying the principal and interest of
1151 such road or bridge bonds as they mature.

1152 In any county having such countywide road or bridge bonds or
1153 district road or bridge bonds outstanding which exceed, in the
1154 aggregate, five percent (5%) of the assessed valuation of the
1155 taxable property of the county, but which do not exceed, in the
1156 aggregate, eight percent (8%) of the assessed valuation of the
1157 taxable property of the county, it shall be the duty of the board
1158 of supervisors to set aside not less than twenty percent (20%) of
1159 such county's share of the gasoline, diesel fuel or kerosene taxes
1160 to be used in paying the principal and interest of such road and
1161 bridge bonds as they mature.

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

1169 bridge bonds as they mature.

1170 The portion of any such county's share of the gasoline,
1171 diesel fuel or kerosene taxes thus set aside for the payment of
1172 the principal and interest of road or bridge bonds, as provided
1173 for in this section, shall be used first in paying the currently
1174 maturing installments of the principal and interest of such
1175 countywide road or bridge bonds, if there be any such countywide
1176 road or bridge bonds outstanding, and secondly, in paying the
1177 currently maturing installments of principal and interest of
1178 district road or bridge bonds outstanding. It shall be the duty
1179 of the board of supervisors to pay bonds and interest maturing in
1180 each supervisors district out of the supervisors district's share
1181 of the gasoline, diesel fuel or kerosene taxes of such district.

1182 The remaining portion of such county's share of the gasoline,
1183 diesel fuel or kerosene taxes, after setting aside the portion
1184 above provided for the payment of the principal and interest of
1185 bonds, shall be used in the construction and maintenance of any
1186 public highways, bridges, or culverts of the county, including the
1187 roads in special or separate road districts, in the discretion of
1188 the board of supervisors, or in paying the interest and principal
1189 of county road and bridge bonds or district road and bridge bonds,
1190 in the discretion of the board of supervisors.

1191 In any county having no countywide road or bridge bonds or
1192 district road or bridge bonds outstanding, all such county's share
1193 of the gasoline, diesel fuel or kerosene taxes shall be used in
1194 the construction, reconstruction, and maintenance of the public
1195 highways, bridges, or culverts of the county as the board of
1196 supervisors may determine.

1197 In every county in which there are county road bonds or
1198 seawall or road protection bonds outstanding which were issued for
1199 the purpose of building bridges or constructing public roads or
1200 seawalls, such funds shall be used in the manner provided by law.

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

1203 shall be deducted:

1204 (i) The amount paid to the State Treasurer for the
1205 "Highway Bonds Sinking Fund" under paragraph (a) of this section;

1206 (ii) Any amounts due counties in accordance with
1207 Section 65-33-45 which have outstanding bonds issued for seawall
1208 or road protection purposes, issued under provisions of Chapter
1209 319, Laws of 1924, and amendments thereto;

1210 (iii) Beginning August 15, 2002, and on or before
1211 the fifteenth day of each month thereafter, an amount equal to
1212 one-sixth (1/6) of the principal and interest certified by the
1213 State Treasurer to the State Tax Commission to be due on the next
1214 semiannual bond and interest payment date for the bonds issued
1215 under Sections 65-39-5 through 65-39-33. On or before the
1216 twenty-fifth day of each month the State Tax Commission shall pay
1217 into the State Treasury for credit to the Gaming Counties Bond
1218 Sinking Fund created in Section 65-39-3, the amount so certified
1219 by the State Treasurer.

1220 (iv) The remainder shall be paid by the State Tax
1221 Commission to the State Treasurer on the fifteenth day of each
1222 month next succeeding the month in which the gasoline, diesel fuel
1223 or kerosene taxes were collected to the credit of the State
1224 Highway Fund.

1225 The funds allocated for the construction, reconstruction, and
1226 improvement of state highways, bridges, and culverts, or so much
1227 thereof as may be necessary, shall first be used in conjunction
1228 with funds supplied by the federal government for such purposes
1229 and allocated to the State Transportation Department to be
1230 expended on the state highway system. It is specifically provided
1231 hereby that the necessary portion of such funds hereinabove
1232 allocated to the State Transportation Department may be used for
1233 the prompt payment of principal and interest on highway bonds
1234 heretofore issued, including such bonds issued or to be issued
1235 under the provisions of Chapter 312, Laws of 1956, and amendments
1236 thereto.

1237 Nothing contained in this section shall be construed to
1238 reduce the amount of such gasoline, diesel fuel or kerosene excise
1239 taxes levied by the state, allotted under the provisions of Title
1240 65, Chapter 33, Mississippi Code of 1972, to counties in which
1241 there are outstanding bonds issued for seawall or road protection
1242 purposes issued under the provisions of Chapter 319, Laws of 1924,
1243 and amendments thereto; the amount of said gasoline, diesel fuel
1244 or kerosene excise taxes designated in this section for the
1245 payment of bonds and interest authorized and issued or to be
1246 issued under the provisions of Chapter 130, Laws of 1938, and
1247 subsequent acts authorizing the issuance of bonds payable from
1248 gasoline, diesel fuel or kerosene tax revenue, shall, in such
1249 counties, be considered as being paid "into the State Treasury to
1250 the credit of the State Highway Fund" within the meaning of
1251 Section 65-33-45 in computing the amount to be paid to such
1252 counties under the provisions of said section, and this section
1253 shall be administered in connection with Title 65, Chapter 33,
1254 Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and
1255 65-33-49 dealing with seawalls, as if made a part of this section.

1256 (d) The proceeds of the Five and One-fourth Cents
1257 (5.25¢) of the tax per gallon on oils used as a propellant for jet
1258 aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax
1259 per gallon on aviation gasoline and the tax of One Cent (1¢) per
1260 gallon for each gallon of gasoline for which a refund has been
1261 made pursuant to Section 27-55-23 because such gasoline was used
1262 for aviation purposes, shall be paid to the State Treasury into a
1263 special fund to be used exclusively, pursuant to legislative
1264 appropriation, for the support and development of aeronautics as
1265 defined in Section 61-1-3.

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

1271 Four-Lane Highway Program created under Section 65-3-97.

1272 (f) "Gasoline, diesel fuel or kerosene taxes" as used
1273 in this section shall be deemed to mean and include state
1274 gasoline, diesel fuel or kerosene taxes levied and imposed on
1275 distributors of gasoline, diesel fuel or kerosene, and all state
1276 excise taxes derived from any fuel used to propel vehicles upon
1277 the highways of this state, when levied by any statute.

1278 **[With regard to any county which is required to operate on a**
1279 **countywide system of road administration as described in Section**
1280 **19-2-3, this section shall read as follows:]**

1281 27-5-101. Unless otherwise provided in this section, on or
1282 before the fifteenth day of each month, all gasoline, diesel fuel
1283 or kerosene taxes which are levied under the laws of this state
1284 and collected during the previous month shall be paid and
1285 apportioned by the State Tax Commission as follows:

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

1305 payments to the "Highway Bonds Sinking Fund" shall be made out of
1306 gross gasoline, diesel fuel or kerosene tax collections before
1307 deductions of any nature are considered; however, such payments
1308 shall be deducted from the allocation to the Transportation
1309 Department under paragraph (c) of this section.

1310 (ii) From collections derived from the portion of
1311 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,
1312 from the portion of the tax on aviation gas under Section 27-55-11
1313 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the
1314 portion of the special fuel tax levied under Sections 10 and 11 of
1315 Senate Bill No. 3083, 1999 Regular Session, at Eighteen Cents
1316 (18¢) per gallon that exceeds Ten Cents (10¢) per gallon, from the
1317 portion of the taxes levied under Section 10 of Senate Bill No.
1318 3083, 1999 Regular Session, at Five and Three-fourths Cents
1319 (5.75¢) per gallon that exceeds One Cent (1¢) per gallon on
1320 special fuel and Five and One-fourth Cents (5.25¢) per gallon on
1321 special fuel used as aircraft fuel, from the portion of the excise
1322 tax on compressed gas used as a motor fuel that exceeds the rate
1323 of tax in effect on June 30, 1987, and from the portion of the
1324 gasoline excise tax in excess of Seven Cents (7¢) per gallon and
1325 the diesel excise tax in excess of Ten Cents (10¢) per gallon
1326 under Section 27-61-5 there shall be deducted:

1327 1. An amount as provided in Section
1328 27-65-75(4) to the credit of a special fund designated as the
1329 "Office of State Aid Road Construction."

1330 2. An amount equal to the tax collections
1331 derived from Two Cents (2¢) per gallon of the gasoline excise tax
1332 for distribution to the State Highway Fund to be used exclusively
1333 for the construction, reconstruction and maintenance of highways
1334 of the State of Mississippi or the payment of interest and
1335 principal on bonds when specifically authorized by the Legislature
1336 for that purpose.

1337 3. The balance shall be deposited in the
1338 State Treasury to the credit of the State Highway Fund.

1339 (b) Subject to the provisions that said basis of
1340 distribution shall in nowise affect adversely the amount
1341 specifically pledged in paragraph (a) of this section to be paid
1342 into the "Highway Bonds Sinking Fund," the following shall be
1343 deducted from the amount produced by the state tax on gasoline,
1344 diesel fuel or kerosene tax collections, excluding collections
1345 derived from the portion of the gasoline excise tax that exceeds
1346 Seven Cents (7¢) per gallon, from the portion of the tax on
1347 aviation gas under Section 27-55-11 that exceeds Six and
1348 Four-tenths Cents (6.4¢) per gallon, from the portion of the
1349 special fuel tax levied under Sections 10 and 11 of Senate Bill
1350 No. 3083, 1999 Regular Session, at Eighteen Cents (18¢) per
1351 gallon, that exceeds Ten Cents (10¢) per gallon, from the portion
1352 of the taxes levied under Section 10 of Senate Bill No. 3083, 1999
1353 Regular Session, at Five and Three-fourths Cents (5.75¢) that
1354 exceeds One Cent (1¢) per gallon on special fuel and Five and
1355 One-fourth Cents (5.25¢) per gallon on special fuel used as
1356 aircraft fuel, from the portion of the excise tax on compressed
1357 gas used as a motor fuel that exceeds the rate of tax in effect on
1358 June 30, 1987, and from the portion of the gasoline excise tax in
1359 excess of Seven Cents (7¢) per gallon and the diesel excise tax in
1360 excess of Ten Cents (10¢) per gallon under Section 27-61-5:

1361 (i) Twenty percent (20%) of such amount which
1362 shall be earmarked and set aside for the construction,
1363 reconstruction and maintenance of the highways and roads of the
1364 state, provided that if such twenty percent (20%) should reduce
1365 any county to a lesser amount than that received in the fiscal
1366 year ending June 30, 1966, then such twenty percent (20%) shall be
1367 reduced to a percentage to provide that no county shall receive
1368 less than its portion for the fiscal year ending June 30, 1966;

1369 (ii) The amount allowed as refund on gasoline or
1370 as tax credit on diesel fuel or kerosene used for agricultural,
1371 maritime, industrial, domestic and nonhighway purposes;

1372 (iii) Five percent (5%) of such amount shall be

1373 paid to the State Highway Fund;

1374 (iv) The amount or portion thereof authorized by
1375 legislative appropriation to the Fisheries and Wildlife Fund
1376 created under Section 59-21-25;

1377 (v) The amount for deposit into the special
1378 aviation fund under paragraph (d) of this section; and

1379 (vi) The remainder shall be divided on a basis of
1380 nine-fourteenths (9/14) and five-fourteenths (5/14) (being the
1381 same basis as Four and One-half Cents (4-1/2¢) and Two and
1382 One-half Cents (2-1/2¢) is to Seven Cents (7¢) on gasoline, and
1383 six and forty-three one-hundredths (6.43) and three and
1384 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel
1385 fuel or kerosene). The amount produced by the nine-fourteenths
1386 (9/14) division shall be allocated to the Transportation
1387 Department and paid into the State Treasury as provided in this
1388 section and in Section 27-5-103 and the five-fourteenths (5/14)
1389 division shall be returned to the counties of the state on the
1390 following basis:

1391 1. In each fiscal year, each county shall be
1392 paid each month the same percentage of the monthly total to be
1393 distributed as was paid to that county during the same month in
1394 the fiscal year which ended April 9, 1960, until the county
1395 receives One Hundred Ninety Thousand Dollars (\$190,000.00) in such
1396 fiscal year, at which time funds shall be distributed under the
1397 provisions of paragraph (b)(vi)4 of this section.

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

1407 One Hundred Ninety Thousand Dollars (\$190,000.00).

1408 3. When a county has been paid an amount
1409 equal to the total which was paid to the same county during the
1410 fiscal year ended April 9, 1960, such county shall receive no
1411 further payments during the then current fiscal year until the
1412 last month of such current fiscal year, at which time distribution
1413 will be made under 2 above, except as set out in 4 below.

1414 4. During the last month of the current
1415 fiscal year, should it be determined that there are funds
1416 available in excess of the amount distributed for the year under 1
1417 and 2 above, then such excess funds shall be distributed among the
1418 various counties as follows:

1419 One-third (1/3) of such excess to be
1420 divided equally among the counties;

1421 One-third (1/3) of such excess to be paid
1422 to the counties in the proportion which the population of each
1423 county bears to the total population of the state according to the
1424 last federal census;

1425 One-third (1/3) of such excess to be paid
1426 to the counties in the proportion which the number of square miles
1427 of each county bears to the total square miles in the state.

1428 5. It is the declared purpose and intent of
1429 the Legislature that no county shall be paid less than was paid
1430 during the year ended April 9, 1960, unless the amount to be
1431 distributed to all counties in any year is less than the amount
1432 distributed to all counties during the year ended April 9, 1960.

1433 The Municipal Aid Fund as established by Section 27-5-103
1434 shall not participate in any portion of any funds allocated to any
1435 county hereunder over and above One Hundred Ninety Thousand
1436 Dollars (\$190,000.00).

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

1441 percent (60%) of such county's share of the gasoline, diesel fuel
1442 or kerosene taxes to be used in paying the principal and interest
1443 on such road or bridge bonds as they mature.

1444 In any county having such road or bridge bonds outstanding
1445 which exceed, in the aggregate, eight percent (8%) of the assessed
1446 valuation of the taxable property of the county, but which do not
1447 exceed, in the aggregate, twelve percent (12%) of the assessed
1448 valuation of the taxable property of the county, it shall be the
1449 duty of the board of supervisors to set aside not less than
1450 thirty-five percent (35%) of such county's share of the gasoline,
1451 diesel fuel or kerosene taxes to be used in paying the principal
1452 and interest of such road or bridge bonds as they mature.

1453 In any county having such road or bridge bonds outstanding
1454 which exceed, in the aggregate, five percent (5%) of the assessed
1455 valuation of the taxable property of the county, but which do not
1456 exceed, in the aggregate, eight percent (8%) of the assessed
1457 valuation of the taxable property of the county, it shall be the
1458 duty of the board of supervisors to set aside not less than twenty
1459 percent (20%) of such county's share of the gasoline, diesel fuel
1460 or kerosene taxes to be used in paying the principal and interest
1461 of such road and bridge bonds as they mature.

1462 In any county having such road or bridge bonds outstanding
1463 which do not exceed, in the aggregate, five percent (5%) of the
1464 assessed valuation of the taxable property of the county, it shall
1465 be the duty of the board of supervisors to set aside not less than
1466 ten percent (10%) of such county's share of the gasoline, diesel
1467 fuel or kerosene taxes to be used in paying the principal and
1468 interest on such road or bridge bonds as they mature.

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

1475 outstanding.

1476 The remaining portion of such county's share of the gasoline,
1477 diesel fuel or kerosene taxes, after setting aside the portion
1478 above provided for the payment of the principal and interest of
1479 bonds, shall be used in the construction and maintenance of any
1480 public highways, bridges or culverts of the county, in the
1481 discretion of the board of supervisors.

1482 In any county having no road or bridge bonds outstanding, all
1483 such county's share of the gasoline, diesel fuel or kerosene taxes
1484 shall be used in the construction, reconstruction and maintenance
1485 of the public highways, bridges or culverts of the county, as the
1486 board of supervisors may determine.

1487 In every county in which there are county road bonds or
1488 seawall or road protection bonds outstanding which were issued for
1489 the purpose of building bridges or constructing public roads or
1490 seawalls, such funds shall be used in the manner provided by law.

1491 (c) From the amount produced by the nine-fourteenths
1492 (9/14) division allocated to the Transportation Department, there
1493 shall be deducted:

1494 (i) The amount paid to the State Treasurer for the
1495 "Highway Bonds Sinking Fund" under paragraph (a) of this section;

1496 (ii) Any amounts due counties in accordance with
1497 Section 65-33-45 which have outstanding bonds issued for seawall
1498 or road protection purposes, issued under provisions of Chapter
1499 319, Laws of 1924, and amendments thereto; and

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

1509 the State Treasurer.

1510 (iv) The remainder shall be paid by the State Tax
1511 Commission to the State Treasurer on the fifteenth day of each
1512 month next succeeding the month in which the gasoline, diesel fuel
1513 or kerosene taxes were collected to the credit of the State
1514 Highway Fund.

1515 The funds allocated for the construction, reconstruction and
1516 improvement of state highways, bridges and culverts, or so much
1517 thereof as may be necessary, shall first be used in conjunction
1518 with funds supplied by the federal government for such purposes
1519 and allocated to the Transportation Department to be expended on
1520 the state highway system. It is specifically provided hereby that
1521 the necessary portion of such funds hereinabove allocated to the
1522 Transportation Department may be used for the prompt payment of
1523 principal and interest on highway bonds heretofore issued,
1524 including such bonds issued or to be issued under the provisions
1525 of Chapter 312, Laws of 1956, and amendments thereto.

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

1543 Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and
1544 65-33-49 dealing with seawalls, as if made a part of this section.

1545 (d) The proceeds of the Five and One-fourth Cents
1546 (5.25¢) of the tax per gallon on oils used as a propellant for jet
1547 aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax
1548 per gallon on aviation gasoline and the tax of One Cent (1¢) per
1549 gallon for each gallon of gasoline for which a refund has been
1550 made pursuant to Section 27-55-23 because such gasoline was used
1551 for aviation purposes, shall be paid to the State Treasury into a
1552 special fund to be used exclusively, pursuant to legislative
1553 appropriation, for the support and development of aeronautics as
1554 defined in Section 61-1-3.

1555 (e) State highway funds in an amount equal to the
1556 difference between Forty-two Million Dollars (\$42,000,000.00) and
1557 the annual debt service payable on the state's highway revenue
1558 refunding bonds, Series 1985, shall be expended for the
1559 construction or reconstruction of highways designated under the
1560 Four-Lane Highway Program created under Section 65-3-97.

1561 (f) "Gasoline, diesel fuel or kerosene taxes" as used
1562 in this section shall be deemed to mean and include state
1563 gasoline, diesel fuel or kerosene taxes levied and imposed on
1564 distributors of gasoline, diesel fuel or kerosene, and all state
1565 excise taxes derived from any fuel used to propel vehicles upon
1566 the highways of this state, when levied by any statute.

1567 SECTION 37. Section 27-55-12, Mississippi Code of 1972, is
1568 amended as follows:

1569 27-55-12. (1) The United States Government, the State of
1570 Mississippi, counties, municipalities, school districts and all
1571 other political subdivisions of the state shall be exempt from
1572 excise taxes on gasoline, special fuel and compressed gas as
1573 follows:

1574 (a) From the excise tax rate in excess of Nine Cents
1575 (9¢) per gallon of gasoline and from the excise tax rate in excess
1576 of One Cent (1¢) per gallon of aviation gasoline levied under

1577 Section 27-55-11, Mississippi Code of 1972, Five and Four-tenths
1578 Cents (5.4¢) thereof shall be exempt as provided in Section
1579 27-55-19, Mississippi Code of 1972.

1580 (b) From the excise tax rate in excess of Ten Cents
1581 (10¢) per gallon of special fuel levied at Eighteen Cents (18¢)
1582 per gallon under Sections 10 and 11 of Senate Bill No. 3083, 1999
1583 Regular Session, Four and Three-fourths Cents (4.75¢) thereof
1584 shall be exempt.

1585 (c) From the excise tax rate in excess of One Cent (1¢)
1586 per gallon of special fuel taxed at Five and Three-fourths Cents
1587 (5.75¢) per gallon and from the excise tax rate in excess of
1588 One-half Cent (1/2¢) per gallon of special fuel used in aircraft
1589 levied under Section 10 of Senate Bill No. 3083, 1999 Regular
1590 Session, Four and Three-fourths Cents (4.75¢) thereof shall be
1591 exempt.

1592 (d) From the portion of the excise tax rate on
1593 compressed gas used as a motor fuel that exceeds the rate of tax
1594 in effect on June 30, 1987, Three Cents (3¢) thereof shall be
1595 exempt.

1596 (2) Any person other than a bonded distributor of gasoline,
1597 bonded distributor of special fuel or bonded distributor of
1598 compressed gas who sells or delivers any gasoline, special fuel or
1599 compressed gas, subject to the exemption set forth in this
1600 section, is required to obtain credit for such exemption from a
1601 bonded distribution of gasoline, special fuel or compressed gas.

1602 SECTION 38. Section 27-55-19, Mississippi Code of 1972, is
1603 amended as follows:

1604 27-55-19. There shall not be included in the measure of the
1605 tax levied hereunder any gasoline:

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

1611 gasoline to a third bonded distributor of gasoline in which event
1612 the third bonded distributor of gasoline shall be liable for the
1613 tax.

1614 (b) Sold to the United States Government for use of the
1615 Armed Forces only, and delivered in quantities of not less than
1616 four thousand (4,000) gallons. Any exemption provided in this
1617 paragraph (b) may be deducted without the prior approval of the
1618 commission, provided that satisfactory proof of such exemption
1619 shall be furnished to the commission. However, such exemption may
1620 be disallowed by the commission if the distributor fails to
1621 furnish satisfactory proof of such exemption to the commission.

1622 (c) Exported to a destination beyond the borders of
1623 this state by a bonded distributor of gasoline when the tax on
1624 such gasoline has been paid or on which the tax liability imposed
1625 by this article has accrued against such bonded distributor. Any
1626 exemption provided in this paragraph (c) may be deducted without
1627 the prior approval of the commission, provided that satisfactory
1628 proof of such exemption shall be furnished to the commission;
1629 however, such exemption may be disallowed by the commission if the
1630 distributor fails to furnish satisfactory proof of such exemption
1631 to the commission within ninety (90) days from the sale or
1632 delivery of the gasoline.

1633 (d) Exported by any person to a destination beyond the
1634 borders of this state in quantities of not less than three
1635 thousand (3,000) gallons by ship, vessel, barge, railroad tank
1636 car, or pipeline, or by tank truck if such tank truck is operated
1637 by a common or contract carrier.

1638 (e) Imported by, or sold to, any refiner or processor
1639 in this state for the purpose of being refined or further
1640 processed.

1641 (f) Sold to any manufacturer for blending or
1642 compounding to the end that it becomes a component part of any
1643 manufactured product, or where used as a processing agent in the
1644 treatment of raw material in manufacturing a product which does

1645 not fall within the meaning of the term "gasoline" as defined in
1646 this article.

1647 (g) Sold or delivered to be used for test purposes at
1648 any regularly established testing laboratory in this state.

1649 Except as provided in paragraphs (b) and (c) above, evidence
1650 of exempt transactions provided in this section and subsections
1651 thereof, satisfactory to the commission, shall be submitted by the
1652 distributor desiring an allowance of said exemptions to the
1653 commission with the payment of the excise tax on the gasoline on
1654 which the exemption is claimed. If the commission decides that
1655 the distributor is entitled to the exemption and allowance
1656 claimed, it shall notify said distributor in writing of such
1657 allowance. The distributor shall then be allowed to deduct from
1658 the payments made in his next monthly report, after said
1659 allowance, the amount of tax which he paid on this exempted
1660 gasoline which amount shall be arrived at by taking the amount of
1661 exempted gasoline minus two percent (2%) allowed for evaporation,
1662 shrinkage and other losses on gasoline, and multiplying the
1663 remainder by the amount of excise tax per gallon. In cases where
1664 the amount of such tax cannot be absorbed on the estimated tax
1665 liability of the person making such payments during the next six
1666 (6) months, the amount shall be refunded to the taxpayer. Such
1667 amount shall be certified to the State Auditor of Public Accounts
1668 by the commission. The said Auditor is hereby authorized to make
1669 such investigation and audit of the claim as he finds necessary.
1670 If he finds that the commission is correct in its determination,
1671 the Auditor may issue his warrant to the State Treasurer in favor
1672 of the taxpayer for the amount of tax erroneously paid, such
1673 refunds to be made from current gasoline, * * * or special fuel
1674 tax collections.

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

1679 exemptions shall be disallowed.

1680 In case gasoline and special fuel on which the tax has been
1681 previously paid are accidentally mixed, the distributor of
1682 gasoline or other person owning such mixture may ship the mixture
1683 out of the State of Mississippi, or to a Mississippi refinery, and
1684 may claim credit for the gasoline and/or special fuel tax on the
1685 gasoline and special fuel so mixed. The distributor of gasoline
1686 or other person may also ship the mixture to a barge or pipeline
1687 storage terminal within the State of Mississippi to be brought up
1688 to gasoline specifications, or lowered to special fuel
1689 specifications, as the case might be, under the supervision of a
1690 representative of the commission. It shall be the duty of the
1691 distributor of gasoline or other person to whom the mixed product
1692 belongs to notify the commission immediately after knowledge that
1693 the mixture has occurred.

1694 In case the distributor of gasoline or other person elects to
1695 ship the mixture to a barge or pipeline terminal for storage
1696 within this state, the commission shall supervise the unloading of
1697 the mixture.

1698 In order to perfect a claim for credit for the tax on the
1699 gasoline and special fuel constituting any such mixture, the
1700 distributor of gasoline or other person making the claim shall do
1701 so in writing and shall furnish proof satisfactory to the
1702 commission that the mixture was either shipped out of this state
1703 or to a refinery or other approved place of storage within this
1704 state. The commission shall notify the claimant, in writing,
1705 whether or not his claim is approved, and, if approved, the
1706 claimant may deduct the amount of the claim from his next tax
1707 report. No such claim shall be allowed unless filed within three
1708 (3) years after the date of such accidental mixture. Bonded
1709 distributors of gasoline having no gasoline tax liability with the
1710 commission may assign such tax credit to a bonded distributor of
1711 gasoline having such tax liability.

1712 No tax liability shall accrue against the operator of a

1713 refinery when shipments of gasoline are made from such refinery,
1714 either by common carrier or by tank trucks owned and operated by
1715 the operator of said refinery, to a tax-exempt account within this
1716 state or to another refinery within this state.

1717 Provided, however, that when gasoline is withdrawn from the
1718 storage tank of a refiner or processor on which the tax is paid on
1719 such gasoline and it or any part thereof cannot be delivered to a
1720 purchaser, said refiner or processor may deduct the tax on all or
1721 that portion of such gasoline not delivered to a purchaser from
1722 its next gasoline distributor's tax report; provided that such
1723 refiner or processor submits with such tax report: (1) a written
1724 report setting forth the reasons why such delivery could not be
1725 made, and (2) proof or evidence satisfactory to the commission
1726 that the tax in question had theretofore been paid to the
1727 commission, and (3) proof or evidence satisfactory to the
1728 commission that the nondelivered gasoline was actually returned to
1729 the refinery or processor from which it was taken for the purpose
1730 of delivering it to a purchaser; and provided further, that
1731 immediately upon ascertainment by the refiner or processor that
1732 said gasoline cannot be delivered, he or it shall immediately
1733 notify the commission of this fact and before moving his or its
1734 truck or other means of transporting said gasoline from the
1735 intended point of delivery; and should the commission desire to
1736 inspect said truck, or other means of conveyance, such refiner or
1737 processor shall arrange for such inspection at the point or at
1738 such other point that may be designated by the commission.

1739 The United States Government, the State of Mississippi,
1740 counties, municipalities, school districts and all other political
1741 subdivisions of the state shall be exempt from Five and
1742 Four-tenths Cents (5.4¢) of the portion of the gasoline excise tax
1743 rate which exceeds Nine Cents (9¢) per gallon. Any exemption
1744 provided in this paragraph may be deducted without the prior
1745 approval of the commission.

1746 SECTION 39. Section 27-61-3, Mississippi Code of 1972, is

1747 amended as follows:

1748 27-61-3. When used in this chapter, the following words and
1749 phrases shall have the meaning ascribed to them hereby, except
1750 where the context clearly describes and indicates a different
1751 meaning:

1752 (a) Person: Any individual, firm, copartnership, joint
1753 venture, association, corporation, estate, trust, or any other
1754 group or combination acting as a unit and the plural as well as
1755 the singular number unless the intention to give a more limited
1756 meaning is disclosed by the context.

1757 (b) Motor vehicle: A motor vehicle used, designed or
1758 maintained for transportation of persons or property and (i)
1759 having two (2) axles and a gross vehicle weight exceeding 26,000
1760 pounds; (ii) having three (3) or more axles, regardless of weight;
1761 or being used in combination when the gross vehicle weight of such
1762 combination exceeds 26,000 pounds. The term "motor vehicle" does
1763 not 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 Senate Bill No. 3083, 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 27-55-11
1902 and 27-59-11, Mississippi Code of 1972, and Sections 10 and 11 of
1903 Senate Bill No. 3083, 1999 Regular Session, on gasoline, special
1904 fuel, diesel fuel and compressed gas purchased in bulk quantities
1905 from a distributor shall be evidenced by invoices showing the
1906 quantity of fuel purchased, the type of fuel, the tax rate, the
1907 date of the purchase, the purchaser's name and address, and any
1908 other information the commission deems necessary for the
1909 administration of this chapter. The person withdrawing fuel from
1910 bulk storage facilities shall maintain the following records for
1911 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 Senate Bill No. 3083, 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 Senate Bill No. 3083, 1999 Regular Session, except
1981 for those "motor fuels" used in electric power generating plants
1982 for 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, joint
1996 stock company, federal agency, corporation, state municipality,
1997 commission, political subdivision of a state, any interstate body,
1998 a consortium, a joint venture, a commercial entity or the United
1999 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 USC 1671-1684, as amended and
2052 extended,

2053 2. The Hazardous Liquid Pipeline Safety Act
2054 of 1979, Public Law No. 96-129, 49 USC 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 Senate Bill No.
2097 3083, 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 Senate Bill No.
2395 3083, 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 Senate Bill No. 3083, 1999, are reduced under such sections shall
2411 be the first day of the month immediately following the date upon
2412 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 oil, 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 and 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.