

By: Senator(s) Bryan

To: Finance

SENATE BILL NO. 3083
(As Sent to Governor)

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 PROVIDE FOR THE
33 TAXATION OF OTHER OILS; TO REPEAL SECTIONS 27-57-361 AND
34 27-57-363, MISSISSIPPI CODE OF 1972, WHICH REQUIRE 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 a fine of
660 not 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 five hundred (500) gallons of special fuel over the
854 highways, streets, alleys or waters of this state, or into this
855 state over any highway, street, alley or water route, shall,
856 during the entire time he is so engaged, have in his possession a
857 bill of sale, bills of lading, invoices or other written evidence,
858 each of which shall be serially numbered, showing the kind and
859 amount of special fuel being transported, the name and address of
860 the person from whom such special fuel was received, and the name
861 and address of the person to whom delivery is to be made. The
862 vehicle or boat conveying such special fuel shall have clearly

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

867 Any person other than a common or contract carrier bringing
868 special fuel into this state in quantities of more than five
869 hundred (500) gallons shall give notice to the commission of his
870 intent to import such special fuel. The commission is authorized
871 to promulgate rules setting forth the manner in which such notice
872 is to be given. However, if information on special fuel imported
873 into this state can be accurately secured from other sources by
874 the commission, it may waive the requirements of such notice.

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

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

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

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

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

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

923 (2) The commission shall determine the time and manner of
924 reporting the quantities of undyed diesel fuel in storage on July
925 1, 1999, and the payment of any taxes due.

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

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

931 formerly in the Office of the State Auditor of Public Accounts.

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

965 49-5-21, 49-5-97, 49-17-69, 49-19-1, 51-5-15, 51-33-77, 51-33-79,
966 51-33-81, 51-33-87, 53-1-77, 55-3-41, 57-4-21, 57-9-5, 57-10-123,
967 57-13-7, 57-13-19, 57-15-5, 59-5-53, 59-7-103, 59-9-71, 59-17-47,
968 63-19-51, 65-1-111, 65-1-117, 65-9-9, 65-9-17, 65-9-25, 65-11-43,
969 65-11-45, 65-23-107, 65-26-7, 65-26-35, 69-9-5, 69-15-113,
970 71-5-359, 73-5-5, 73-6-9, 73-19-13, 73-36-17, 75-75-109, 77-3-89,
971 77-9-493, 77-11-201, 81-1-49, 83-1-13, 83-1-37, 83-1-39, 83-43-7,
972 83-43-21, 89-11-27, 97-11-29, 97-21-1, 97-21-61 and 99-15-19,
973 Mississippi Code of 1972.

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

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

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

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

999 day of each month, pay into the State Treasury for credit to the
1000 "Highway Bonds Sinking Fund" the amount so certified to him by the
1001 State Treasurer due to be paid into such fund each month. The
1002 payments to the "Highway Bonds Sinking Fund" shall be made out of
1003 gross gasoline, diesel fuel or kerosene tax collections before
1004 deductions of any nature are considered; however, such payments
1005 shall be deducted from the allocation to the Mississippi
1006 Department of Transportation under paragraph (c) of this section.

1007 (ii) From collections derived from the portion of
1008 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,
1009 from the portion of the tax on aviation gas under Section 27-55-11
1010 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the
1011 portion of the special fuel tax levied under Sections 10 and 11 of
1012 Senate Bill No. 3083, 1999 Regular Session, at Eighteen Cents
1013 (18¢) per gallon that exceeds Ten Cents (10¢) per gallon, from the
1014 portion of the taxes levied under Section 10 of Senate Bill No.
1015 3083, 1999 Regular Session, at Five and Three-fourths Cents
1016 (5.75¢) per gallon that exceeds One Cent (1¢) per gallon on
1017 special fuel and Five and One-fourth Cents (5.25¢) per gallon on
1018 special fuel used as aircraft fuel, from the portion of the excise
1019 tax on compressed gas used as a motor fuel that exceeds the rate
1020 of tax in effect on June 30, 1987, and from the portion of the
1021 gasoline excise tax in excess of Seven Cents (7¢) per gallon and
1022 the diesel excise tax in excess of Ten Cents (10¢) per gallon
1023 under Section 27-61-5 there shall be deducted:

1024 1. An amount as provided in Section
1025 27-65-75(4) to the credit of a special fund designated as the
1026 "Office of State Aid Road Construction."

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

1033 for that purpose.

1034 3. The balance shall be deposited in the
1035 State Treasury to the credit of the State Highway Fund.

1036 (b) Subject to the provisions that said basis of
1037 distribution shall in nowise affect adversely the amount
1038 specifically pledged in paragraph (a) of this section to be paid
1039 into the "Highway Bonds Sinking Fund," the following shall be
1040 deducted from the amount produced by the state tax on gasoline,
1041 diesel fuel or kerosene tax collections, excluding collections
1042 derived from the portion of the gasoline excise tax that exceeds
1043 Seven Cents (7¢) per gallon, from the portion of the tax on
1044 aviation gas under Section 27-55-11 that exceeds Six and
1045 Four-tenths Cents (6.4¢) per gallon, from the portion of the
1046 special fuel tax levied under Sections 10 and 11 of Senate Bill
1047 No. 3083, 1999 Regular Session, at Eighteen Cents (18¢) per gallon
1048 that exceeds Ten Cents (10¢) per gallon, from the portion of the
1049 taxes levied under Section 10 of Senate Bill No. 3083, 1999
1050 Regular Session, at Five and Three-fourths Cents (5.75¢) per
1051 gallon that exceeds One Cent (1¢) per gallon on special fuel and
1052 Five and One-fourth Cents (5.25¢) per gallon on special fuel used
1053 as aircraft fuel, from the portion of the excise tax on compressed
1054 gas used as a motor fuel that exceeds the rate of tax in effect on
1055 June 30, 1987, and from the portion of the gasoline excise tax in
1056 excess of Seven Cents (7¢) per gallon and the diesel excise tax in
1057 excess of Ten Cents (10¢) per gallon under Section 27-61-5:

1058 (i) Twenty percent (20%) of such amount which
1059 shall be earmarked and set aside for the construction,
1060 reconstruction and maintenance of the highways and roads of the
1061 state, provided that if such twenty percent (20%) should reduce
1062 any county to a lesser amount than that received in the fiscal
1063 year ending June 30, 1966, then such twenty percent (20%) shall be
1064 reduced to a percentage to provide that no county shall receive
1065 less than its portion for the fiscal year ending June 30, 1966;

1066 (ii) The amount allowed as refund on gasoline or

1067 as tax credit on diesel fuel or kerosene used for agricultural,
1068 maritime, industrial, domestic, and nonhighway purposes;

1069 (iii) Five percent (5%) of such amount shall be
1070 paid to the State Highway Fund;

1071 (iv) The amount or portion thereof authorized by
1072 legislative appropriation to the Fisheries and Wildlife Fund
1073 created under Section 59-21-25;

1074 (v) The amount for deposit into the special
1075 aviation fund under paragraph (d) of this section; and

1076 (vi) The remainder shall be divided on a basis of
1077 nine-fourteenths (9/14) and five-fourteenths (5/14) (being the
1078 same basis as Four and One-half Cents (4-1/2¢) and Two and
1079 One-half Cents (2-1/2¢) is to Seven Cents (7¢) on gasoline, and
1080 six and forty-three one-hundredths (6.43) and three and
1081 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel
1082 fuel or kerosene). The amount produced by the nine-fourteenths
1083 (9/14) division shall be allocated to the Transportation
1084 Department and paid into the State Treasury as provided in this
1085 section and in Section 27-5-103 and the five-fourteenths (5/14)
1086 division shall be returned to the counties of the state on the
1087 following basis:

1088 1. In each fiscal year, each county shall be
1089 paid each month the same percentage of the monthly total to be
1090 distributed as was paid to that county during the same month in
1091 the fiscal year which ended April 9, 1960, until the county
1092 receives One Hundred Ninety Thousand Dollars (\$190,000.00) in such
1093 fiscal year, at which time funds shall be distributed under the
1094 provisions of paragraph (b)(vi)4 of this section.

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

1101 or such funds shall be divided equally among such counties not
1102 reaching One Hundred Ninety Thousand Dollars (\$190,000.00) if
1103 there is not sufficient money to bring all the counties to said
1104 One Hundred Ninety Thousand Dollars (\$190,000.00).

1105 3. When a county has been paid an amount
1106 equal to the total which was paid to the same county during the
1107 fiscal year ended April 9, 1960, such county shall receive no
1108 further payments during the then current fiscal year until the
1109 last month of such current fiscal year, at which time distribution
1110 will be made under 2 above, except as set out in 4 below.

1111 4. During the last month of the current
1112 fiscal year, should it be determined that there are funds
1113 available in excess of the amount distributed for the year under 1
1114 and 2 above, then such excess funds shall be distributed among the
1115 various counties as follows:

1116 One-third (1/3) of such excess to be
1117 divided equally among the counties;

1118 One-third (1/3) of such excess to be paid
1119 to the counties in the proportion which the population of each
1120 county bears to the total population of the state according to the
1121 last federal census;

1122 One-third (1/3) of such excess to be paid
1123 to the counties in the proportion which the number of square miles
1124 of each county bears to the total square miles in the state.

1125 5. It is the declared purpose and intent of
1126 the Legislature that no county shall be paid less than was paid
1127 during the year ended April 9, 1960, unless the amount to be
1128 distributed to all counties in any year is less than the amount
1129 distributed to all counties during the year ended April 9, 1960.

1130 The Municipal Aid Fund as established by Section 27-5-103
1131 shall not participate in any portion of any funds allocated to any
1132 county hereunder over and above One Hundred Ninety Thousand
1133 Dollars (\$190,000.00).

1134 In any county having countywide road or bridge bonds, or

1135 supervisors district or district road or bridge bonds outstanding,
1136 which exceed, in the aggregate, twelve percent (12%) of the
1137 assessed valuation of the taxable property of the county or
1138 district, it shall be the duty of the board of supervisors to set
1139 aside not less than sixty percent (60%) of such county's share or
1140 district's share of the gasoline, diesel fuel or kerosene taxes to
1141 be used in paying the principal and interest on such road or
1142 bridge bonds as they mature.

1143 In any county having such countywide road or bridge bonds or
1144 district road or bridge bonds outstanding which exceed, in the
1145 aggregate, eight percent (8%) of the assessed valuation of the
1146 taxable property of the county, but which do not exceed, in the
1147 aggregate, twelve percent (12%) of the assessed valuation of the
1148 taxable property of the county, it shall be the duty of the board
1149 of supervisors to set aside not less than thirty-five percent
1150 (35%) of such county's share of the gasoline, diesel fuel or
1151 kerosene taxes to be used in paying the principal and interest of
1152 such road or bridge bonds as they mature.

1153 In any county having such countywide road or bridge bonds or
1154 district road or bridge bonds outstanding which exceed, in the
1155 aggregate, five percent (5%) of the assessed valuation of the
1156 taxable property of the county, but which do not exceed, in the
1157 aggregate, eight percent (8%) of the assessed valuation of the
1158 taxable property of the county, it shall be the duty of the board
1159 of supervisors to set aside not less than twenty percent (20%) of
1160 such county's share of the gasoline, diesel fuel or kerosene taxes
1161 to be used in paying the principal and interest of such road and
1162 bridge bonds as they mature.

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

1169 to be used in paying the principal and interest on such road or
1170 bridge bonds as they mature.

1171 The portion of any such county's share of the gasoline,
1172 diesel fuel or kerosene taxes thus set aside for the payment of
1173 the principal and interest of road or bridge bonds, as provided
1174 for in this section, shall be used first in paying the currently
1175 maturing installments of the principal and interest of such
1176 countywide road or bridge bonds, if there be any such countywide
1177 road or bridge bonds outstanding, and secondly, in paying the
1178 currently maturing installments of principal and interest of
1179 district road or bridge bonds outstanding. It shall be the duty
1180 of the board of supervisors to pay bonds and interest maturing in
1181 each supervisors district out of the supervisors district's share
1182 of the gasoline, diesel fuel or kerosene taxes of such district.

1183 The remaining portion of such county's share of the gasoline,
1184 diesel fuel or kerosene taxes, after setting aside the portion
1185 above provided for the payment of the principal and interest of
1186 bonds, shall be used in the construction and maintenance of any
1187 public highways, bridges, or culverts of the county, including the
1188 roads in special or separate road districts, in the discretion of
1189 the board of supervisors, or in paying the interest and principal
1190 of county road and bridge bonds or district road and bridge bonds,
1191 in the discretion of the board of supervisors.

1192 In any county having no countywide road or bridge bonds or
1193 district road or bridge bonds outstanding, all such county's share
1194 of the gasoline, diesel fuel or kerosene taxes shall be used in
1195 the construction, reconstruction, and maintenance of the public
1196 highways, bridges, or culverts of the county as the board of
1197 supervisors may determine.

1198 In every county in which there are county road bonds or
1199 seawall or road protection bonds outstanding which were issued for
1200 the purpose of building bridges or constructing public roads or
1201 seawalls, such funds shall be used in the manner provided by law.

1202 (c) From the amount produced by the nine-fourteenths

1203 (9/14) division allocated to the Transportation Department, there
1204 shall be deducted:

1205 (i) The amount paid to the State Treasurer for the
1206 "Highway Bonds Sinking Fund" under paragraph (a) of this section;

1207 (ii) Any amounts due counties in accordance with
1208 Section 65-33-45 which have outstanding bonds issued for seawall
1209 or road protection purposes, issued under provisions of Chapter
1210 319, Laws of 1924, and amendments thereto;

1211 (iii) Beginning August 15, 2002, and on or before
1212 the fifteenth day of each month thereafter, an amount equal to
1213 one-sixth (1/6) of the principal and interest certified by the
1214 State Treasurer to the State Tax Commission to be due on the next
1215 semiannual bond and interest payment date for the bonds issued
1216 under Sections 65-39-5 through 65-39-33. On or before the
1217 twenty-fifth day of each month the State Tax Commission shall pay
1218 into the State Treasury for credit to the Gaming Counties Bond
1219 Sinking Fund created in Section 65-39-3, the amount so certified
1220 by the State Treasurer.

1221 (iv) The remainder shall be paid by the State Tax
1222 Commission to the State Treasurer on the fifteenth day of each
1223 month next succeeding the month in which the gasoline, diesel fuel
1224 or kerosene taxes were collected to the credit of the State
1225 Highway Fund.

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

1237 thereto.

1238 Nothing contained in this section shall be construed to
1239 reduce the amount of such gasoline, diesel fuel or kerosene excise
1240 taxes levied by the state, allotted under the provisions of Title
1241 65, Chapter 33, Mississippi Code of 1972, to counties in which
1242 there are outstanding bonds issued for seawall or road protection
1243 purposes issued under the provisions of Chapter 319, Laws of 1924,
1244 and amendments thereto; the amount of said gasoline, diesel fuel
1245 or kerosene excise taxes designated in this section for the
1246 payment of bonds and interest authorized and issued or to be
1247 issued under the provisions of Chapter 130, Laws of 1938, and
1248 subsequent acts authorizing the issuance of bonds payable from
1249 gasoline, diesel fuel or kerosene tax revenue, shall, in such
1250 counties, be considered as being paid "into the State Treasury to
1251 the credit of the State Highway Fund" within the meaning of
1252 Section 65-33-45 in computing the amount to be paid to such
1253 counties under the provisions of said section, and this section
1254 shall be administered in connection with Title 65, Chapter 33,
1255 Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and
1256 65-33-49 dealing with seawalls, as if made a part of this section.

1257 (d) The proceeds of the Five and One-fourth Cents
1258 (5.25¢) of the tax per gallon on oils used as a propellant for jet
1259 aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax
1260 per gallon on aviation gasoline and the tax of One Cent (1¢) per
1261 gallon for each gallon of gasoline for which a refund has been
1262 made pursuant to Section 27-55-23 because such gasoline was used
1263 for aviation purposes, shall be paid to the State Treasury into a
1264 special fund to be used exclusively, pursuant to legislative
1265 appropriation, for the support and development of aeronautics as
1266 defined in Section 61-1-3.

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

1271 construction or reconstruction of highways designated under the
1272 Four-Lane Highway Program created under Section 65-3-97.

1273 (f) "Gasoline, diesel fuel or kerosene taxes" as used
1274 in this section shall be deemed to mean and include state
1275 gasoline, diesel fuel or kerosene taxes levied and imposed on
1276 distributors of gasoline, diesel fuel or kerosene, and all state
1277 excise taxes derived from any fuel used to propel vehicles upon
1278 the highways of this state, when levied by any statute.

1279 **[With regard to any county which is required to operate on a**
1280 **countywide system of road administration as described in Section**
1281 **19-2-3, this section shall read as follows:]**

1282 27-5-101. Unless otherwise provided in this section, on or
1283 before the fifteenth day of each month, all gasoline, diesel fuel
1284 or kerosene taxes which are levied under the laws of this state
1285 and collected during the previous month shall be paid and
1286 apportioned by the State Tax Commission as follows:

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

1305 State Treasurer due to be paid into such fund each month. The
1306 payments to the "Highway Bonds Sinking Fund" shall be made out of
1307 gross gasoline, diesel fuel or kerosene tax collections before
1308 deductions of any nature are considered; however, such payments
1309 shall be deducted from the allocation to the Transportation
1310 Department under paragraph (c) of this section.

1311 (ii) From collections derived from the portion of
1312 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,
1313 from the portion of the tax on aviation gas under Section 27-55-11
1314 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the
1315 portion of the special fuel tax levied under Sections 10 and 11 of
1316 Senate Bill No. 3083, 1999 Regular Session, at Eighteen Cents
1317 (18¢) per gallon that exceeds Ten Cents (10¢) per gallon, from the
1318 portion of the taxes levied under Section 10 of Senate Bill No.
1319 3083, 1999 Regular Session, at Five and Three-fourths Cents
1320 (5.75¢) per gallon that exceeds One Cent (1¢) per gallon on
1321 special fuel and Five and One-fourth Cents (5.25¢) per gallon on
1322 special fuel used as aircraft fuel, from the portion of the excise
1323 tax on compressed gas used as a motor fuel that exceeds the rate
1324 of tax in effect on June 30, 1987, and from the portion of the
1325 gasoline excise tax in excess of Seven Cents (7¢) per gallon and
1326 the diesel excise tax in excess of Ten Cents (10¢) per gallon
1327 under Section 27-61-5 there shall be deducted:

1328 1. An amount as provided in Section
1329 27-65-75(4) to the credit of a special fund designated as the
1330 "Office of State Aid Road Construction."

1331 2. An amount equal to the tax collections
1332 derived from Two Cents (2¢) per gallon of the gasoline excise tax
1333 for distribution to the State Highway Fund to be used exclusively
1334 for the construction, reconstruction and maintenance of highways
1335 of the State of Mississippi or the payment of interest and
1336 principal on bonds when specifically authorized by the Legislature
1337 for that purpose.

1338 3. The balance shall be deposited in the

1339 State Treasury to the credit of the State Highway Fund.

1340 (b) Subject to the provisions that said basis of
1341 distribution shall in nowise affect adversely the amount
1342 specifically pledged in paragraph (a) of this section to be paid
1343 into the "Highway Bonds Sinking Fund," the following shall be
1344 deducted from the amount produced by the state tax on gasoline,
1345 diesel fuel or kerosene tax collections, excluding collections
1346 derived from the portion of the gasoline excise tax that exceeds
1347 Seven Cents (7¢) per gallon, from the portion of the tax on
1348 aviation gas under Section 27-55-11 that exceeds Six and
1349 Four-tenths Cents (6.4¢) per gallon, from the portion of the
1350 special fuel tax levied under Sections 10 and 11 of Senate Bill
1351 No. 3083, 1999 Regular Session, at Eighteen Cents (18¢) per
1352 gallon, that exceeds Ten Cents (10¢) per gallon, from the portion
1353 of the taxes levied under Section 10 of Senate Bill No. 3083, 1999
1354 Regular Session, at Five and Three-fourths Cents (5.75¢) that
1355 exceeds One Cent (1¢) per gallon on special fuel and Five and
1356 One-fourth Cents (5.25¢) per gallon on special fuel used as
1357 aircraft fuel, from the portion of the excise tax on compressed
1358 gas used as a motor fuel that exceeds the rate of tax in effect on
1359 June 30, 1987, and from the portion of the gasoline excise tax in
1360 excess of Seven Cents (7¢) per gallon and the diesel excise tax in
1361 excess of Ten Cents (10¢) per gallon under Section 27-61-5:

1362 (i) Twenty percent (20%) of such amount which
1363 shall be earmarked and set aside for the construction,
1364 reconstruction and maintenance of the highways and roads of the
1365 state, provided that if such twenty percent (20%) should reduce
1366 any county to a lesser amount than that received in the fiscal
1367 year ending June 30, 1966, then such twenty percent (20%) shall be
1368 reduced to a percentage to provide that no county shall receive
1369 less than its portion for the fiscal year ending June 30, 1966;

1370 (ii) The amount allowed as refund on gasoline or
1371 as tax credit on diesel fuel or kerosene used for agricultural,
1372 maritime, industrial, domestic and nonhighway purposes;

1373 (iii) Five percent (5%) of such amount shall be
1374 paid to the State Highway Fund;

1375 (iv) The amount or portion thereof authorized by
1376 legislative appropriation to the Fisheries and Wildlife Fund
1377 created under Section 59-21-25;

1378 (v) The amount for deposit into the special
1379 aviation fund under paragraph (d) of this section; and

1380 (vi) The remainder shall be divided on a basis of
1381 nine-fourteenths (9/14) and five-fourteenths (5/14) (being the
1382 same basis as Four and One-half Cents (4-1/2¢) and Two and
1383 One-half Cents (2-1/2¢) is to Seven Cents (7¢) on gasoline, and
1384 six and forty-three one-hundredths (6.43) and three and
1385 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel
1386 fuel or kerosene). The amount produced by the nine-fourteenths
1387 (9/14) division shall be allocated to the Transportation
1388 Department and paid into the State Treasury as provided in this
1389 section and in Section 27-5-103 and the five-fourteenths (5/14)
1390 division shall be returned to the counties of the state on the
1391 following basis:

1392 1. In each fiscal year, each county shall be
1393 paid each month the same percentage of the monthly total to be
1394 distributed as was paid to that county during the same month in
1395 the fiscal year which ended April 9, 1960, until the county
1396 receives One Hundred Ninety Thousand Dollars (\$190,000.00) in such
1397 fiscal year, at which time funds shall be distributed under the
1398 provisions of paragraph (b)(vi)4 of this section.

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

1407 there is not sufficient money to bring all the counties to said
1408 One Hundred Ninety Thousand Dollars (\$190,000.00).

1409 3. When a county has been paid an amount
1410 equal to the total which was paid to the same county during the
1411 fiscal year ended April 9, 1960, such county shall receive no
1412 further payments during the then current fiscal year until the
1413 last month of such current fiscal year, at which time distribution
1414 will be made under 2 above, except as set out in 4 below.

1415 4. During the last month of the current
1416 fiscal year, should it be determined that there are funds
1417 available in excess of the amount distributed for the year under 1
1418 and 2 above, then such excess funds shall be distributed among the
1419 various counties as follows:

1420 One-third (1/3) of such excess to be
1421 divided equally among the counties;

1422 One-third (1/3) of such excess to be paid
1423 to the counties in the proportion which the population of each
1424 county bears to the total population of the state according to the
1425 last federal census;

1426 One-third (1/3) of such excess to be paid
1427 to the counties in the proportion which the number of square miles
1428 of each county bears to the total square miles in the state.

1429 5. It is the declared purpose and intent of
1430 the Legislature that no county shall be paid less than was paid
1431 during the year ended April 9, 1960, unless the amount to be
1432 distributed to all counties in any year is less than the amount
1433 distributed to all counties during the year ended April 9, 1960.

1434 The Municipal Aid Fund as established by Section 27-5-103
1435 shall not participate in any portion of any funds allocated to any
1436 county hereunder over and above One Hundred Ninety Thousand
1437 Dollars (\$190,000.00).

1438 In any county having road or bridge bonds outstanding which
1439 exceed, in the aggregate, twelve percent (12%) of the assessed
1440 valuation of the taxable property of the county, it shall be the

1441 duty of the board of supervisors to set aside not less than sixty
1442 percent (60%) of such county's share of the gasoline, diesel fuel
1443 or kerosene taxes to be used in paying the principal and interest
1444 on such road or bridge bonds as they mature.

1445 In any county having such road or bridge bonds outstanding
1446 which exceed, in the aggregate, eight percent (8%) of the assessed
1447 valuation of the taxable property of the county, but which do not
1448 exceed, in the aggregate, twelve percent (12%) of the assessed
1449 valuation of the taxable property of the county, it shall be the
1450 duty of the board of supervisors to set aside not less than
1451 thirty-five percent (35%) of such county's share of the gasoline,
1452 diesel fuel or kerosene taxes to be used in paying the principal
1453 and interest of such road or bridge bonds as they mature.

1454 In any county having such road or bridge bonds outstanding
1455 which exceed, in the aggregate, five percent (5%) of the assessed
1456 valuation of the taxable property of the county, but which do not
1457 exceed, in the aggregate, eight percent (8%) of the assessed
1458 valuation of the taxable property of the county, it shall be the
1459 duty of the board of supervisors to set aside not less than twenty
1460 percent (20%) of such county's share of the gasoline, diesel fuel
1461 or kerosene taxes to be used in paying the principal and interest
1462 of such road and bridge bonds as they mature.

1463 In any county having such road or bridge bonds outstanding
1464 which do not exceed, in the aggregate, five percent (5%) of the
1465 assessed valuation of the taxable property of the county, it shall
1466 be the duty of the board of supervisors to set aside not less than
1467 ten percent (10%) of such county's share of the gasoline, diesel
1468 fuel or kerosene taxes to be used in paying the principal and
1469 interest on such road or bridge bonds as they mature.

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

1475 or bridge bonds, if there be any such road or bridge bonds
1476 outstanding.

1477 The remaining portion of such county's share of the gasoline,
1478 diesel fuel or kerosene taxes, after setting aside the portion
1479 above provided for the payment of the principal and interest of
1480 bonds, shall be used in the construction and maintenance of any
1481 public highways, bridges or culverts of the county, in the
1482 discretion of the board of supervisors.

1483 In any county having no road or bridge bonds outstanding, all
1484 such county's share of the gasoline, diesel fuel or kerosene taxes
1485 shall be used in the construction, reconstruction and maintenance
1486 of the public highways, bridges or culverts of the county, as the
1487 board of supervisors may determine.

1488 In every county in which there are county road bonds or
1489 seawall or road protection bonds outstanding which were issued for
1490 the purpose of building bridges or constructing public roads or
1491 seawalls, such funds shall be used in the manner provided by law.

1492 (c) From the amount produced by the nine-fourteenths
1493 (9/14) division allocated to the Transportation Department, there
1494 shall be deducted:

1495 (i) The amount paid to the State Treasurer for the
1496 "Highway Bonds Sinking Fund" under paragraph (a) of this section;

1497 (ii) Any amounts due counties in accordance with
1498 Section 65-33-45 which have outstanding bonds issued for seawall
1499 or road protection purposes, issued under provisions of Chapter
1500 319, Laws of 1924, and amendments thereto; and

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

1509 Sinking Fund created in Section 65-39-3, the amount certified by
1510 the State Treasurer.

1511 (iv) The remainder shall be paid by the State Tax
1512 Commission to the State Treasurer on the fifteenth day of each
1513 month next succeeding the month in which the gasoline, diesel fuel
1514 or kerosene taxes were collected to the credit of the State
1515 Highway Fund.

1516 The funds allocated for the construction, reconstruction and
1517 improvement of state highways, bridges and culverts, or so much
1518 thereof as may be necessary, shall first be used in conjunction
1519 with funds supplied by the federal government for such purposes
1520 and allocated to the Transportation Department to be expended on
1521 the state highway system. It is specifically provided hereby that
1522 the necessary portion of such funds hereinabove allocated to the
1523 Transportation Department may be used for the prompt payment of
1524 principal and interest on highway bonds heretofore issued,
1525 including such bonds issued or to be issued under the provisions
1526 of Chapter 312, Laws of 1956, and amendments thereto.

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

1543 shall be administered in connection with Title 65, Chapter 33,
1544 Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and
1545 65-33-49 dealing with seawalls, as if made a part of this section.

1546 (d) The proceeds of the Five and One-fourth Cents
1547 (5.25¢) of the tax per gallon on oils used as a propellant for jet
1548 aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax
1549 per gallon on aviation gasoline and the tax of One Cent (1¢) per
1550 gallon for each gallon of gasoline for which a refund has been
1551 made pursuant to Section 27-55-23 because such gasoline was used
1552 for aviation purposes, shall be paid to the State Treasury into a
1553 special fund to be used exclusively, pursuant to legislative
1554 appropriation, for the support and development of aeronautics as
1555 defined in Section 61-1-3.

1556 (e) State highway funds in an amount equal to the
1557 difference between Forty-two Million Dollars (\$42,000,000.00) and
1558 the annual debt service payable on the state's highway revenue
1559 refunding bonds, Series 1985, shall be expended for the
1560 construction or reconstruction of highways designated under the
1561 Four-Lane Highway Program created under Section 65-3-97.

1562 (f) "Gasoline, diesel fuel or kerosene taxes" as used
1563 in this section shall be deemed to mean and include state
1564 gasoline, diesel fuel or kerosene taxes levied and imposed on
1565 distributors of gasoline, diesel fuel or kerosene, and all state
1566 excise taxes derived from any fuel used to propel vehicles upon
1567 the highways of this state, when levied by any statute.

1568 SECTION 37. Section 27-55-12, Mississippi Code of 1972, is
1569 amended as follows:

1570 27-55-12. (1) The United States government, the State of
1571 Mississippi, counties, municipalities, school districts and all
1572 other political subdivisions of the state shall be exempt from
1573 excise taxes on gasoline, special fuel and compressed gas as
1574 follows:

1575 (a) From the excise tax rate in excess of Nine Cents
1576 (9¢) per gallon of gasoline and from the excise tax rate in excess

1577 of One Cent (1¢) per gallon of aviation gasoline levied under
1578 Section 27-55-11, Mississippi Code of 1972, Five and Four-tenths
1579 Cents (5.4¢) thereof shall be exempt as provided in Section
1580 27-55-19, Mississippi Code of 1972.

1581 (b) From the excise tax rate in excess of Ten Cents
1582 (10¢) per gallon of special fuel levied at Eighteen Cents (18¢)
1583 per gallon under Sections 10 and 11 of Senate Bill No. 3083, 1999
1584 Regular Session, Four and Three-fourths Cents (4.75¢) thereof
1585 shall be exempt.

1586 (c) From the excise tax rate in excess of One Cent (1¢)
1587 per gallon of special fuel taxed at Five and Three-fourths Cents
1588 (5.75¢) per gallon and from the excise tax rate in excess of
1589 One-half Cent (1/2¢) per gallon of special fuel used in aircraft
1590 levied under Section 10 of Senate Bill No. 3083, 1999 Regular
1591 Session, Four and Three-fourths Cents (4.75¢) thereof shall be
1592 exempt.

1593 (d) From the portion of the excise tax rate on
1594 compressed gas used as a motor fuel that exceeds the rate of tax
1595 in effect on June 30, 1987, Three Cents (3¢) thereof shall be
1596 exempt.

1597 (2) Any person other than a bonded distributor of gasoline,
1598 bonded distributor of special fuel or bonded distributor of
1599 compressed gas who sells or delivers any gasoline, special fuel or
1600 compressed gas, subject to the exemption set forth in this
1601 section, is required to obtain credit for such exemption from a
1602 bonded distribution of gasoline, special fuel or compressed gas.

1603 SECTION 38. Section 27-55-19, Mississippi Code of 1972, is
1604 amended as follows:

1605 27-55-19. There shall not be included in the measure of the
1606 tax levied hereunder any gasoline:

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

1611 second bonded distributor of gasoline sells or delivers said
1612 gasoline to a third bonded distributor of gasoline in which event
1613 the third bonded distributor of gasoline shall be liable for the
1614 tax.

1615 (b) Sold to the United States government for use of the
1616 Armed Forces only, and delivered in quantities of not less than
1617 four thousand (4,000) gallons. Any exemption provided in this
1618 paragraph (b) may be deducted without the prior approval of the
1619 commission, provided that satisfactory proof of such exemption
1620 shall be furnished to the commission. However, such exemption may
1621 be disallowed by the commission if the distributor fails to
1622 furnish satisfactory proof of such exemption to the commission.

1623 (c) Exported to a destination beyond the borders of
1624 this state by a bonded distributor of gasoline when the tax on
1625 such gasoline has been paid or on which the tax liability imposed
1626 by this article has accrued against such bonded distributor. Any
1627 exemption provided in this paragraph (c) may be deducted without
1628 the prior approval of the commission, provided that satisfactory
1629 proof of such exemption shall be furnished to the commission;
1630 however, such exemption may be disallowed by the commission if the
1631 distributor fails to furnish satisfactory proof of such exemption
1632 to the commission within ninety (90) days from the sale or
1633 delivery of the gasoline.

1634 (d) Exported by any person to a destination beyond the
1635 borders of this state in quantities of not less than three
1636 thousand (3,000) gallons by ship, vessel, barge, railroad tank
1637 car, or pipeline, or by tank truck if such tank truck is operated
1638 by a common or contract carrier.

1639 (e) Imported by, or sold to, any refiner or processor
1640 in this state for the purpose of being refined or further
1641 processed.

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

1645 treatment of raw material in manufacturing a product which does
1646 not fall within the meaning of the term "gasoline" as defined in
1647 this article.

1648 (g) Sold or delivered to be used for test purposes at
1649 any regularly established testing laboratory in this state.

1650 Except as provided in paragraphs (b) and (c) above, evidence
1651 of exempt transactions provided in this section and subsections
1652 thereof, satisfactory to the commission, shall be submitted by the
1653 distributor desiring an allowance of said exemptions to the
1654 commission with the payment of the excise tax on the gasoline on
1655 which the exemption is claimed. If the commission decides that
1656 the distributor is entitled to the exemption and allowance
1657 claimed, it shall notify said distributor in writing of such
1658 allowance. The distributor shall then be allowed to deduct from
1659 the payments made in his next monthly report, after said
1660 allowance, the amount of tax which he paid on this exempted
1661 gasoline which amount shall be arrived at by taking the amount of
1662 exempted gasoline minus two percent (2%) allowed for evaporation,
1663 shrinkage and other losses on gasoline, and multiplying the
1664 remainder by the amount of excise tax per gallon. In cases where
1665 the amount of such tax cannot be absorbed on the estimated tax
1666 liability of the person making such payments during the next six
1667 (6) months, the amount shall be refunded to the taxpayer. Such
1668 amount shall be certified to the State Auditor of Public Accounts
1669 by the commission. The said Auditor is hereby authorized to make
1670 such investigation and audit of the claim as he finds necessary.
1671 If he finds that the commission is correct in its determination,
1672 the Auditor may issue his warrant to the State Treasurer in favor
1673 of the taxpayer for the amount of tax erroneously paid, such
1674 refunds to be made from current gasoline, * * * or special fuel
1675 tax collections.

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

1679 the date of sale or delivery; otherwise, claims for such
1680 exemptions shall be disallowed.

1681 In case gasoline and special fuel on which the tax has been
1682 previously paid are accidentally mixed, the distributor of
1683 gasoline or other person owning such mixture may ship the mixture
1684 out of the State of Mississippi, or to a Mississippi refinery, and
1685 may claim credit for the gasoline and/or special fuel tax on the
1686 gasoline and special fuel so mixed. The distributor of gasoline
1687 or other person may also ship the mixture to a barge or pipeline
1688 storage terminal within the State of Mississippi to be brought up
1689 to gasoline specifications, or lowered to special fuel
1690 specifications, as the case might be, under the supervision of a
1691 representative of the commission. It shall be the duty of the
1692 distributor of gasoline or other person to whom the mixed product
1693 belongs to notify the commission immediately after knowledge that
1694 the mixture has occurred.

1695 In case the distributor of gasoline or other person elects to
1696 ship the mixture to a barge or pipeline terminal for storage
1697 within this state, the commission shall supervise the unloading of
1698 the mixture.

1699 In order to perfect a claim for credit for the tax on the
1700 gasoline and special fuel constituting any such mixture, the
1701 distributor of gasoline or other person making the claim shall do
1702 so in writing and shall furnish proof satisfactory to the
1703 commission that the mixture was either shipped out of this state
1704 or to a refinery or other approved place of storage within this
1705 state. The commission shall notify the claimant, in writing,
1706 whether or not his claim is approved, and, if approved, the
1707 claimant may deduct the amount of the claim from his next tax
1708 report. No such claim shall be allowed unless filed within three
1709 (3) years after the date of such accidental mixture. Bonded
1710 distributors of gasoline having no gasoline tax liability with the
1711 commission may assign such tax credit to a bonded distributor of
1712 gasoline having such tax liability.

1713 No tax liability shall accrue against the operator of a
1714 refinery when shipments of gasoline are made from such refinery,
1715 either by common carrier or by tank trucks owned and operated by
1716 the operator of said refinery, to a tax-exempt account within this
1717 state or to another refinery within this state.

1718 Provided, however, that when gasoline is withdrawn from the
1719 storage tank of a refiner or processor on which the tax is paid on
1720 such gasoline and it or any part thereof cannot be delivered to a
1721 purchaser, said refiner or processor may deduct the tax on all or
1722 that portion of such gasoline not delivered to a purchaser from
1723 its next gasoline distributor's tax report; provided that such
1724 refiner or processor submits with such tax report: (1) a written
1725 report setting forth the reasons why such delivery could not be
1726 made, and (2) proof or evidence satisfactory to the commission
1727 that the tax in question had theretofore been paid to the
1728 commission, and (3) proof or evidence satisfactory to the
1729 commission that the nondelivered gasoline was actually returned to
1730 the refinery or processor from which it was taken for the purpose
1731 of delivering it to a purchaser; and provided further, that
1732 immediately upon ascertainment by the refiner or processor that
1733 said gasoline cannot be delivered, he or it shall immediately
1734 notify the commission of this fact and before moving his or its
1735 truck or other means of transporting said gasoline from the
1736 intended point of delivery; and should the commission desire to
1737 inspect said truck, or other means of conveyance, such refiner or
1738 processor shall arrange for such inspection at the point or at
1739 such other point that may be designated by the commission.

1740 The United States government, the State of Mississippi,
1741 counties, municipalities, school districts and all other political
1742 subdivisions of the state shall be exempt from Five and
1743 Four-tenths Cents (5.4¢) of the portion of the gasoline excise tax
1744 rate which exceeds Nine Cents (9¢) per gallon. Any exemption
1745 provided in this paragraph may be deducted without the prior
1746 approval of the commission.

1747 SECTION 39. Section 27-61-3, Mississippi Code of 1972, is
1748 amended as follows:

1749 27-61-3. When used in this chapter, the following words and
1750 phrases shall have the meaning ascribed to them hereby, except
1751 where the context clearly describes and indicates a different
1752 meaning:

1753 (a) Person: Any individual, firm, copartnership, joint
1754 venture, association, corporation, estate, trust, or any other
1755 group or combination acting as a unit and the plural as well as
1756 the singular number unless the intention to give a more limited
1757 meaning is disclosed by the context.

1758 (b) Motor vehicle: A motor vehicle used, designed or
1759 maintained for transportation of persons or property and (i)
1760 having two (2) axles and a gross vehicle weight exceeding
1761 twenty-six thousand (26,000) pounds; (ii) having three (3) or more
1762 axles, regardless of weight; or being used in combination when the
1763 gross vehicle weight of such combination exceeds twenty-six
1764 thousand (26,000) pounds. The term "motor vehicle" does not
1765 include recreational vehicles.

1766 (c) Fuel: Any product which is used, or is capable of
1767 being used, for the generation of power for the operation of a
1768 motor vehicle.

1769 (d) Commission: The State Tax Commission, either
1770 acting directly or through its duly authorized officers, agents
1771 and employees.

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

1781 possessor or mortgagor shall be deemed the owner for the purposes
1782 of this chapter.

1783 (f) Highway: The entire width between boundary lines
1784 of every way in the state that is publicly maintained or any part
1785 of which is publicly maintained and is open or is to be opened to
1786 use by the public for the purpose of vehicular travel, including
1787 all streets and alleys in cities and towns.

1788 (g) Operator: Any person, partnership, joint stock
1789 company or corporation operating on the public highways of this
1790 state one or more motor vehicles as the beneficial owner or
1791 lessee.

1792 (h) Driver: Any person actually in control of, driving
1793 or operating a motor vehicle at any given time.

1794 (i) The terms "gross weight," "common carrier by motor
1795 vehicle," "contract carrier by motor vehicle," "private commercial
1796 carrier of property by motor vehicle," "private commercial carrier
1797 of passengers by motor vehicle," and "private carrier of property"
1798 shall, respectively, have the meaning ascribed to them in Sections
1799 27-19-1 through 27-19-167, Mississippi Code of 1972.

1800 (j) Retail dealer: Any person not licensed as a
1801 distributor who sells gasoline, special fuel, diesel fuel or
1802 compressed gas.

1803 (k) Motor carrier: Any person operating a motor
1804 vehicle, as defined in this section, on the highways of this
1805 state.

1806 (l) "Recreational vehicle" means vehicles such as motor
1807 homes, pickup trucks with attached campers, and buses when used
1808 exclusively for personal pleasure by an individual. In order to
1809 qualify as a recreational vehicle, the vehicle shall not be used
1810 in connection with any business endeavor.

1811 SECTION 40. Section 27-61-5, Mississippi Code of 1972, is
1812 amended as follows:

1813 27-61-5. There is hereby levied and imposed, a privilege tax
1814 as reasonable compensation for the use of the highways of this

1815 state, in addition to all other taxes which may be levied for such
1816 purpose, as follows: upon each owner or operator of a common
1817 carrier by motor vehicle, contract carrier by motor vehicle,
1818 private commercial carrier of property by motor vehicle, common
1819 carriers of passengers, contract carriers of passengers, private
1820 carrier of passengers by motor vehicle, and private carrier of
1821 property, when any of such carriers operate a motor vehicle or
1822 motor vehicles that cross the boundary line of the State of
1823 Mississippi, a privilege tax equal to and computed at the
1824 prevailing excise tax rates for gasoline, special fuel, diesel
1825 fuel * * * and compressed gas for highway use on all such fuel
1826 used in operating any motor vehicle in this state. The operator
1827 of any motor vehicle or motor vehicles which are so equipped that
1828 more than one (1) kind of motor fuel can be used shall be liable
1829 for the tax at the highest prevailing tax rate of the kinds of
1830 motor fuel so used within this state, with no credit allowed for
1831 the purchase of fuel with the lesser tax rate.

1832 SECTION 41. Section 27-61-11, Mississippi Code of 1972, is
1833 amended as follows:

1834 27-61-11. The permittee shall file a quarterly fuel use
1835 report for the preceding calendar quarter on or before the last
1836 day of the month following each calendar quarter on forms to be
1837 prescribed by the commission, or the carriers may, with the
1838 approval of the commission, furnish the required information on
1839 machine-prepared schedules. Said report shall show any
1840 information required by the commission for the administration of
1841 this chapter. Such report must be filed even though it may
1842 reflect no Mississippi miles for the quarter or accounting period.

1843 At the time of filing of each quarterly report, each permittee
1844 shall pay to the commission the full amount of the tax due on all
1845 fuel used by him in this state at the rate provided for in
1846 paragraph (a) of Section 27-61-5 of this chapter. The permittee
1847 in determining the fuel used by him in this state for said period
1848 may, as to each type of fuel used, determine his average number of

1849 miles of motor vehicle travel for a gallon of fuel by the use of
1850 the following formula: There shall first be determined the total
1851 miles traveled by all motor vehicles operated by permittee using a
1852 particular type of fuel; there shall then be determined the total
1853 number of gallons of such fuel consumed; the total number of
1854 gallons of such fuel consumed shall then be divided into the total
1855 number of miles traveled to determine the average number of miles
1856 of motor vehicle travel per gallon of fuel used. Proper records
1857 supporting these computations shall be maintained for a period of
1858 not less than three (3) years and shall be available to the
1859 inspection and audit of the commission. Permittee may, however,
1860 use any standards established by the commission in determining the
1861 motor vehicle travel per gallon of fuel consumed as to any
1862 particular type fuel. The permittee, in computing the amount of
1863 tax due, may take credit for all payments of the taxes levied in
1864 Sections 27-55-11 * * * and 27-59-11, Mississippi Code of 1972,
1865 and Sections 10 and 11 of Senate Bill No. 3083, 1999 Regular
1866 Session.

1867 All administrative provisions of the Mississippi Sales Tax
1868 Law, including those which fix damages, penalties and interest for
1869 nonpayment of taxes, failure to file returns, and for other
1870 noncompliance with the provisions of said chapter, and all other
1871 requirements and duties imposed upon taxpayers, shall apply to all
1872 persons liable for taxes under the provisions of this chapter, and
1873 the commission shall exercise all the power and authority and
1874 perform all the duties with respect to taxpayers under this
1875 chapter as are provided in said Sales Tax Law, except that in
1876 cases of conflict, then the provisions of this chapter shall
1877 control.

1878 In the event that any taxes or penalties imposed by this
1879 chapter have been erroneously or illegally collected from a
1880 distributor, user or other person, the commission may permit such
1881 distributor, user or other person to take credit against a
1882 subsequent tax report for the amount of the erroneous overpayment,

1883 or the amount thereof may be refunded to the distributor or other
1884 person in the same manner as provided in Section 27-55-19.
1885 Provided, however, in cases where the approved claim exceeds
1886 Twenty-five Thousand Dollars (\$25,000.00), the claimant may not
1887 take credit on his tax reports for more than Twenty-five Thousand
1888 Dollars (\$25,000.00) per quarter until such approved amount is
1889 depleted.

1890 No refunds shall be made under the provisions of this section
1891 unless a written claim is filed setting forth the circumstances by
1892 reason of which such refund should be allowed. Said claim shall
1893 be in such form as the commission shall prescribe, and shall be
1894 filed with the commission within three (3) years from the date of
1895 payment of the taxes erroneously or illegally collected. Nothing
1896 in this chapter shall be construed to prohibit a refund or credit
1897 for tax paid on fuel tax reports not subject to tax or which is
1898 exempt from tax, provided there has not been a willful disregard
1899 of the provisions of this chapter and further provided that the
1900 claim therefor is filed within three (3) years.

1901 SECTION 42. Section 27-61-12, Mississippi Code of 1972, is
1902 amended as follows:

1903 27-61-12. The payment of taxes levied in Sections 27-55-11
1904 and 27-59-11, Mississippi Code of 1972, and Sections 10 and 11 of
1905 Senate Bill No. 3083, 1999 Regular Session, on gasoline, special
1906 fuel, diesel fuel and compressed gas purchased in bulk quantities
1907 from a distributor shall be evidenced by invoices showing the
1908 quantity of fuel purchased, the type of fuel, the tax rate, the
1909 date of the purchase, the purchaser's name and address, and any
1910 other information the commission deems necessary for the
1911 administration of this chapter. The person withdrawing fuel from
1912 bulk storage facilities shall maintain the following records for
1913 each withdrawal.

- 1914 (a) The date the fuel is withdrawn.
1915 (b) The number of gallons.
1916 (c) The fuel type.

1917 (d) The company unit number, or the motor vehicle
1918 license plate number and state.

1919 The payment of the aforesaid taxes on gasoline, special fuel,
1920 diesel fuel and compressed gas purchased from a distributor or
1921 retail dealer and placed in the fuel tank of a motor vehicle shall
1922 be evidenced by invoices showing:

1923 (a) The date of sale.

1924 (b) The name and station address of the vendor (printed
1925 or with credit card imprint).

1926 (c) The name and address of the purchaser or permittee.

1927 (d) The number of gallons sold.

1928 (e) The signature of the purchaser.

1929 (f) The company unit number, or the motor vehicle
1930 license plate number and state.

1931 The invoice must be in triplicate except in cases of credit
1932 card purchases. Invoices omitting any of the aforesaid items are
1933 not acceptable as proof of purchasing fuel in this state.

1934 When the sale of fuel is through an automated method whereby
1935 the purchase is automatically applied to the purchaser's account
1936 and a single invoice is issued for multiple purchases, such
1937 invoice is acceptable as proof of purchasing fuel in this state.

1938 In cases of a lessee/lessor agreement, invoices will be
1939 accepted in either name, provided a legal connection can be made
1940 to the reporting party. When the lessor is the reporting party
1941 and the lessee is fueling the motor vehicle from his own tax-paid
1942 bulk storage facility, the lessee must furnish the following
1943 documentation for each instance tax-paid fuel is placed in the
1944 motor vehicle:

1945 (a) The date the fuel was withdrawn from the bulk
1946 storage facility.

1947 (b) The number of gallons.

1948 (c) The fuel type.

1949 (d) The company unit number, or the motor vehicle
1950 license plate number and state.

1951 * * *

1952 The commission is hereby authorized and empowered to change,
1953 by regulation, the requirements, contents and specifications of
1954 the aforesaid invoices when such change is deemed necessary for
1955 the administration of this chapter or to achieve uniformity among
1956 the states with respect to fuel purchase invoices.

1957 SECTION 43. Section 49-17-403, Mississippi Code of 1972, is
1958 amended as follows:

1959 49-17-403. For the purposes of Sections 49-17-401 through
1960 49-17-433, the following words and phrases shall have the meaning
1961 ascribed in this section:

1962 (a) "Active site" means a site of an underground
1963 storage tank where an owner can be identified and where the tank
1964 is in use for management and handling of motor fuels.

1965 (b) "Bonded distributor" means any person holding a
1966 distributor's permit issued under either Section 27-55-7 * * * or
1967 Section 4 of Senate Bill No. 3083, 1999 Regular Session.

1968 (c) "Commission" means the Mississippi Commission on
1969 Environmental Quality.

1970 (d) "Contamination" means the presence or discharge of
1971 regulated substances in or on the land or in the waters of the
1972 state.

1973 (e) "Department" means the Mississippi Department of
1974 Environmental Quality.

1975 (f) "Director" means the Executive Director of the
1976 Mississippi Department of Environmental Quality.

1977 (g) "Groundwater" means water located beneath the land
1978 surface located wholly or partially within the boundaries of the
1979 state.

1980 (h) "Motor fuels" means gasoline and aviation gasoline
1981 as defined in Section 27-55-5 * * * and special fuel as defined in
1982 Section 3 of Senate Bill No. 3083, 1999 Regular Session, except
1983 for those "motor fuels" used in electric power generating plants
1984 for the commercial production of electricity.

1985 (i) "Operator" means any person in control of, or
1986 having responsibility for, the daily operation of an underground
1987 storage tank.

1988 (j) "Owner of an underground storage tank" means:

1989 (i) In the case of an underground storage tank in
1990 use on November 8, 1984, or brought into use after that date, any
1991 person who owns an underground storage tank used for the storage,
1992 use or dispensing of regulated substances; and

1993 (ii) In the case of an underground storage tank in
1994 use before November 8, 1984, but no longer in use on that date,
1995 any person who owned such tank immediately before the
1996 discontinuation of its use.

1997 (k) "Person" means an individual, trust, firm, joint
1998 stock company, federal agency, corporation, state municipality,
1999 commission, political subdivision of a state, any interstate body,
2000 a consortium, a joint venture, a commercial entity or the United
2001 States government.

2002 (l) "Regulated substance" means:

2003 (i) Any substance defined in Section 101(14) of
2004 the Comprehensive Environmental Response, Compensation and
2005 Liability Act of 1980, Public Law No. 96-510, as amended and
2006 extended (but not including any substance regulated as a hazardous
2007 waste under Section 17-17-1 et seq., Mississippi Code of 1972);
2008 and

2009 (ii) Petroleum, including crude oil or any
2010 fraction thereof, which is liquid at standard conditions of
2011 temperature and pressure (sixty (60) degrees Fahrenheit and
2012 fourteen and seven-tenths (14-7/10) pounds per square inch
2013 absolute).

2014 (m) "Release" means any spilling, leaking, emitting,
2015 discharging, escaping, leaching or disposing from an underground
2016 storage tank into groundwater, surface water or subsurface soils.

2017 (n) "Response action" means any activity, including
2018 evaluation, planning, design, engineering, construction and

2019 ancillary services, which is carried out in response to any
2020 discharge, release or threatened release of motor fuels.

2021 (o) "Response action contractor" means a person who has
2022 been approved by the commission and is carrying out any response
2023 action, including a person retained or hired by such person to
2024 provide services relating to a response action.

2025 (p) "Retailer" means any person other than a bonded
2026 distributor who sells motor fuel as defined in this section.

2027 (q) "Substantial compliance" means that an owner or
2028 operator of an underground storage tank has registered that tank
2029 with the department, and has made a good-faith effort to comply
2030 with the law; and the rules and regulations adopted pursuant
2031 thereto.

2032 (r) "Third-party claim" means any civil action brought
2033 or asserted by any person against any owner of any underground
2034 storage tank for damages to person or property which damages are
2035 the direct result of a release of motor fuels from an underground
2036 storage tank.

2037 (s) "Underground storage tank" means any one or
2038 combination of containers including tanks, vessels, enclosures or
2039 structures together with appurtenances thereto used to contain an
2040 accumulation of regulated substances, and the volume of which,
2041 including the volume of the underground pipes connected thereto,
2042 is ten percent (10%) or more beneath the surface of the ground.
2043 Such term does not include any:

2044 (i) Farm or residential tanks of one thousand one
2045 hundred (1,100) gallons or less capacity used for storing motor
2046 fuel for noncommercial purposes;

2047 (ii) Tanks used for storing heating oil for
2048 consumptive use on the premises where stored;

2049 (iii) Septic tanks;

2050 (iv) Pipeline facilities (including gathering
2051 lines regulated under:

2052 1. The Natural Gas Pipeline Safety Act of

2053 1968, Public Law No. 90-481, 49 USC 1671-1684, as amended and
2054 extended,

2055 2. The Hazardous Liquid Pipeline Safety Act
2056 of 1979, Public Law No. 96-129, 49 USC 2001 et seq., as amended
2057 and extended, or

2058 3. An intrastate pipeline facility regulated
2059 under state laws comparable to the provisions of law in Clause 1
2060 or 2 of this subparagraph);

2061 (v) Surface impoundments, pits, ponds or lagoons;

2062 (vi) Storm water or wastewater collection systems;

2063 (vii) Flow-through process tanks;

2064 (viii) Liquid traps or associated gathering lines
2065 directly related to oil or gas production and gathering operation;

2066 (ix) Storage tanks situated in an underground area
2067 such as a basement, cellar, mine working, drift, shaft or tunnel
2068 if the storage tank is situated upon or above the surface of the
2069 floor;

2070 (x) Other tanks exempted by the Administrator of
2071 the federal Environmental Protection Agency; and

2072 (xi) Piping connected to any of the above
2073 exemptions.

2074 (t) "User" means any person who purchases or acquires
2075 motor fuels as defined in this section for consumption.

2076 SECTION 44. Section 49-17-407, Mississippi Code of 1972, as
2077 amended by House Bill No. 560, 1999 Regular Session, is amended as
2078 follows:

2079 49-17-407. (1) (a) An environmental protection fee of
2080 Four-tenths of One Cent (4/10 of 1¢) per gallon is hereby levied
2081 upon any bonded distributor, as defined by Sections 49-17-401
2082 through 49-17-433, who sells or delivers motor fuels to a retailer
2083 or user in this state.

2084 (b) Every person, other than a bonded distributor, who
2085 shall purchase or acquire motor fuels within this state on which
2086 the environmental protection fee has not accrued, shall be liable

2087 for the environmental protection fee.

2088 (c) The environmental protection fee shall be imposed
2089 only one (1) time on motor fuels sold in the state.

2090 (d) The environmental protection fee shall be collected
2091 by the State Tax Commission and shall be designated separately
2092 from the excise taxes on fuels.

2093 (e) Any person liable for the environmental protection
2094 fee shall be subject to the same requirements and penalties as
2095 distributors under the provisions of the Mississippi Special Fuel
2096 Tax Law.

2097 (f) Any person liable for the environmental protection
2098 fee shall file a report and remit any fees due at the same time
2099 provided for filing reports under Section 12 of Senate Bill No.
2100 3083, 1999 Regular Session, on forms prescribed by the State Tax
2101 Commission.

2102 (g) The State Tax Commission is hereby authorized and
2103 empowered to promulgate all rules and regulations necessary for
2104 the administration of the environmental protection fee.

2105 (2) (a) On or before the fifteenth day of each month the
2106 environmental protection fees collected during the previous month
2107 shall be deposited into the Mississippi Groundwater Protection
2108 Trust Fund established in Section 49-17-405. When the unobligated
2109 balance in the fund reaches or exceeds Ten Million Dollars
2110 (\$10,000,000.00), the administrator of the fund shall notify in
2111 writing the State Tax Commission no later than the twenty-fifth
2112 day of the month to abate the environmental protection fee. The
2113 abatement shall become effective on the last day of the month
2114 succeeding the month in which such notice was given. All
2115 environmental protection fees accrued shall be reported and paid.

2116 (b) When the fund balance is reduced below Six Million
2117 Dollars (\$6,000,000.00), the fee shall again be imposed at the
2118 rate of Four-tenths of One Cent (4/10 of 1¢) per gallon until such
2119 time as the fund shall reach or exceed Ten Million Dollars
2120 (\$10,000,000.00). The administrator of the fund shall notify, no

2121 later than the twenty-fifth day of the month, the State Tax
2122 Commission to reimpose the environmental protection fee. The
2123 imposition of the fee shall become effective on the first day of
2124 the second month succeeding the month in which the notice to
2125 reimpose the fee was given.

2126 (3) This fund shall be used for the purposes set forth in
2127 Sections 49-17-401 through 49-17-435 and for no other governmental
2128 purposes, nor shall any portion hereof ever be available to borrow
2129 from by any branch of government; it being the intent of the
2130 Legislature that this fund and its increments shall remain intact
2131 and inviolate. Any interest earned on monies in this fund shall
2132 remain in this fund.

2133 (4) Monies held in the fund established under Sections
2134 49-17-401 through 49-17-435 shall be used only at an active site
2135 and shall be disbursed in accordance with the commission
2136 requirements and as follows:

2137 (a) Payments shall be made to any third party who
2138 brings a third-party claim against any owner of an underground
2139 storage tank and the commission as trustee of the Mississippi
2140 Groundwater Protection Trust Fund and who obtains a final judgment
2141 in such action which is valid and enforceable in this state
2142 against such parties. Payment shall be paid to the third party
2143 upon filing by such party an application with the department
2144 attaching the original or a certified copy of the final judgment.

2145 (b) Payments shall be made in reasonable amounts to
2146 approved response action contractors and other parties involved in
2147 the site study and cleanup. Payment shall be made to the party
2148 incurring the costs by filing of a sworn application with the
2149 department indicating the fair and reasonable value of the costs
2150 of site rehabilitation, subject to the regulations and limitations
2151 as set by the department.

2152 (5) Payments from the fund are limited as follows:

2153 (a) For cleanup purposes, 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 (b) For third-party judgments, a maximum of One Million
2157 Dollars (\$1,000,000.00) may be disbursed from the fund for any one
2158 (1) site, per confirmed release occurrence.

2159 (c) Nothing in Sections 49-17-401 through 49-17-435
2160 shall establish or create any liability or responsibility on the
2161 part of the department or the State of Mississippi to pay any
2162 cleanup costs or third-party claims if the fund created herein is
2163 insufficient to do so.

2164 (6) Monies held in the fund established under Sections
2165 49-17-401 through 49-17-435 shall not be used for purchases of
2166 equipment needed to assist in cleanup operations.

2167 (7) Nothing in Sections 49-17-401 through 49-17-435 shall
2168 serve to limit any recovery against an owner of an underground
2169 storage tank in excess of One Million Dollars (\$1,000,000.00).

2170 (8) Substantial compliance shall in no way be construed to
2171 be an absolute defense to civil liability.

2172 SECTION 45. Section 65-1-8, Mississippi Code of 1972, is
2173 amended as follows:

2174 65-1-8. (1) The Mississippi Transportation Commission shall
2175 have the following general powers, duties and responsibilities:

2176 (a) To coordinate and develop a comprehensive, balanced
2177 transportation policy for the State of Mississippi;

2178 (b) To promote the coordinated and efficient use of all
2179 available and future modes of transportation;

2180 (c) To make recommendations to the Legislature
2181 regarding alterations or modifications in any existing
2182 transportation policies;

2183 (d) To study means of encouraging travel and
2184 transportation of goods by the combination of motor vehicle and
2185 other modes of transportation;

2186 (e) To take such actions as are necessary and proper to
2187 discharge its duties pursuant to the provisions of Laws, 1992,
2188 Chapter 496, and any other provision of law;

2189 (f) To receive and provide for the expenditure of any
2190 funds made available to it by the Legislature, the federal
2191 government, or any other source.

2192 (2) In addition to the general powers, duties and
2193 responsibilities listed in subsection (1) of this section, the
2194 Mississippi Transportation Commission shall have the following
2195 specific powers:

2196 (a) To make rules and regulations whereby the
2197 transportation department shall change or relocate any and all
2198 highways herein or hereafter fixed as constituting a part of the
2199 state highway system, as may be deemed necessary or economical in
2200 the construction or maintenance thereof; to acquire by gift,
2201 purchase, condemnation, or otherwise, land or other property
2202 whatsoever that may be necessary for a state highway system as
2203 herein provided, with full consideration to be given to the
2204 stimulation of local public and private investment when acquiring
2205 such property in the vicinity of Mississippi towns, cities and
2206 population centers;

2207 (b) To enforce by mandamus, or other proper legal
2208 remedies, all legal rights or rights of action of the Mississippi
2209 Transportation Commission with other public bodies, corporations
2210 or persons;

2211 (c) To make and publish rules, regulations and
2212 ordinances for the control of and the policing of the traffic on
2213 the state highways, and to prevent their abuse by any or all
2214 persons, natural or artificial, by trucks, tractors, trailers or
2215 any other heavy or destructive vehicles or machines, or by any
2216 other means whatsoever, by establishing weights of loads or of
2217 vehicles, types of tires, width of tire surfaces, length and width
2218 of vehicles, with reasonable variations to meet approximate
2219 weather conditions, and all other proper police and protective
2220 regulations, and to provide ample means for the enforcement of
2221 same. The violation of any of the rules, regulations or
2222 ordinances so prescribed by the commission shall constitute a

2223 misdemeanor. No rule, regulation or ordinance shall be made that
2224 conflicts with any statute now in force or which may hereafter be
2225 enacted, or with any ordinance of municipalities. A monthly
2226 publication giving general information to the boards of
2227 supervisors, employees and the public may be issued under such
2228 rules and regulations as the commission may determine;

2229 (d) To give suitable numbers to highways and to change
2230 the number of any highway that shall become a part of the state
2231 highway system. However, nothing herein shall authorize the
2232 number of any highway to be changed so as to conflict with any
2233 designation thereof as a U.S. numbered highway. Where, by a
2234 specific act of the Legislature, the commission has been directed
2235 to give a certain number to a highway, the commission shall not
2236 have the authority to change such number;

2237 (e) To make proper and reasonable rules, regulations,
2238 and ordinances for the placing, erection, removal or relocation of
2239 telephone, telegraph or other poles, signboards, fences, gas,
2240 water, sewerage, oil or other pipelines, and other obstructions
2241 that may, in the opinion of the commission, contribute to the
2242 hazards upon any of the state highways, or in any way interfere
2243 with the ordinary travel upon such highways, or the construction,
2244 reconstruction or maintenance thereof, and to make reasonable
2245 rules and regulations for the proper control thereof. Any
2246 violation of such rules or regulations or noncompliance with such
2247 ordinances shall constitute a misdemeanor.

2248 Whenever the order of the commission shall require the
2249 removal of, or other changes in the location of telephone,
2250 telegraph, or other poles, signboards, gas, water, sewerage, oil
2251 or other pipelines; or other similar obstructions on the
2252 right-of-way or such other places where removal is required by
2253 law, the owners thereof shall at their own expense move or change
2254 the same to conform to the order of the commission. Any violation
2255 of such rules or regulations or noncompliance with such orders
2256 shall constitute a misdemeanor;

2257 (f) To regulate and abandon grade crossings on any road
2258 fixed as a part of the state highway system, and whenever the
2259 commission, in order to avoid a grade crossing with the railroad,
2260 locates or constructs said road on one side of the railroad, the
2261 commission shall have the power to abandon and close such grade
2262 crossing, and whenever an underpass or overhead bridge is
2263 substituted for a grade crossing, the commission shall have power
2264 to abandon such grade crossing and any other crossing adjacent
2265 thereto. Included in the powers herein granted shall be the power
2266 to require the railroad at grade crossings, where any road of the
2267 state highway system crosses the same, to place signal posts with
2268 lights or other warning devices at such crossings at the expense
2269 of the railroad, and to regulate and abandon underpass or overhead
2270 bridges and, where abandoned because of the construction of a new
2271 underpass or overhead bridge, to close such old underpass or
2272 overhead bridge, or, in its discretion, to return the same to the
2273 jurisdiction of the county board of supervisors;

2274 (g) To make proper and reasonable rules and regulations
2275 to control the cutting or opening of the road surfaces for
2276 subsurface installations;

2277 (h) To make proper and reasonable rules and regulations
2278 for the removal from the public rights-of-way of any form of
2279 obstruction, to cooperate in improving their appearance, and to
2280 prescribe minimum clearance heights for seed conveyors, pipes,
2281 passageways or other structure of private or other ownership above
2282 the highways;

2283 (i) To establish, and have the transportation
2284 department maintain and operate, and to cooperate with the state
2285 educational institutions in establishing, enlarging, maintaining
2286 and operating a laboratory or laboratories for testing materials
2287 and for other proper highway purposes;

2288 (j) To provide, under the direction and with the
2289 approval of the Department of Finance and Administration, suitable
2290 offices, shops and barns in the City of Jackson;

2291 (k) To establish and have enforced set-back
2292 regulations;

2293 (l) To cooperate with proper state authorities in
2294 producing limerock for highway purposes and to purchase same at
2295 cost;

2296 (m) To provide for the purchase of necessary equipment
2297 and vehicles and to provide for the repair and housing of same, to
2298 acquire by gift, purchase, condemnation or otherwise, land or
2299 lands and buildings in fee simple, and to authorize the
2300 transportation department to construct, lease or otherwise provide
2301 necessary and proper permanent district offices for the
2302 construction and maintenance divisions of the department, and for
2303 the repair and housing of the equipment and vehicles of the
2304 department; however, in each Supreme Court district only two (2)
2305 permanent district offices shall be set up, but a permanent status
2306 shall not be given to any such offices until so provided by act of
2307 the Legislature and in the meantime, all shops of the department
2308 shall be retained at their present location. As many local or
2309 subdistrict offices, shops or barns may be provided as is
2310 essential and proper to economical maintenance of the state
2311 highway system;

2312 (n) To cooperate with the Department of Archives and
2313 History in having placed and maintained suitable historical
2314 markers, including those which have been approved and purchased by
2315 the State Historical Commission, along state highways, and to have
2316 constructed and maintained roadside driveways for convenience and
2317 safety in viewing them when necessary; however, no highway or
2318 bridge shall ever be memorialized to a man while living;

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

2325 parks shall be named for abundant flora and fauna existing in the
2326 area or for the first flora or fauna found on the site;

2327 (p) Unless otherwise prohibited by law, to make such
2328 contracts and execute such instruments containing such reasonable
2329 and necessary appropriate terms, provisions and conditions as in
2330 its absolute discretion it may deem necessary, proper or
2331 advisable, for the purpose of obtaining or securing financial
2332 assistance, grants or loans from the United States of America or
2333 any department or agency thereof, including contracts with several
2334 counties of the state pertaining to the expenditure of such funds;

2335 (q) To cooperate with the Federal Highway
2336 Administration in the matter of location, construction and
2337 maintenance of the Great River Road, to expend such funds paid to
2338 the commission by the Federal Highway Administration or other
2339 federal agency, and to authorize the transportation department to
2340 erect suitable signs marking this highway, the cost of such signs
2341 to be paid from state highway funds other than earmarked
2342 construction funds;

2343 (r) To cooperate, in its discretion, with the
2344 Mississippi Forestry Commission and the School of Forestry,
2345 Mississippi State University, in a forestry management program,
2346 including planting, thinning, cutting and selling, upon the
2347 right-of-way of any highway, constructed, acquired or maintained
2348 by the transportation department, and to sell and dispose of any
2349 and all growing timber standing, lying or being on any
2350 right-of-way acquired by the commission for highway purposes in
2351 the future; such sale or sales to be made in accordance with the
2352 sale of personal property which has become unnecessary for public
2353 use as provided for in Section 65-1-123, Mississippi Code of 1972;

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

2359 plant parasites and plant diseases on the state highway

2360 rights-of-way;

2361 (t) To provide for the placement, erection and
2362 maintenance of motorist services business signs and supports
2363 within state highway rights-of-way in accordance with current
2364 state and federal laws and regulations governing the placement of
2365 traffic control devices on state highways, and to establish and
2366 collect reasonable fees from the businesses having information on
2367 such signs;

2368 (u) To request and to accept the use of persons
2369 convicted of an offense, whether a felony or a misdemeanor, for
2370 work on any road construction, repair or other project of the
2371 transportation department. The commission is also authorized to
2372 request and to accept the use of persons who have not been
2373 convicted of an offense but who are required to fulfill certain
2374 court-imposed conditions pursuant to Section 41-29-150(d)(1) or
2375 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention
2376 Act, being Sections 99-15-101 through 99-15-127, Mississippi Code
2377 of 1972. The commission is authorized to enter into any
2378 agreements with the Department of Corrections, the State Parole
2379 Board, any criminal court of this state, and any other proper
2380 official regarding the working, guarding, safekeeping, clothing
2381 and subsistence of such persons performing work for the
2382 transportation department. Such persons shall not be deemed
2383 agents, employees or involuntary servants of the transportation
2384 department while performing such work or while going to and from
2385 work or other specified areas;

2386 (v) To provide for the administration of the railroad
2387 revitalization program pursuant to Section 57-43-1 et seq.;

2388 (w) The Mississippi Transportation Commission is
2389 further authorized, in its discretion, to expend funds for the
2390 purchase of service pins for employees of the Mississippi
2391 Transportation Department;

2392 (x) To cooperate with the State Tax Commission by

2393 providing for weight enforcement field personnel to collect and
2394 assess taxes, fees and penalties and to perform all duties as
2395 required pursuant to Sections 1 through 34 of Senate Bill No.
2396 3083, 1999 Regular Session, Sections 27-19-1 et seq., 27-55-1 et
2397 seq., * * * 27-59-1 et seq. and 27-61-1 et seq., Mississippi Code
2398 of 1972, with regard to vehicles subject to the jurisdiction of
2399 the Office of Weight Enforcement. All collections and assessments
2400 shall be transferred daily to the State Tax Commission;

2401 (y) The Mississippi Transportation Commission may
2402 delegate the authority to enter into a supplemental agreement to a
2403 contract previously approved by the commission if the supplemental
2404 agreement involves an additional expenditure not to exceed One
2405 Hundred Thousand Dollars (\$100,000.00).

2406 SECTION 46. Section 65-39-35, Mississippi Code of 1972, is
2407 amended as follows:

2408 65-39-35. The date upon which the taxes and fees levied and
2409 charged under the provisions of Sections 27-55-11, * * * 27-57-37,
2410 27-59-11, 27-19-43, 27-19-309, 27-65-75 and Sections 10 and 11 of
2411 Senate Bill No. 3083, 1999 Regular Session, are reduced under such
2412 sections shall be the first day of the month immediately following
2413 the date upon which:

2414 (a) The Mississippi Transportation Commission certifies
2415 to the State Tax Commission that:

2416 (i) The Four-Lane Highway Program created under
2417 Section 65-3-97 and the Gaming Counties Infrastructure Program
2418 created under Section 65-39-3, are completed and no funds are any
2419 longer necessary to pay the costs of such programs; and

2420 (ii) The Mississippi Transportation Commission
2421 will not declare the necessity for additional borrowings under
2422 Section 65-9-27, or for additional bonds under Sections 65-39-5
2423 through 65-39-33; and

2424 (b) The State Treasurer certifies:

2425 (i) That the amount on deposit in the Gaming
2426 Counties Bond Sinking Fund, together with earnings on investments

2427 to accrue to such fund, is equal to or greater than the aggregate
2428 of the entire principal, redemption premium (if any), and interest
2429 due and to become due (until the final maturity date or earlier
2430 scheduled redemption date) on all general obligation bonds issued
2431 under Sections 65-39-5 through 65-39-33; and

2432 (ii) That all principal, interest, cost and other
2433 expenses for all bonds, notes or other borrowings under Section
2434 65-9-27 (including redemption notes, if any) have been paid and
2435 are completely satisfied.

2436 SECTION 47. Sections 27-55-301, 27-55-303, 27-55-305,
2437 27-55-307, 27-55-309, 27-55-313, 27-55-315, 27-55-319, 27-55-323,
2438 27-55-327, 27-55-329, 27-55-331, 27-55-335, 27-55-337, 27-55-339,
2439 27-55-341, 27-55-343, 27-55-345, 27-55-347, 27-55-351, 27-55-355,
2440 27-55-359 and 27-55-361, Mississippi Code of 1972, which provide
2441 for the taxation of other motor fuels, are repealed.

2442 SECTION 48. Section 25-55-401, Mississippi Code of 1972,
2443 which applies certain tax increases to fuels held in storage, is
2444 repealed.

2445 SECTION 49. Sections 27-57-301, 27-57-303, 27-57-305,
2446 27-57-307, 27-57-309, 27-57-313, 27-57-315, 27-57-317, 27-57-319,
2447 27-57-327, 27-57-329, 27-57-331, 27-57-333, 27-57-334, 27-57-337,
2448 27-57-339, 27-57-341, 27-57-343, 27-57-345, 27-57-347, 27-57-349,
2449 27-57-351, 27-57-353, 27-57-357, 27-57-361, 27-57-363, 27-57-367,
2450 27-57-369 and 27-57-371, Mississippi Code of 1972, which provide
2451 for the taxation of other oil, are repealed.

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

2461 any taxes due or accrued and the executing of any warrant
2462 thereunder prior to July 1, 1999, or for the filing of reports,
2463 and for the imposition of any penalties, forfeitures or claims for
2464 failure to comply therewith.

2465 SECTION 51. Section 36 of this act shall take effect and be
2466 in force from and after September 1, 1999. The remainder of this
2467 act shall take effect and be in force from and after July 1, 1999.