

By: Representative McCoy

To: Ways and Means

HOUSE BILL NO. 1502

1 AN ACT TO AMEND SECTIONS 27-7-79 AND 27-13-53, MISSISSIPPI  
 2 CODE OF 1972, TO REMOVE THE PROVISIONS THAT REQUIRE THE SECRETARY  
 3 OF STATE TO WITHHOLD THE ISSUANCE OF ANY CERTIFICATE OF  
 4 DISSOLUTION OR WITHDRAWAL FOR A CORPORATION UNTIL THE RECEIPT OF A  
 5 NOTICE FROM THE CHAIRMAN OF THE STATE TAX COMMISSION TO THE EFFECT  
 6 THAT INCOME TAXES AND FRANCHISE TAXES LEVIED AGAINST THE  
 7 CORPORATION HAVE BEEN PAID; TO REPEAL SECTION 27-65-83,  
 8 MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE SECRETARY OF STATE TO  
 9 WITHHOLD THE ISSUANCE OF ANY CERTIFICATE OF DISSOLUTION OR  
 10 WITHDRAWAL FOR A CORPORATION UNTIL THE RECEIPT OF A NOTICE FROM  
 11 THE CHAIRMAN OF THE STATE TAX COMMISSION TO THE EFFECT THAT SALES  
 12 TAXES LEVIED AGAINST THE CORPORATION HAS BEEN PAID; AND FOR  
 13 RELATED PURPOSES.

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

15 SECTION 1. Section 27-7-79, Mississippi Code of 1972, is  
 16 amended as follows:

17 27-7-79. (1) The commissioner shall have exclusive  
 18 jurisdiction and be charged with the administration and  
 19 enforcement of the provisions of this article, except as otherwise  
 20 provided.

21 (2) The commissioner, for the purpose of ascertaining the  
 22 correctness of any return, or for the purpose of making a return  
 23 where none has been made, is hereby authorized, by any agent  
 24 designated by the commissioner for that purpose, to examine any  
 25 books, papers, records, or memoranda, bearing upon the matter  
 26 required to be included in the return, and may require the  
 27 attendance of persons rendering a return or of any officer or  
 28 employee of such person, or of any person having knowledge in the  
 29 premises, and may take his testimony with reference to the matter  
 30 required by law to be included in such return, with power to  
 31 administer oaths to such person or persons.

32           (3) The commissioner is authorized to establish a board of  
33 review and to appoint certain qualified employees thereto. Said  
34 board of review shall, when established and appointments made  
35 thereto, have recognized status for the purpose of conducting  
36 hearings as required by the provisions of Section 27-7-71,  
37 Mississippi Code of 1972. The conclusions and order of such board  
38 shall require the approval of the commissioner before becoming  
39 final. In the case of an appeal to the State Tax Commission, a  
40 copy of the board's order shall be made available to all  
41 commissioners prior to the date of the hearing.

42           (4) If any person summoned to appear under this article to  
43 testify, or produce books, papers, or other data, shall refuse to  
44 do so, the chancery court for the district in which such person  
45 resides shall have jurisdiction by appropriate process to compel  
46 such attendance, testimony, or production of books, papers or  
47 other data.

48           (5) The commissioner, with the approval of the Governor, may  
49 appoint and remove such officers, agents, deputies, clerks and  
50 employees as he may deem necessary, such persons to have such  
51 duties and powers as the commissioner may, from time to time,  
52 prescribe. The salaries of all officers, agents, and employees  
53 employed by the commissioner shall be such as he may prescribe,  
54 with the approval of the Governor, not to exceed such amounts as  
55 may be appropriated by the Legislature, and the members of the  
56 commission and such officers, agents, and employees shall be  
57 allowed such reasonable and necessary traveling and other expenses  
58 as may be incurred in the performance of their duties, not to  
59 exceed the amount appropriated therefor by the Legislature.

60           (6) The commissioner shall designate certain special agents  
61 appointed hereunder and evidenced by a written certificate of  
62 appointment under the seal of said commission, of which judicial  
63 notice shall be taken by all courts of this state. Such agents,  
64 when in possession of a warrant issued under authority of this

65 article, shall have all the powers and duties of the sheriff in  
66 enforcing the provisions of the article relating to the warrant  
67 thus issued, and in making arrests of persons obstructing or  
68 seeking to obstruct the execution of such warrant, or in serving  
69 any writ, notice, or order connected with the enrolled judgment  
70 for which the warrant is issued by whatever officer or authority  
71 of court issued.

72 \* \* \*

73 (7) The commissioner may require such of the officers,  
74 agents, and employees, as he may designate, to give bond for the  
75 faithful performance of their duties, in such form and with such  
76 securities as he may determine, and all premiums on such bonds  
77 shall be paid by the commissioner out of the moneys appropriated  
78 for the purposes of this article.

79 (8) All officers empowered by law to administer oaths and  
80 the members of the commission, and such officers as it may  
81 designate, shall have power to administer an oath to any person or  
82 to take the acknowledgment of any person in respect to any return  
83 or report required by this article or the rules and regulations of  
84 the commissioner.

85 (9) All agents of the commissioner shall have, for  
86 identification purposes, proper credentials signed by the chairman  
87 of the commission.

88 (10) The commissioner shall prepare and publish annually  
89 statistics reasonably available with respect to the operation of  
90 this law, including classification of taxpayers and of the income,  
91 the amounts allowed as deductions, exemptions, and credits, and  
92 also a statement of the cost of administering this article, and  
93 any other facts deemed pertinent and valuable.

94 SECTION 2. Section 27-13-53, Mississippi Code of 1972, is  
95 amended as follows:

96 27-13-53. \* \* \*

97           \* \* \* Departments of Mississippi state government are hereby  
98 specifically authorized to furnish to the commissioner, upon  
99 request of his authorized agents and employees, any information  
100 from the public records in their custody.

101           SECTION 3. Section 27-65-83, Mississippi Code of 1972, which  
102 requires the Secretary of State to withhold the issuance of any  
103 certificate of dissolution or withdrawal for a corporation until  
104 the receipt of a notice from the Chairman of the State Tax  
105 Commission to the effect that sales taxes levied against the  
106 corporation has been paid, is hereby repealed.

107           SECTION 4. This act shall take effect and be in force from  
108 and after its passage.