AN ACT TO TRANSFER THE PERSONNEL EMPLOYED BY THE MISSISSIPPI
PUBLIC SERVICE COMMISSION TO CARRY OUT AND ENFORCE THE PROVISIONS
OF THE MOTOR CARRIER REGULATORY LAW OF 1938 TO THE MISSISSIPPI
DEPARTMENT OF TRANSPORTATION; TO PROVIDE THAT REDUCTIONS IN THE
PERSONNEL EMPLOYED TO CARRY OUT AND ENFORCE THE PROVISIONS OF THE
MOTOR CARRIER REGULATORY LAW SHALL BE FROM ATTRITION AND NOT
DISMISSAL; TO AUTHORIZE THE MISSISSIPPI TRANSPORTATION COMMISSION
TO EMPLOY ADDITIONAL PERSONNEL TO CARRY OUT AND ENFORCE THE
PROVISIONS OF THE MOTOR CARRIER REGULATORY LAW OF 1938; TO
TRANSFER THE DUTIES AND RESPONSIBILITIES OF THE MISSISSIPPI PUBLIC
SERVICE COMMISSION UNDER THE MOTOR CARRIER REGULATORY LAW OF 1938
TO THE MISSISSIPPI TRANSPORTATION COMMISSION AND THE MISSISSIPPI
DEPARTMENT OF TRANSPORTATION; TO CREATE THE TRANSPORTATION
COMMISSION REGULATION FUND INTO WHICH SHALL BE DEPOSITED ALL FUNDS
COLLECTED UNDER THE PROVISIONS OF THE MOTOR CARRIER REGULATORY LAW
OF 1938; TO AMEND SECTIONS 77-1-15, 77-3-87, 77-7-7, 77-7-21,
77-7-23, 77-7-47, 77-7-115, 77-7-119, 77-7-125, 77-7-127,
77-7-333, 77-7-335, 77-7-337 AND 77-7-339, MISSISSIPPI CODE OF
1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; TO REPEAL
SECTIONS 77-1-19 AND 77-1-21, MISSISSIPPI CODE OF 1972, WHICH
AUTHORIZE THE MISSISSIPPI PUBLIC SERVICE COMMISSION TO EMPLOY
CERTAIN PERSONNEL TO CARRY OUT AND ENFORCE THE PROVISIONS OF THE
MOTOR CARRIER REGULATORY LAW OF 1938; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) Effective July 1, 2001, all persons employed
by the Mississippi Public Service Commission to carry out and
enforce the provisions of the Motor Carrier Regulatory Law of
1938, shall be transferred to the Mississippi Department of
Transportation. All such transfers shall be in accordance with
the rules and regulations of the State Personnel Board.

(2) If the number of persons employed by the state to carry
out and enforce the provisions of the Motor Carrier Regulatory Law
of 1938 are reduced, such reduction shall result from attrition
and not dismissal.

(3) All records, personnel, property and unexpended balances
of appropriations, allocations or other funds of the Public
Service Commission affected by the transfer authorized by this
section, shall be transferred to the Mississippi Department of Transportation.

**SECTION 2.** The Mississippi Transportation Commission is authorized to employ the following additional employees to carry out and enforce the provisions of the Motor Carrier Regulatory Law of 1938:

(a) An assistant secretary and two (2) stenographer-clerks;
(b) One (1) combined bookkeeper and stenographer;
(c) One (1) stenographer competent to serve as a reporter of evidence taken before the commission; and
(d) Twelve (12) additional employees.

**SECTION 3.** For the purpose of enforcing the provisions of the Mississippi Motor Carrier Regulatory Law of 1938, the Mississippi Transportation Commission is hereby authorized to employ, in addition to other necessary personnel, one (1) chief enforcement officer and thirty-one (31) inspectors, the salaries of whom shall be fixed by the commission. The chief enforcement officer and the inspectors shall devote their full time to the performance of their duties and shall take an oath to faithfully perform the duties of their position. The commission shall require bonds to be carried on such employees as the commission may deem necessary, the cost thereof to be paid by the commission. The chief enforcement officer and inspectors shall be qualified by experience and training in law enforcement or investigative work, and shall attend and satisfactorily complete an appropriate course of instruction established by the Commissioner of Public Safety at the Law Enforcement Officers Training Academy. The chief enforcement officer and the inspectors shall be selected after an examination as to physical and mental fitness. Such employees shall be citizens of the United States and the State of Mississippi, and of good moral character. All such employees
shall be appointed by the commission and shall be subject to
removal at any time by the commission.

SECTION 4. From and after July 1, 2001, the duties and
responsibilities of the Mississippi Public Service Commission
under the Motor Carrier Regulatory Law of 1938 shall be
transferred to the Mississippi Transportation Commission and the
Mississippi Department of Transportation.

SECTION 5. There is hereby established in the State Treasury
a special fund to be known as the "Transportation Commission
Regulation Fund." The fund shall be the sole fund for the deposit
of all monies collected by the Mississippi Transportation
Commission or the Mississippi Department of Transportation under
the provisions of the Motor Carrier Regulatory Act of 1938. The
fund shall be audited annually by the State Auditor.

SECTION 6. Section 77-1-15, Mississippi Code of 1972, is
amended as follows:

77-1-15. (1) There shall be an executive secretary of the
commission, hereinafter referred to in this chapter as the
secretary, to be appointed by the commission, by and with the
advice and consent of the Senate, for the term of the
commissioners. The secretary must have the same qualifications as
the commissioners and shall be subject to the same
disqualifications and to like penalties, except that he shall not
be liable to impeachment. He shall receive a salary fixed by the
Legislature. He shall take the oath of office and shall be
removable at the pleasure of the commission, which may fill any
vacancy until the Senate confirms a successor. The secretary
shall make bond as provided for other state officers, in the sum
of Ten Thousand Dollars ($10,000.00), conditioned upon the
faithful performance of the duties of his office.

(2) The secretary shall collect all fees and penalties
collected by or paid to the commission, and shall cover the same
into the State Treasury **.**
(3) The secretary of the commission shall be the custodian of all records, documents, and the seal of the commission. He shall issue all citations, subpoenas and other rightful orders and documents, and perform all other duties usually required of such officer, and as required by the commission.

(4) It shall be the duty and responsibility of the secretary to supervise and manage the offices and staff of the Public Service Commission and formulate written policies and procedures for the effective and efficient operation of the office and present these policies and procedures to the board for promulgation.

SECTION 7. Section 77-3-87, Mississippi Code of 1972, is amended as follows:

77-3-87. All reasonable and necessary expenses of the administration of the duties imposed on the Public Utilities Staff and on the commission by Title 77, Mississippi Code of 1972, excluding the reasonable and necessary expenses of the administration and enforcement by the commission of the laws of this state pursuant to Chapter * * * 9 of Title 77, Mississippi Code of 1972, shall be provided as follows: There is hereby levied a tax upon (a) all utilities, the rates of which are subject to regulation by the provisions of this chapter and upon (b) all utilities not subject to such rate regulation which furnish to the ultimate consumer utility services of the type described by subparagraph (i) of paragraph (d) of Section 77-3-3 and otherwise subject to regulation by the provisions of this chapter, such levy to be effective on the first day of each year and to be calculated as follows: The rate of the tax shall be one hundred sixty-four thousandths of one percent (164/1000 of 1%) per year, of the gross revenues from the intrastate operations of the utilities taxed under this section. The rate of the tax for electric power associations and rural electrification authorities shall be ninety thousandths of one percent (90/1000 of 1%) per
year of the gross revenues from the intrastate operations of
electric power associations and rural electrification authorities
taxed under this section. The sum of all taxes levied by this
section shall not exceed the total legislative appropriation of
monies from the "Public Utilities Staff Regulation Fund" and the
"Public Service Commission Regulation Fund" for the ensuing fiscal
year. The commission and the Executive Director of the Public
Utilities Staff shall certify to the State Tax Commission the
amount of legislative appropriations of monies for the regulation
of utilities. The State Tax Commission shall adjust the tax rates
on a pro rata basis to generate the necessary revenues established
by such legislative appropriations. Each utility which is subject
to the tax levied by this section shall file a statement of its
gross revenue by April 1 of each year showing the gross revenue
for the preceding year's operation. These statements of gross
revenue shall be filed with the State Tax Commission on forms
prescribed and furnished by the State Tax Commission. The State
Tax Commission shall file a copy of these statements of gross
revenue with the Public Utilities Staff and the commission. The
State Tax Commission shall calculate the amount of tax to be paid
by each of the utilities and shall submit a statement thereof to
the respective utilities, and the amount shown due in the
statements to the utilities shall be paid by them within thirty
(30) days thereafter to the State Tax Commission. The State Tax
Commission shall furnish the Public Utilities Staff and the
commission with an itemized list showing gross and net revenues,
assessments, tax collections and other related information for the
respective utilities. The State Tax Commission shall pay these
funds into the State Treasury on the same day collected to the
credit of the "Public Utilities Staff Regulation Fund" and to the
"Public Service Commission Regulation Fund" in the proportion that
the legislative appropriation of monies from each fund for the
regulation of utilities for the ensuing fiscal year bears to the
total legislative appropriation of monies from both funds for the regulation of utilities for the ensuing fiscal year.

All administrative provisions of the Mississippi Sales Tax Law, including those which fix damages, penalties and interest for nonpayment of taxes and for noncompliance with the provisions of such chapter, and all other duties and requirements imposed upon taxpayers, shall apply to all persons liable for taxes under the provisions of this chapter, and the Tax Commissioner shall exercise all the power and authority and perform all the duties with respect to taxpayers under this chapter as are provided in the Mississippi Sales Tax Law except where there is a conflict, then the provisions of this chapter shall control. The term "gross revenue" as used in this section is the total amount of all revenue derived by each of the utilities from its intrastate operations, which are subject to rate regulation under the provisions of this chapter or which constitute utility services of the type described by subparagraph (i) of paragraph (d) of Section 77-3-3 and which are regulated by this chapter and furnished to ultimate consumers. The State Tax Commission is hereby authorized to use all tax returns of any utilities available to it and to make audits as may be deemed necessary of all records of utilities in order to correctly determine the amount of such gross revenue.

All proceeds of the above-mentioned tax are hereby allocated to the Public Utilities Staff and to the commission in the manner provided in this section for the purpose of this chapter.

Each utility subject to the provisions of this section shall be allowed to recover, through the use of a rate adjustment clause or rider, the total amount of taxes paid by the utility pursuant to this section for the reasonable and necessary expenses of the commission and the Public Utilities Staff.

SECTION 8. Section 77-7-7, Mississippi Code of 1972, is amended as follows:
77-7-7. Whenever used in this chapter unless expressly stated otherwise:

(a) The term "person" means an individual, firm, copartnership, corporation, company, association or joint-stock association, and includes any trustee, receiver, assignee or personal representative thereof.

(b) The term "commission" means the Mississippi Transportation Commission.

(c) The term "highway" means every public highway or place of whatever nature open to the use of the public for purposes of vehicle travel in this state, including the streets and alleys in towns and cities.

(d) The term "motor vehicle" and "vehicle" means any vehicle, machine, tractor, trailer or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property; such term, however, does not include any vehicle, locomotive or car operated exclusively on a rail or rails.

(e) The term "common carrier by motor vehicle" means any person who or which undertakes, whether directly or by a lease or any other arrangement, to transport passengers or household goods.

(f) The term "contract carrier by motor vehicle" means any person, not included under subsection (e) of this section, who or which, under special and individual contracts or agreements, and whether directly or by a lease or any other arrangement, transports passengers or household goods.

(g) The term "restricted motor carrier" means all carriers of property, except household goods, by motor vehicle for compensation.

(h) The "services" and "transportation" to which this chapter applies include all vehicles operated by, for or in the interest of any motor carrier irrespective of ownership or
contract, express or implied, together with all facilities and
property operated or controlled by any such carrier or carriers
and used in the transportation of passengers or property or in the
performance of any service in connection therewith.

(i) The term "certificate" means a certificate of
public convenience and necessity issued by the commission to
common carriers by motor vehicle and restricted common carriers by
motor vehicle under this chapter.

(j) The term "permit" means a permit issued by the
commission to contract carriers by motor vehicle under this
chapter.

(k) The term "interstate permit" means a permit issued
under the terms of this chapter to the holder of a certificate of
public convenience and necessity, a permit, or other operating
authority from the Interstate Commerce Commission.

(l) The term "owner" or "operator" and "owner and
operator" means any individual, firm, copartnership, corporation,
company, association or joint stock association, and includes any
trustee, receiver, assignee or personal representative thereof, to
whom or to which a certificate of convenience and necessity or
permit or interstate permit has been issued by the commission.

(m) The term "vanpooling" means a nonprofit arrangement
entered into to provide for the transportation of persons to and
from their places of employment utilizing a motor vehicle
manufactured primarily for the transporting of not less than eight
(8) nor more than fifteen (15) people, and where the costs of
operating said vehicle, including reasonable vehicle depreciation
costs, are paid for by those people utilizing such arrangement.

SECTION 9. Section 77-7-21, Mississippi Code of 1972, is
amended as follows:

77-7-21. No restricted motor carrier not exempted in this
chapter shall engage in intrastate operation on any highway within
the state unless such carrier is in compliance with the
requirements of the laws and regulations of the *** commission.

SECTION 10. Section 77-7-23, Mississippi Code of 1972, is
amended as follows:

77-7-23. The *** commission shall promulgate rules,
regulations and procedures for the regulation of minimum amounts
of financial responsibility relating to insurance requirements and
self-insurance authorization, safety of operations and appointment
of agents of service of process for restricted motor carriers.

SECTION 11. Section 77-7-47, Mississippi Code of 1972, is
amended as follows:

77-7-47. If the commission should decide that an emergency
exists at any time, said commission is hereby authorized and
empowered to issue a temporary certificate of convenience and
necessity or temporary contract carrier permit to fit applicants,
and the State Tax Commission is hereby authorized to collect
inspection fees and issue temporary identification credentials to
any owner or operator to whom a temporary certificate of
convenience and necessity or a temporary contract carrier permit
has been issued by the *** commission. The State Tax Commission
is also hereby authorized to issue to holders of temporary
certificates of convenience and necessity or temporary contract
carrier permits the necessary road and bridge privilege license
tax temporary permits in the same manner as temporary or seasonal
permits are now issued under the provisions of Chapter 19 of Title
27, Mississippi Code of 1972. No temporary certificate of
convenience and necessity or contract carrier permit shall be
issued by the commission for a period of time less than one (1)
month or longer than six (6) months. Reissue of such certificate
or permit is hereby authorized if, in the opinion of the
commission, such is justified.

SECTION 12. Section 77-7-115, Mississippi Code of 1972, is
amended as follows:
77-7-115. On or before January 1 of each year, or prior to commencement of business, every holder of a certificate of convenience and necessity or permit or interstate authority issued by the Interstate Commerce Commission upon whom the fee is levied by Section 77-7-119, shall pay to the commission an amount equal to the fees imposed in the section for each vehicle operated within this state.

SECTION 13. Section 77-7-119, Mississippi Code of 1972, is amended as follows:

77-7-119. (1) It shall be unlawful for any holder of a certificate of public convenience and necessity or permit, issued in accordance with this chapter, to operate over the highways of this state unless there shall be accompanying each vehicle so operated a receipt which shall have been procured from the commission as herein required. The receipts shall bear necessary numbers and identification markings which, in the opinion of the commission, are necessary to carry out the provisions of this section. The receipts required hereby shall be obtained by each operator liable therefor for each vehicle used in the conduct of his business in this state. The commission shall collect a fee of Ten Dollars ($10.00) for each receipt issued by the commission, and the Ten Dollar ($10.00) fee shall not be prorated monthly.

(2) It shall be unlawful for any holder of authority from the Interstate Commerce Commission to operate over the highways of this state unless such carrier has paid a fee of Ten Dollars ($10.00) for each vehicle operated in or through the State of Mississippi pursuant to the Interstate Commerce Commission's single state insurance registration.

(3) The commission is authorized to promulgate all rules and regulations necessary to enable this state to participate in the single state insurance registration system for motor carriers authorized by Section 4005 of the Intermodal

SECTION 14. Section 77-7-125, Mississippi Code of 1972, is amended as follows:

77-7-125. The * * * commission shall have the sole and complete power and authority to issue registration receipts to owners and operators required to have the receipts.

SECTION 15. Section 77-7-127, Mississippi Code of 1972, is amended as follows:

77-7-127. All funds collected by the * * * commission under the provisions of this chapter shall be deposited in the State Treasury to the credit of the "Transportation Commission Regulation Fund" for use by the * * * commission for the administration and enforcement of the laws of this state relative to the inspection, control and supervision of the business, equipment, service or accounts of motor carriers subject to this chapter.

SECTION 16. Section 77-7-333, Mississippi Code of 1972, is amended as follows:

77-7-333. After selection, the chief enforcement officer and the inspectors shall go through thirty (30) days of intensive instruction of the laws of this state pertaining to * * * the Mississippi Department of Transportation * * * and the Department of Public Safety, together with rules and regulations of all these departments, and the laws of this state pertaining to arrest. The expenses of attending such school shall be paid out of the "Transportation Commission Regulation Fund" on presentation of paid bills for travel and subsistence to the secretary of the commission.

SECTION 17. Section 77-7-335, Mississippi Code of 1972, is amended as follows:
(1) All inspectors on duty shall wear uniforms, shall have the right to bear arms, and shall have the authority to make arrests and hold and impound any vehicle and the contents thereof which is being operated in violation of this chapter or the commission's rules, regulations or general orders promulgated thereunder.

(2) All inspectors shall have the authority to enforce all of the laws, rules and regulations of the Mississippi Transportation Commission upon all highways in the state and the rights-of-way of such highways and other properties as defined in Section 77-7-261; except that if any person commits an offense in violation of this chapter or the rules and regulations of this commission upon a highway in the state and be pursued by a member or inspector of the Mississippi Transportation Commission, such member may pursue and apprehend such offender upon any of the highways in this state, or to any other place to which such offender may flee.

(3) All inspectors shall have the authority to aid and assist any law enforcement officer whose life or safety is in jeopardy and may arrest without warrant any fugitive from justice who has escaped or who is using the highways in the state in an attempt to flee. With the approval of the commission or its designee, inspectors of the Mississippi Department of Transportation may assist other law enforcement agencies in searching for convicted felons who have escaped or for alleged felons where there is probable cause to believe that the person being sought committed the felony and a felony had actually been committed.

(4) Upon request of the Mississippi Highway Patrol, a sheriff of any county or the chief of police of any community and with the consent of the commission, all inspectors have the authority to assist in traffic control during time of natural disasters, such as hurricanes, tornados or floods.
(5) Nothing in this section shall be construed as granting the Mississippi Transportation Commission general police powers.

SECTION 18. Section 77-7-337, Mississippi Code of 1972, is amended as follows:

77-7-337. The commission is hereby authorized and empowered to purchase all necessary equipment to enforce the provisions of this chapter, and to pay for the same out of the "Transportation Commission Regulation Fund."

SECTION 19. Section 77-7-339, Mississippi Code of 1972, is amended as follows:

77-7-339. The salary of the chief enforcement officer and the inspectors, and the reasonable and necessary expenses of such employees and the administration of the duties imposed on the commission by this chapter, shall be paid out of the special fund in the State Treasury designated as the "Transportation Commission Regulation Fund," upon requisition and warrants in the same manner provided by law for the disbursements of appropriations for the commission. An itemized account shall be kept of all receipts and expenditures and shall be reported to the Legislature by the commission.

SECTION 20. Sections 77-1-19 and 77-1-21, Mississippi Code of 1972, which authorize the Mississippi Public Service Commission to employ certain personnel to carry out and enforce the provisions of the Motor Carrier Regulatory Law of 1938.

SECTION 21. This act shall take effect and be in force from and after July 1, 2001.