

By: Representatives Watson, Stringer, Howell, Read, McCoy, Compretta, Akins, Arinder, Bailey, Baker (8th), Banks, Barnett, Blackmon, Bondurant, Bounds, Broomfield, Brown, Buck, Burnett, Calhoun, Capps, Clark, Clarke, Coleman (29th), Coleman (65th), Cummings, Davis, Dedeaux, Dickson, Eaton, Ellis, Espy, Evans, Fillingane, Flaggs, Fleming, Franks, Fredericks, Frierson, Gadd, Green, Gibbs, Hamilton (109th), Hamilton (6th), Harrison, Hines, Holland, Holloway, Hudson, Ishee, Jennings, Malone, Markham, Martinson, Masterson, Mayhall, Mayo, Middleton, Miles, Moak, Montgomery, Morris, Moss, Myers, Nicholson, Parker, Patterson, Peranich, Perkins, Pierce, Reed, Reynolds, Robinson (63rd), Robinson (84th), Rogers (14th), Rogers (61st), Rotenberry, Scott, Shows, Smith (27th), Smith (39th), Smith (59th), Straughter, Sullivan, Taylor, Thomas, Vince, Ward, Warren, Weathersby, West, Whittington, Woods, Young

To: Sel Cmte on Fiscal Stability

## HOUSE BILL NO. 1279

1 AN ACT TO REDUCE STATE BUDGET COSTS AND INCREASE STATE  
 2 REVENUES; **[PART 1 - AGENCY SPENDING FREEZE]** TO PROVIDE THAT DURING  
 3 FISCAL YEAR 2005, STATE AGENCIES ARE NOT AUTHORIZED TO EXPEND  
 4 FUNDS TO DO CERTAIN THINGS UNLESS SPECIFICALLY AUTHORIZED IN THE  
 5 AGENCY'S APPROPRIATION BILL; TO PROVIDE THAT DURING FISCAL YEAR  
 6 2005, STATE AGENCIES ARE NOT AUTHORIZED TO TRANSFER ANY FUNDS FROM  
 7 ONE MAJOR OBJECT OF EXPENDITURE TO ANOTHER MAJOR OBJECT OF  
 8 EXPENDITURE IN THE AGENCY'S APPROPRIATION BILL UNLESS THE TRANSFER  
 9 IS SPECIFICALLY AUTHORIZED IN THE APPROPRIATION BILL; TO AMEND  
 10 SECTION 27-104-17, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE  
 11 PRECEDING PROVISION; TO AMEND SECTION 27-101-3, MISSISSIPPI CODE  
 12 OF 1972, TO PROVIDE THAT DURING FISCAL YEAR 2005, THE ANNUAL  
 13 REPORT REQUIRED TO BE PREPARED BY EACH STATE AGENCY AND  
 14 INSTITUTION SHALL BE PUBLISHED ELECTRONICALLY ON THE OFFICIAL  
 15 INTERNET WEB SITE OF THE RESPECTIVE ENTITY; TO AMEND SECTION  
 16 27-101-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT DURING FISCAL  
 17 YEAR 2005, STATE AGENCIES AND INSTITUTIONS MAY PROVIDE FOR THE  
 18 PUBLICATION OF ADDITIONAL COPIES OF THE ANNUAL OR OTHER REPORTS  
 19 ONLY IF THAT IS SPECIFICALLY AUTHORIZED IN THE APPROPRIATION BILL  
 20 FOR THE AGENCY OR INSTITUTION; TO AMEND SECTION 25-51-1,  
 21 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT DURING FISCAL YEAR 2005,  
 22 THE ELECTRONIC FORM OF EACH AGENCY PUBLICATION SHALL CONSTITUTE  
 23 THE PUBLIC RECORD OF THAT AGENCY, FOR PURPOSES OF THE MISSISSIPPI  
 24 LIBRARY COMMISSION BEING THE STATE DEPOSITORY FOR PUBLIC RECORDS  
 25 OF ANY GOVERNMENT AGENCY; TO AMEND SECTIONS 25-51-3 THROUGH  
 26 25-51-7, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING  
 27 PROVISION; **[PART 2 - APPROPRIATIONS/BUDGET PROCESS]** TO AMEND  
 28 SECTIONS 27-103-125, 27-103-139 AND 27-103-211, MISSISSIPPI CODE  
 29 OF 1972, TO REVISE THE PERCENTAGE LIMITATION ON LEGISLATIVE  
 30 APPROPRIATIONS FROM THE STATE GENERAL FUND FOR FISCAL YEARS 2005  
 31 AND 2006; TO AMEND SECTION 27-103-135, MISSISSIPPI CODE OF 1972,  
 32 TO REQUIRE STATE AGENCIES THAT MAINTAIN FUNDS IN ACCOUNTS THAT ARE  
 33 NOT IN THE STATE TREASURY TO FURNISH THE LEGISLATIVE BUDGET OFFICE  
 34 WITH DETAILED INFORMATION ABOUT THE AMOUNT OF THOSE FUNDS THAT THE  
 35 AGENCY HAS ON HAND AND THE LOCATION OF THOSE FUNDS; **[PART 3 -**  
 36 **SPECIAL FUNDS/TRANSFERS]** TO DIRECT THE STATE TREASURER TO TRANSFER  
 37 CERTAIN SPECIAL FUNDS INTO THE BUDGET CONTINGENCY FUND DURING  
 38 FISCAL YEAR 2005; TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF  
 39 1972, TO DELAY UNTIL 2006 THE SALES TAX DIVERSION THAT IS TO BE  
 40 DEPOSITED INTO THE SPECIAL FUNDS TRANSFER FUND; TO AMEND SECTION  
 41 4, CHAPTER 556, LAWS OF 2003, TO PROVIDE THAT THE SPECIAL FUNDS  
 42 TRANSFERRED BY THIS ACT SHALL BE REPAYED FROM MONIES IN THE SPECIAL  
 43 FUNDS TRANSFER FUND; TO AMEND SECTION 27-25-506, MISSISSIPPI CODE  
 44 OF 1972, TO PROVIDE THAT BEGINNING WITH FISCAL YEAR 2005, ALL  
 45 AMOUNTS COLLECTED FROM CERTAIN TAX COLLECTIONS APPORTIONED TO THE  
 46 STATE FROM OIL AND GAS SEVERANCE TAXES THAT DO NOT EXCEED TEN

47 MILLION DOLLARS SHALL BE DEPOSITED INTO THE STATE GENERAL FUND,  
48 AND ALL AMOUNTS COLLECTED THAT EXCEED TEN MILLION DOLLARS SHALL BE  
49 DEPOSITED INTO THE BUDGET CONTINGENCY FUND; TO AMEND SECTION  
50 43-13-407, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IN FISCAL  
51 YEAR 2005 AND EACH SUBSEQUENT FISCAL YEAR, THE TOTAL EARNINGS ON  
52 THE FUNDS IN THE HEALTH CARE TRUST FUND DURING THE PRECEDING  
53 FISCAL YEAR SHALL BE TRANSFERRED TO THE HEALTH CARE EXPENDABLE  
54 FUND; TO PROVIDE THAT THE FULL AMOUNT OF THE CALENDAR YEARS 2004  
55 AND 2005 TOBACCO SETTLEMENT INSTALLMENT PAYMENTS RECEIVED BY THE  
56 STATE SHALL BE DEPOSITED INTO THE HEALTH CARE EXPENDABLE FUND; TO  
57 EXTEND THE REPEALER ON CERTAIN PROVISIONS OF THAT SECTION; TO  
58 AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO SUSPEND THE  
59 MAKING OF CERTAIN LOANS FROM THE EMERGING CROPS FUND UNTIL A  
60 CERTAIN AMOUNT OF FUNDS ARE TRANSFERRED FROM THE EMERGING CROPS  
61 FUND TO THE BUDGET CONTINGENCY FUND; TO PROVIDE FOR THE TRANSFER  
62 OF A CERTAIN AMOUNT OF FUNDS FROM THE EMERGING CROPS FUND TO THE  
63 BUDGET CONTINGENCY FUND; **[PART 4 - MISCELLANEOUS REVENUES]** TO  
64 AMEND SECTIONS 7-7-211 AND 7-7-213, MISSISSIPPI CODE OF 1972, TO  
65 INCREASE THE FEE CHARGED BY THE DEPARTMENT OF AUDIT FOR CONDUCTING  
66 A POSTAUDIT, PREAUDIT OR INVESTIGATION OF THE FINANCIAL AFFAIRS OF  
67 CERTAIN GOVERNMENTAL ENTITIES; TO AMEND SECTION 27-3-79,  
68 MISSISSIPPI CODE OF 1972, TO REQUIRE THE STATE TAX COMMISSION TO  
69 DEVELOP A TAX AMNESTY PROGRAM; TO PROVIDE THAT THE PROGRAM WILL  
70 BEGIN ON SEPTEMBER 30, 2004, AND END ON NOVEMBER 30, 2004, AND  
71 WILL APPLY TO ALL TAXES REQUIRED TO BE COLLECTED BY THE STATE TAX  
72 COMMISSION AND WHICH WERE DUE AND PAYABLE FOR THE YEAR 2001 AND  
73 AFTER; TO PROVIDE THAT TAX AMNESTY WILL NOT BE AVAILABLE TO  
74 TAXPAYERS SUBJECT TO TAX-RELATED CRIMINAL INVESTIGATIONS OR  
75 PROSECUTIONS, OR WHERE TAXES HAVE BEEN PREVIOUSLY ASSESSED BY THE  
76 STATE TAX COMMISSION OR TO ESTIMATED INCOME TAX PAYMENTS; TO AMEND  
77 SECTION 27-65-33, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE  
78 COMPENSATION OR DISCOUNT ALLOWED TO TAXPAYERS FOR COLLECTING SALES  
79 AND USE TAXES AND FILING NECESSARY RETURNS WITH THE STATE TAX  
80 COMMISSION SHALL NOT BE ALLOWED FOR MORE THAN ONE BUSINESS  
81 LOCATION; TO AMEND SECTIONS 52 THROUGH 63, CHAPTER 522, LAWS OF  
82 2003, TO INCREASE THE AMOUNT OF VARIABLE RATE DEBT INSTRUMENTS  
83 THAT THE STATE MAY ISSUE; **[PART 5 - INSURANCE]** TO BRING FORWARD  
84 SECTION 27-15-83, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR  
85 CERTAIN PRIVILEGE TAXES TO BE LEVIED ON INSURANCE COMPANIES; TO  
86 BRING FORWARD SECTION 27-15-85, MISSISSIPPI CODE OF 1972, WHICH  
87 PROVIDES FOR PRIVILEGE TAXES TO BE LEVIED ON CERTAIN INCORPORATED  
88 INSURANCE AGENCIES AND INCORPORATED GENERAL AGENTS AND  
89 INCORPORATED SUPERVISING GENERAL AGENTS; TO BRING FORWARD SECTION  
90 27-15-87, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR PRIVILEGE  
91 TAXES TO BE LEVIED ON CERTAIN FIRE, CASUALTY, LIABILITY, FIDELITY,  
92 SURETY, GUARANTY AND INLAND MARINE INSURANCE AGENTS AND INSURANCE  
93 SOLICITORS; TO BRING FORWARD SECTION 27-15-93, MISSISSIPPI CODE OF  
94 1972, WHICH PROVIDES CERTAIN PRIVILEGE TAXES TO BE LEVIED ON  
95 INCORPORATED LIFE, HEALTH OR ACCIDENT INSURANCE AGENCIES,  
96 SUPERVISING GENERAL AGENTS AND LIFE INSURANCE AGENTS; TO BRING  
97 FORWARD SECTION 27-15-95, MISSISSIPPI CODE OF 1972, WHICH PROVIDES  
98 FOR A PRIVILEGE TAX TO BE LEVIED ON CERTAIN PERSONS, OTHER THAN AN  
99 INCORPORATED INSURANCE AGENCY, WRITING HEALTH AND ACCIDENT OR  
100 INDUSTRIAL LIFE INSURANCE; TO BRING FORWARD SECTION 83-49-47,  
101 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR CERTAIN LICENSE FEES  
102 ON PERSONS ACTING AS AGENTS OR REPRESENTATIVES OF INSURERS WHO  
103 ESTABLISH PREPAID LEGAL SERVICES; TO BRING FORWARD SECTION  
104 83-11-237, MISSISSIPPI CODE OF 1972, WHICH REQUIRES CERTAIN  
105 REGISTRATION FEES FOR AGENTS OF AUTOMOBILE CLUBS OPERATING IN THE  
106 STATE OF MISSISSIPPI; **[PART 6 - TOBACCO]** TO AMEND SECTIONS  
107 27-69-3, 27-69-5, 27-69-7, 27-69-11, 27-69-13 AND 27-69-41,  
108 MISSISSIPPI CODE OF 1972, TO DEFINE THE TERMS "TOBACCO  
109 SETTLEMENT", "NONPARTICIPATING MANUFACTURER" AND "PARTICIPATING  
110 MANUFACTURER" FOR PURPOSES OF THE STATE TOBACCO TAX LAW; TO  
111 REQUIRE THAT CIGARETTE MANUFACTURERS PAY AN EQUITY ASSESSMENT OF  
112 TWO CENTS PER CIGARETTE ON ALL CIGARETTES SUBJECT TO THE CIGARETTE

113 EXCISE TAX; TO PROVIDE THAT THE EQUITY ASSESSMENT SHALL BE  
114 INCREASED ANNUALLY BY THREE PERCENT OR THE INCREASE IN THE  
115 CONSUMER PRICE INDEX, WHICHEVER IS GREATER; TO PROVIDE THAT  
116 CIGARETTE WHOLESALERS MUST PROVIDE CIGARETTE MANUFACTURERS MONTHLY  
117 REPORTS SETTING FORTH THE NUMBER OF CIGARETTES ON WHICH TOBACCO  
118 TAX STAMPS WERE AFFIXED DURING THE PRECEDING MONTH AND IDENTIFYING  
119 THOSE CIGARETTES BY MANUFACTURER, BRAND AND STYLE; TO PROVIDE A  
120 CREDIT AGAINST THE EQUITY ASSESSMENT FOR ANNUAL TOBACCO SETTLEMENT  
121 INSTALLMENTS MADE BY PARTICIPATING MANUFACTURERS; TO PROVIDE  
122 PENALTIES FOR THE FAILURE OF A CIGARETTE MANUFACTURER TO PAY THE  
123 EQUITY ASSESSMENT; TO PROVIDE PENALTIES FOR THE FAILURE OF A  
124 WHOLESALER TO PROVIDE INFORMATION TO A MANUFACTURER NECESSARY FOR  
125 THE MANUFACTURER TO COMPUTE THE EQUITY ASSESSMENT; TO FURTHER  
126 AMEND SECTION 27-69-13, MISSISSIPPI CODE OF 1972, AND TO AMEND  
127 SECTION 27-69-31, MISSISSIPPI CODE OF 1972, TO ELIMINATE THE  
128 DISCOUNT OR COMPENSATION PROVIDED TO DEALERS AS COMPENSATION FOR  
129 THEIR SERVICES IN AFFIXING TOBACCO TAX STAMPS REQUIRED UNDER THE  
130 STATE TOBACCO TAX LAW; TO AMEND SECTION 27-69-75, MISSISSIPPI CODE  
131 OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; **[PART 7 -**  
132 **STATE LAW ENFORCEMENT]** TO PLACE THE MANAGEMENT OF THE LAW  
133 ENFORCEMENT FUNCTIONS OF THE BUREAU OF NARCOTICS, THE MISSISSIPPI  
134 DEPARTMENT OF TRANSPORTATION AND THE PUBLIC SERVICE COMMISSION IN  
135 THE DEPARTMENT OF PUBLIC SAFETY; TO AMEND SECTIONS 41-29-107,  
136 65-1-131 AND 77-1-21, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO  
137 THE PRECEDING PROVISION; **[PART 8 - GAMING]** TO AMEND SECTION  
138 75-76-129, MISSISSIPPI CODE OF 1972, TO REDISTRIBUTE A PORTION OF  
139 THE STATE'S SHARE OF GAMING LICENSE FEES TO SPECIAL FUNDS, THE  
140 PROCEEDS OF WHICH MAY BE USED FOR BEAVER ERADICATION AND CONTROL,  
141 THE LOCAL SYSTEM BRIDGE REPLACEMENT AND REHABILITATION PROGRAM AND  
142 THE LOCAL SYSTEM ROAD PROGRAM; TO AMEND SECTION 65-37-13,  
143 MISSISSIPPI CODE OF 1972, TO DELETE THE PROVISIONS THAT REQUIRE  
144 THE LEGISLATURE TO APPROPRIATE MONIES TO THE LOCAL SYSTEM BRIDGE  
145 REPLACEMENT AND REHABILITATION FUND; TO AMEND SECTION 65-18-9 AND  
146 65-18-11, MISSISSIPPI CODE OF 1972, TO CREATE THE LOCAL SYSTEM  
147 ROAD FUND; TO AUTHORIZE THE STATE ENGINEER TO ALLOCATE MONIES IN  
148 THE FUND TO EACH COUNTY FOR CONSTRUCTING, RECONSTRUCTING OF LOCAL  
149 SYSTEM ROADS; TO AMEND SECTION 75-76-193, MISSISSIPPI CODE OF  
150 1972, TO PROVIDE THAT IN CALCULATING GROSS REVENUE FROM ANY GAME  
151 UNDER THE MISSISSIPPI GAMING CONTROL ACT, PAYMENTS OF CASH OR  
152 TRANSFERS OF OTHER THINGS OF VALUE TO PATRONS BASED ON THE RESULT  
153 OF A GAME SHALL NOT BE DEDUCTED AS LOSSES PAID TO PATRONS WHERE  
154 THE ITEM USED OR RISKED BY THE PATRON TO PARTICIPATE IN THE GAME  
155 WOULD NOT BE CONSIDERED REVENUE TO A GAMING LICENSEE IF THE PATRON  
156 LOST THE GAME; **[PART 9 - EDUCATION]** TO BRING FORWARD SECTIONS  
157 37-9-24 AND 37-13-63, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR  
158 THE MINIMUM NUMBER OF CONTRACT EMPLOYMENT DAYS FOR LICENSED  
159 PERSONNEL AND MINIMUM NUMBER OF DAYS IN A SCHOLASTIC YEAR, FOR THE  
160 PURPOSES OF AMENDMENT; TO BRING FORWARD SECTIONS 37-19-7 AND  
161 37-21-7, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE MINIMUM  
162 SALARY SCALES FOR TEACHERS AND ASSISTANT TEACHERS, FOR THE  
163 PURPOSES OF AMENDMENT; TO AMEND SECTION 37-61-33, MISSISSIPPI CODE  
164 OF 1972, TO DIVERT, UNTIL JULY 1, 2005, A PORTION OF EDUCATION  
165 ENHANCEMENT FUNDS THAT ARE ALLOCATED FOR CLASSROOM SUPPLIES TO THE  
166 BUDGET CONTINGENCY FUND; **[PART 10 - CORRECTIONS]** TO AUTHORIZE THE  
167 COMMISSIONER OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS TO  
168 TRANSFER TERMINALLY ILL OFFENDERS TO THE COMMUNITY CORRECTIONS  
169 DIVISION OF THE DEPARTMENT; TO AMEND SECTIONS 47-5-20 AND 47-5-28,  
170 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING  
171 PROVISION; TO AMEND SECTION 47-5-138.1, MISSISSIPPI CODE OF 1972,  
172 TO INCREASE FROM TEN DAYS TO THIRTY DAYS THE REDUCTION OF SENTENCE  
173 THAT MAY BE AWARDED AS A TRUSTY TIME ALLOWANCE FOR EACH THIRTY  
174 DAYS OF PARTICIPATION BY A TRUSTY IN AN APPROVED PROGRAM; TO  
175 PROVIDE THAT CERTAIN OFFENDERS WHO ARE IN TRUSTY STATUS SHALL NOT  
176 BE ELIGIBLE TO RECEIVE A TRUSTY TIME ALLOWANCE FOR A REDUCTION OF  
177 SENTENCE; TO AMEND SECTION 47-7-5, MISSISSIPPI CODE OF 1972, TO  
178 PROVIDE THAT THE PAROLE BOARD SHALL RECONSIDER APPLICATIONS FOR

179 PAROLE FROM ELIGIBLE OFFENDERS NO LATER THAN ONE YEAR AFTER  
180 REJECTION OF THOSE APPLICATIONS, TO EXTEND THE DATE OF REPEAL ON  
181 THIS SECTION; TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF 1972,  
182 IN CONFORMITY TO THE PRECEDING PROVISIONS; **[PART 11 -**  
183 **ENVIRONMENTAL QUALITY]** TO AMEND SECTION 49-2-21, MISSISSIPPI CODE  
184 OF 1972, TO PROVIDE THAT THE ATTORNEY GENERAL SHALL BE THE SOLE  
185 LEGAL ADVISOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY; TO  
186 PROVIDE THAT WHERE A FEE IS NOT SET BY LAW, THE DEPARTMENT OF  
187 ENVIRONMENTAL QUALITY SHALL CHARGE FEES FOR GENERAL PERMITS, OTHER  
188 PERMITS AND MONITORING ACTIVITIES; TO AMEND SECTIONS 51-3-31,  
189 53-7-7, 53-7-21, 53-7-25, 53-7-27 AND 53-7-69, MISSISSIPPI CODE OF  
190 1972, TO PROVIDE THAT THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
191 SHALL CHARGE FEES FOR CERTAIN ACTIVITIES UNDER ITS JURISDICTION;  
192 **[PART 12 - WILDLIFE, FISHERIES AND PARKS]** TO AMEND SECTION 49-6-3,  
193 MISSISSIPPI CODE OF 1972, TO DELETE THE PROVISIONS THAT REQUIRE  
194 THE DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS TO DEPOSIT A  
195 PERCENTAGE OF HUNTING AND FISHING LICENSE FEES COLLECTED EACH  
196 MONTH INTO THE WILDLIFE, FISHERIES AND PARKS MOTOR VEHICLE FUND;  
197 **[PART 13 - MOTOR VEHICLES]** TO AMEND SECTION 27-19-44.4,  
198 MISSISSIPPI CODE OF 1972, TO IMPOSE AN ADDITIONAL FEE ON THE  
199 ISSUANCE OF PERSONALIZED MOTOR VEHICLE LICENSE TAGS AND CERTAIN  
200 DISTINCTIVE OR SPECIAL MOTOR VEHICLE LICENSE TAGS; TO PROVIDE THAT  
201 THE PROCEEDS COLLECTED FROM THE ADDITIONAL FEE SHALL BE DEPOSITED  
202 INTO THE STATE GENERAL FUND; TO BRING FORWARD SECTIONS 63-1-21,  
203 63-1-37, 63-1-43, 63-1-46, 63-1-81 AND 63-1-82, MISSISSIPPI CODE  
204 OF 1972, WHICH ESTABLISH REQUIREMENTS AND FEES FOR THE ISSUANCE OF  
205 TEMPORARY DRIVING PERMITS, INTERMEDIATE DRIVER'S LICENSES,  
206 DUPLICATE COPIES OF DRIVERS' LICENSES OR TEMPORARY DRIVING  
207 PERMITS, REGULAR DRIVERS' LICENSES, MOTORCYCLE ENDORSEMENTS,  
208 RESTRICTED MOTORCYCLE OPERATORS' LICENSES, CLASS D COMMERCIAL  
209 DRIVERS' LICENSES, REINSTATEMENT OF SUSPENDED DRIVERS' LICENSES,  
210 AND CLASS A, CLASS B AND CLASS C COMMERCIAL DRIVERS' LICENSES; TO  
211 AMEND SECTION 63-21-63, MISSISSIPPI CODE OF 1972, TO INCREASE THE  
212 FEES FOR ISSUING AND PROCESSING MOTOR VEHICLE CERTIFICATES OF  
213 TITLE AND RELATED DOCUMENTS; **[PART 14 - UNIFORM COMMERCIAL CODE]**  
214 TO AMEND SECTION 75-9-525, MISSISSIPPI CODE OF 1972, TO PROVIDE  
215 FOR ADDITIONAL FILING FEES FOR SECURED TRANSACTIONS UNDER THE  
216 UNIFORM COMMERCIAL CODE; **[PART 15 - MEDICAID]** TO AMEND SECTION  
217 43-13-115, MISSISSIPPI CODE OF 1972, WHICH SPECIFIES THE PERSONS  
218 THAT ARE ELIGIBLE FOR MEDICAID; AND FOR RELATED PURPOSES.

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

220 **PART 1 - AGENCY SPENDING FREEZE**

221 **SECTION 1.** (1) For the purposes of this section, the term  
222 "state agency" means an agency, board, commission or department of  
223 the State of Mississippi.

224 (2) For the period beginning on July 1, 2004, and through  
225 June 30, 2005, unless specifically authorized in the appropriation  
226 bill for a state agency, the state agency is not authorized to  
227 expend funds to do any of the following:

228 (a) Hire any new employees, or promote, reclassify,  
229 reallocate or realign a pay grade with regard to any of its  
230 employees or job positions;

231 (b) Purchase any equipment or furniture as defined in  
232 Section 31-7-1, or any computer or telecommunications equipment;

233 (c) Contract with any person or entity for contractual  
234 services, or make payments under any such contract;

235 (d) Travel outside of the State of Mississippi;

236 (e) Publish or distribute any annual reports or other  
237 publications;

238 (f) Conduct public relations activities regarding the  
239 functions, programs or services of the state agency;

240 (g) Advertise the functions, programs or services of  
241 the state agency, except that the Mississippi Development  
242 Authority is authorized to expend funds for advertising to carry  
243 out the purposes of key programs administered by the authority; or

244 (h) Purchase cellular telephones for use of employees  
245 of the state agency, contract or enter an agreement with any  
246 person or entity to provide cellular telephone service for  
247 employees of the state agency, or make payments under any such  
248 contract or agreement.

249 (3) For the period beginning on July 1, 2004, and through  
250 June 30, 2005, a state agency is not authorized to transfer any  
251 funds from one (1) major object of expenditure to another major  
252 object of expenditure in the appropriation bill of the state  
253 agency, unless the transfer is specifically authorized in the  
254 appropriation bill. If the appropriation bill of a state agency  
255 authorizes the transfer of funds from one (1) major object of  
256 expenditure to another, the state agency head shall submit written  
257 justification for the transfer to the Legislative Budget Office,  
258 the Department of Finance and Administration and the State  
259 Auditor, on or before the fifteenth of the month before the  
260 effective date of the transfer. The transfer shall be effective  
261 the first working day of the month following timely submissions  
262 required in this subsection. In cases of extreme hardship,  
263 certified in writing by the state agency head and submitted with

264 timely submissions required in this subsection, the State Fiscal  
265 Officer, in his discretion, may authorize an earlier effective  
266 date for the transfer.

267         **SECTION 2.** Section 27-104-17, Mississippi Code of 1972, is  
268 amended as follows:

269         27-104-17. (1) An allotment period shall be one-half (1/2)  
270 of twelve (12) months, and expenditure one-half (1/2) of the  
271 appropriated amount, unless otherwise specified in the  
272 appropriation bill or justified by the agency to the Department of  
273 Finance and Administration, and the first allotment period shall  
274 commence on July 1. Estimates shall be filed with the Department  
275 of Finance and Administration not later than the first day of the  
276 month preceding the beginning period.

277         \* \* \* The Department of Finance and Administration may, in  
278 its discretion, restrict an agency to monthly allotment period  
279 when it becomes evident that an agency's rate of expenditure to  
280 date indicates this restriction will be necessary to prevent  
281 depletion of its appropriation before the close of the fiscal year  
282 or when the condition of the State General Fund requires monthly  
283 monitoring and control of the rate of General Fund expenditures.

284         (2) Unless otherwise specified in the agency appropriation  
285 bill, if any emergency or unforeseen circumstances \* \* \* arises,  
286 the agency head may authorize increases in major objects of  
287 expenditure within each specific budget within each appropriation  
288 bill in total amounts not to exceed ten percent (10%) of the  
289 appropriated amount of each object, provided that other major  
290 objects of expenditure are decreased by a corresponding dollar  
291 amount. No transfers shall be authorized that increase or  
292 decrease the major object of expenditure "Salaries, Wages and  
293 Fringe Benefits," or that increase the major object of expenditure  
294 "Capital Outlay - Equipment." The agency head shall submit  
295 written justification for the transfer to the Legislative Budget  
296 Office, the Department of Finance and Administration, and the

297 State Auditor, on or before the fifteenth of the month before the  
298 effective date of the transfer. The transfer shall be effective  
299 the first working day of the month following timely submissions  
300 required in this subsection. In cases of extreme hardship,  
301 certified in writing by the agency head and submitted with timely  
302 submissions required in this subsection, the Executive Director of  
303 the Department of Finance and Administration, in his discretion,  
304 may authorize an earlier effective date for the transfer. The  
305 provisions of this subsection shall not be in effect for the  
306 period beginning on July 1, 2004, and through June 30, 2005.

307 **SECTION 3.** Section 27-101-3, Mississippi Code of 1972, is  
308 amended as follows:

309 **[Through June 30, 2005, this section shall read as follows:]**

310 27-101-3. \* \* \* Each annual report required by Section  
311 27-101-1 shall be published electronically on the official  
312 Internet web site of the respective agency, board, commission,  
313 department or institution. One (1) copy of the executive summary  
314 of each annual report shall be sent to the Governor, the  
315 Lieutenant Governor, the Speaker of the House of  
316 Representatives \* \* \*, and each state elected and appointed  
317 official. Each person to whom an executive summary is sent may  
318 receive the information necessary to obtain the annual report in  
319 electronic form, upon request to the agency, board, commission,  
320 department or institution that prepared the report.

321 **[From and after July 1, 2005, this section shall read as**  
322 **follows:]**

323 27-101-3. One (1) copy of each annual report required by  
324 Section 27-101-1 shall be sent to the State Librarian. One (1)  
325 copy of the executive summary of each annual report shall be sent  
326 to the Governor, the Lieutenant Governor, each member of the House  
327 of Representatives and the Senate, and each state elected and  
328 appointed official. Each person to whom an executive summary is  
329 sent may receive a copy of any annual report upon request to the

330 agency, board, commission, department or institution that prepared  
331 the report.

332 **SECTION 4.** Section 27-101-5, Mississippi Code of 1972, is  
333 amended as follows:

334 **[Through June 30, 2005, this section shall read as follows:]**

335 27-101-5. An agency, board, commission, department or  
336 institution may provide for the publication of additional copies  
337 of the annual or other reports only if that is specifically  
338 authorized in the appropriation bill for the agency, board,  
339 commission, department or institution.

340 **[From and after July 1, 2005, this section shall read as**  
341 **follows:]**

342 27-101-5. The Department of Finance and Administration may  
343 authorize the publication of additional copies of the annual or  
344 other reports in meritorious cases.

345 **SECTION 5.** Section 25-51-1, Mississippi Code of 1972, is  
346 amended as follows:

347 **[Through June 30, 2005, this section shall read as follows:]**

348 25-51-1. The Mississippi Library Commission shall be the  
349 state depository for the public records issued by any government  
350 agency for public distribution. Each state agency publication  
351 shall be made available in an electronic form and the electronic  
352 form shall constitute the public record. The record shall be  
353 placed on the official Internet web site of the commission. The  
354 libraries of state agencies, public community or junior colleges,  
355 colleges, public universities and public libraries located in the  
356 state may also become depositories of state agency publications  
357 that are available on the commission's official Internet web site,  
358 when designated as such by the director of the \* \* \* commission  
359 upon their written request to this effect.

360 **[From and after July 1, 2005, this section shall read as**  
361 **follows:]**



362           25-51-1. The Mississippi Library Commission shall be the  
363 state depository for the public records issued by any government  
364 agency for public distribution. The libraries of state agencies,  
365 public community or junior colleges, colleges, public universities  
366 and public libraries located in the state may also become  
367 depositories of these records, when designated as such by the  
368 director of the \* \* \* commission upon their written request to  
369 this effect.

370           **SECTION 6.** Section 25-51-3, Mississippi Code of 1972, is  
371 amended as follows:

372           **[Through June 30, 2005, this section shall read as follows:]**

373           25-51-3. Each agency of state government shall furnish to  
374 the Director of the Mississippi Library Commission the necessary  
375 information to provide its publications and public records in an  
376 electronic form for placement on the official Internet web site of  
377 the commission. The director of the \* \* \* commission shall  
378 transmit this information to each depository \* \* \*. These records  
379 shall be made accessible by the depository receiving them to any  
380 person desiring to examine the same.

381           **[From and after July 1, 2005, this section shall read as**  
382 **follows:]**

383           25-51-3. All agencies of state government shall furnish to  
384 the Director of the Mississippi Library Commission sufficient  
385 copies of each public document printed, and the Director of the  
386 Mississippi Library Commission shall deliver to each depository as  
387 many as two (2) copies of each document requested. These records  
388 shall be made accessible by the depository receiving them to any  
389 person desiring to examine the same.

390           **SECTION 7.** Section 25-51-5, Mississippi Code of 1972, is  
391 amended as follows:

392           **[Through June 30, 2005, this section shall read as follows:]**

393           25-51-5. Each agency of state government shall furnish  
394 annually to the Director of the Mississippi Library

395 Commission \* \* \* a list of all its publications made available  
396 for public distribution \* \* \*.

397 **[From and after July 1, 2005, this section shall read as**  
398 **follows:]**

399 25-51-5. Each agency of state government shall furnish  
400 annually to the Director of the Mississippi Library  
401 Commission \* \* \* a list of all its publications issued for public  
402 distribution, and the Director of the Mississippi Library  
403 Commission shall make and furnish to each depository a duplicate  
404 copy of the same.

405 **PART 2 - APPROPRIATIONS/BUDGET PROCESS**

406 **SECTION 8.** Section 27-103-125, Mississippi Code of 1972, is  
407 amended as follows:

408 27-103-125. The proposed budget of each state agency shall  
409 show the amounts required for operating expenses separately from  
410 the amounts required for permanent improvements. The overall  
411 budget shall show, separately by each source, the estimated amount  
412 of general fund revenue and of special fund revenues of general  
413 fund agencies. The total proposed expenditures in Part 1 of the  
414 overall budget shall not exceed the amount of estimated revenues  
415 that will be available in the general and special funds for  
416 appropriation or use during the succeeding fiscal year, including  
417 any balances that will be on hand in the general and special funds  
418 at the close of the then current fiscal year. \* \* \* The total  
419 proposed expenditures from the State General Fund in Part 1 of the  
420 overall budget shall not exceed ninety-eight percent (98%) of the  
421 amount of general fund revenue estimate for the succeeding fiscal  
422 year, plus any unencumbered balances in general funds that will be  
423 available and on hand at the close of the then current fiscal  
424 year. However, for fiscal years 2004, 2005 and 2006 only, the  
425 total proposed expenditures from the State General Fund in Part 1  
426 of the overall budget shall not exceed one hundred percent (100%)  
427 of the amount of the general fund revenue estimate for the

428 succeeding fiscal year, plus any unencumbered balances in general  
429 funds that will be available and on hand at the close of the then  
430 current fiscal year. The general fund revenue estimate shall be  
431 the estimate jointly adopted by the Governor and the Joint  
432 Legislative Budget Committee. Unencumbered balances in general  
433 funds that will be available and on hand at the close of the  
434 current fiscal year shall not include projected amounts required  
435 to be deposited into the Working Cash-Stabilization Reserve Fund  
436 under Section 27-103-203. The Legislative Budget Office may  
437 recommend additional taxes or sources of revenue if in its  
438 judgment those additional funds are necessary to adequately  
439 support the functions of the state government.

440       **SECTION 9.** Section 27-103-139, Mississippi Code of 1972, is  
441 amended as follows:

442       27-103-139. On or before November 15 preceding each regular  
443 session of the Legislature, except the first regular session of a  
444 new term of office, the Governor shall submit to the members of  
445 the Legislature, the Legislative Budget Office or the  
446 members-elect, as the case may be, and to the executive head of  
447 each state agency a balanced budget for the succeeding fiscal  
448 year. \* \* \* The budget submitted shall be prepared in a format  
449 that will include performance measurement data associated with the  
450 various programs operated by each agency. The total proposed  
451 expenditures in the balanced budget shall not exceed the amount of  
452 estimated revenues that will be available for appropriation or use  
453 during the succeeding fiscal year, including any balances that  
454 will be on hand at the close of the then current fiscal year, as  
455 determined by the revenue estimate jointly adopted by the Governor  
456 and the Legislative Budget Committee. \* \* \* The total proposed  
457 expenditures from the State General Fund in the balanced budget  
458 shall not exceed ninety-eight percent (98%) of the amount of  
459 general fund revenue estimate for the succeeding fiscal year, plus  
460 any unencumbered balances in general funds that will be available

461 and on hand at the close of the then current fiscal year.  
462 However, for fiscal years 2004, 2005 and 2006 only, the total  
463 proposed expenditures from the State General Fund in the balanced  
464 budget shall not exceed one hundred percent (100%) of the amount  
465 of the general fund revenue estimate for the succeeding fiscal  
466 year, plus any unencumbered balances in general funds that will be  
467 available and on hand at the close of the then current fiscal  
468 year. The general fund revenue estimate shall be the estimate  
469 jointly adopted by the Governor and the Joint Legislative Budget  
470 Committee. Unencumbered balances in general funds that will be  
471 available and on hand at the close of the fiscal year shall not  
472 include projected amounts required to be deposited into the  
473 Working Cash-Stabilization Reserve Fund and the Education  
474 Enhancement Fund under Section 27-103-203.

475 The revenues used in preparing the balanced budget shall be  
476 only those revenues that will be available under the general laws  
477 of the state as they exist when the balanced budget is prepared,  
478 and shall not include any proposed revenues that would become  
479 available only after the enactment of new legislation. If the  
480 Governor has any recommendations for additional proposed  
481 expenditures or proposed revenues that are not included in his  
482 balanced budget, he shall submit those recommendations in a  
483 supplement that is separate from his balanced budget, and whenever  
484 the Governor recommends any such additional proposed expenditures,  
485 he also shall recommend proposed revenues that are sufficient to  
486 fund the additional proposed expenditures, providing specific  
487 details regarding the sources and the total amount of those  
488 proposed revenues.

489 The Governor may employ a budget officer for the purpose of  
490 receiving information from the State Fiscal Officer and preparing  
491 his recommendations on the budget. If the Governor determines  
492 that information received from the State Fiscal Officer is not  
493 sufficient to enable him to prepare his budget recommendations, he

494 may request an appropriation from the Legislature to provide  
495 additional staff within the Governor's Office for that purpose.  
496 At the first regular session after his election for Governor, the  
497 Governor shall submit any budget recommendations plus the required  
498 revenue source recommendations no later than January 31 of that  
499 year.

500       **SECTION 10.** Section 27-103-211, Mississippi Code of 1972, is  
501 amended as follows:

502       27-103-211. \* \* \* The total sum appropriated by the  
503 Legislature from the State General Fund for any fiscal year shall  
504 not exceed ninety-eight percent (98%) of the general fund revenue  
505 estimate for that fiscal year developed by the Tax Commission and  
506 the University Research Center and adopted by the Joint  
507 Legislative Budget Committee, plus any unencumbered balances in  
508 general funds that will be available and on hand at the close of  
509 the then current fiscal year. The unencumbered balances in  
510 general funds that will be available and on hand at the close of  
511 the fiscal year shall not include projected amounts required to be  
512 deposited into the Working Cash-Stabilization Reserve Fund under  
513 Section 27-103-203. However, for fiscal years 2004, 2005 and 2006  
514 only, the total sum appropriated by the Legislature from the State  
515 General Fund shall not exceed one hundred percent (100%) of the  
516 amount of the general fund revenue estimate for that fiscal year,  
517 plus any unencumbered balances in general funds that will be  
518 available and on hand at the close of the then current fiscal  
519 year.

520       **SECTION 11.** Section 27-103-135, Mississippi Code of 1972, is  
521 amended as follows:

522       27-103-135. (1) At such regular or special times and on  
523 such forms as the Legislative Budget Office may require, every tax  
524 or fee-collecting or other revenue-producing agency shall furnish  
525 the Legislative Budget Office with complete and detailed  
526 information as to the amount of revenue collected or otherwise

527 received by it during the then current fiscal year, together with  
528 an estimate of the revenue that is anticipated for such succeeding  
529 periods as the Legislative Budget Office may require. In  
530 addition, each state agency that maintains funds in accounts that  
531 are not in the State Treasury shall furnish the Legislative Budget  
532 Office with detailed information about the amount of those funds  
533 that the agency has on hand and the location of those funds.

534 (2) At such regular or special times and on such forms as  
535 the State Fiscal Officer may require, every tax or fee-collecting  
536 or other revenue-producing agency shall furnish the Department of  
537 Finance and Administration with complete and detailed information  
538 as to the amount of revenue collected or otherwise received by it  
539 during the then current fiscal year, together with an estimate of  
540 the revenue that is anticipated for such succeeding periods as the  
541 board may require. The information required to be furnished under  
542 this section shall include all revenues from every fee, penalty,  
543 tax, assessment or other charge levied, whether authorized by law  
544 or not, and shall further include an itemized statement by the  
545 agency of the costs of services for which fees are charged,  
546 comparing the costs with revenues generated by the fees.

547 (3) The State Fiscal Officer shall review the information so  
548 furnished and report to the Legislature any fees that do not  
549 appear to be reasonably calculated to recover the costs of  
550 services for which the fees are charged, and any fees that are  
551 collected without legal authority.

552 **PART 3 - SPECIAL FUNDS/TRANSFERS**

553 **SECTION 12.** The State Treasurer shall transfer to the Budget  
554 Contingency Fund created in Section 27-103-301, out of the  
555 following enumerated funds, the amount listed below from each fund  
556 throughout the period beginning upon July 1, 2004, and through  
557 June 30, 2005:

558 <u>Agency/Fund</u>	<u>Fund No.</u>	<u>Amount</u>
559 Working Cash-Stabilization		

560 Reserve Fund \$10,000,000.00  
561 Total \$10,000,000.00

562 **SECTION 13.** (1) During each fiscal year from July 1, 2004,  
563 until June 30, 2006, the State Treasurer shall transfer to the  
564 Budget Contingency Fund created in Section 27-103-301, from the  
565 aggregate of special funds in the State Treasury, an amount equal  
566 to One Hundred Thirty-two Million Four Hundred Thousand Dollars  
567 (\$132,400,000.00) or such lesser amount as provided in subsection  
568 (2) of this section. The funds shall be transferred in accordance  
569 with a schedule established by the State Treasurer, but the total  
570 amount transferred in any one (1) month shall not exceed  
571 Thirty-three Million One Hundred Thousand Dollars (\$33,100,000.00)  
572 and the amount transferred from any one (1) fund during fiscal  
573 year 2005 or fiscal year 2006, as the case may be, shall not  
574 exceed twenty-five percent (25%) of the balance of the fund, as  
575 determined by the State Treasurer.

576 (2) The amount of One Hundred Thirty-two Million Four  
577 Hundred Thousand Dollars (\$132,400,000.00) that the State  
578 Treasurer is directed to transfer to the Budget Contingency Fund  
579 under subsection (1) of this section shall be reduced by the  
580 amount of the unencumbered General Fund cash balance at the close  
581 of fiscal year 2004 or fiscal year 2005, as the case may be, that  
582 is deposited into the Working-Cash Stabilization Reserve Fund  
583 under Section 27-103-203. The amount of the unencumbered General  
584 Fund cash balance at the close of fiscal year 2004 or fiscal year  
585 2005, as the case may be, that is deposited into the Working  
586 Cash-Stabilization Reserve Fund under Section 27-103-203 shall be  
587 transferred from the Working Cash-Stabilization Reserve Fund to  
588 the Budget Contingency Fund on the same date that the amount is  
589 deposited into the Working Cash-Stabilization Reserve Fund or as  
590 soon thereafter as practicable.

591 (3) The State Treasurer shall determine which special funds  
592 shall be transferred to the Budget Contingency Fund in any month

593 under this section and shall notify the appropriate agency, except  
594 that the Working Cash-Stabilization Reserve Fund, trust funds,  
595 bond proceed funds, federal funds, special-source funds used to  
596 match federal funds, special-source funds to the credit of the  
597 Department of Mental Health derived from client care, and  
598 special-source funds to the credit of the Telecommunications Ad  
599 Valorem Tax Reduction Fund established under Section 27-38-7,  
600 shall be exempt from any required transfer under this section.  
601 Upon notification from the State Treasurer, the agency shall make  
602 the transfer from its special funds as required by the State  
603 Treasurer.

604       **SECTION 14.** Section 27-65-75, Mississippi Code of 1972, is  
605 amended as follows:

606       27-65-75. On or before the fifteenth day of each month, the  
607 revenue collected under the provisions of this chapter during the  
608 preceding month shall be paid and distributed as follows:

609       (1) On or before August 15, 1992, and each succeeding month  
610 thereafter through July 15, 1993, eighteen percent (18%) of the  
611 total sales tax revenue collected during the preceding month under  
612 the provisions of this chapter, except that collected under the  
613 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on  
614 business activities within a municipal corporation shall be  
615 allocated for distribution to the municipality and paid to the  
616 municipal corporation. On or before August 15, 1993, and each  
617 succeeding month thereafter, eighteen and one-half percent  
618 (18-1/2%) of the total sales tax revenue collected during the  
619 preceding month under the provisions of this chapter, except that  
620 collected under the provisions of Sections 27-65-15, 27-65-19(3)  
621 and 27-65-21, on business activities within a municipal  
622 corporation shall be allocated for distribution to the  
623 municipality and paid to the municipal corporation.



624 A municipal corporation, for the purpose of distributing the  
625 tax under this subsection, shall mean and include all incorporated  
626 cities, towns and villages.

627 Monies allocated for distribution and credited to a municipal  
628 corporation under this subsection may be pledged as security for  
629 any loan received by the municipal corporation for the purpose of  
630 capital improvements as authorized under Section 57-1-303, or  
631 loans as authorized under Section 57-44-7, or water systems  
632 improvements as authorized under Section 41-3-16.

633 In any county having a county seat that is not an  
634 incorporated municipality, the distribution provided under this  
635 subsection shall be made as though the county seat was an  
636 incorporated municipality; however, the distribution to the  
637 municipality shall be paid to the county treasury in which the  
638 municipality is located, and those funds shall be used for road,  
639 bridge and street construction or maintenance in the county.

640 (2) On or before September 15, 1987, and each succeeding  
641 month thereafter, from the revenue collected under this chapter  
642 during the preceding month One Million One Hundred Twenty-five  
643 Thousand Dollars (\$1,125,000.00) shall be allocated for  
644 distribution to municipal corporations as defined under subsection  
645 (1) of this section in the proportion that the number of gallons  
646 of gasoline and diesel fuel sold by distributors to consumers and  
647 retailers in each such municipality during the preceding fiscal  
648 year bears to the total gallons of gasoline and diesel fuel sold  
649 by distributors to consumers and retailers in municipalities  
650 statewide during the preceding fiscal year. The State Tax  
651 Commission shall require all distributors of gasoline and diesel  
652 fuel to report to the commission monthly the total number of  
653 gallons of gasoline and diesel fuel sold by them to consumers and  
654 retailers in each municipality during the preceding month. The  
655 State Tax Commission shall have the authority to promulgate such  
656 rules and regulations as is necessary to determine the number of

657 gallons of gasoline and diesel fuel sold by distributors to  
658 consumers and retailers in each municipality. In determining the  
659 percentage allocation of funds under this subsection for the  
660 fiscal year beginning July 1, 1987, and ending June 30, 1988, the  
661 State Tax Commission may consider gallons of gasoline and diesel  
662 fuel sold for a period of less than one (1) fiscal year. For the  
663 purposes of this subsection, the term "fiscal year" means the  
664 fiscal year beginning July 1 of a year.

665 (3) On or before September 15, 1987, and on or before the  
666 fifteenth day of each succeeding month, until the date specified  
667 in Section 65-39-35, the proceeds derived from contractors' taxes  
668 levied under Section 27-65-21 on contracts for the construction or  
669 reconstruction of highways designated under the highway program  
670 created under Section 65-3-97 shall, except as otherwise provided  
671 in Section 31-17-127, be deposited into the State Treasury to the  
672 credit of the State Highway Fund to be used to fund that highway  
673 program. The Mississippi Department of Transportation shall  
674 provide to the State Tax Commission such information as is  
675 necessary to determine the amount of proceeds to be distributed  
676 under this subsection.

677 (4) On or before August 15, 1994, and on or before the  
678 fifteenth day of each succeeding month through July 15, 1999, from  
679 the proceeds of gasoline, diesel fuel or kerosene taxes as  
680 provided in Section 27-5-101(a)(ii)1, Four Million Dollars  
681 (\$4,000,000.00) shall be deposited in the State Treasury to the  
682 credit of a special fund designated as the "State Aid Road Fund,"  
683 created by Section 65-9-17. On or before August 15, 1999, and on  
684 or before the fifteenth day of each succeeding month, from the  
685 total amount of the proceeds of gasoline, diesel fuel or kerosene  
686 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million  
687 Dollars (\$4,000,000.00) or an amount equal to twenty-three and  
688 one-fourth percent (23.25%) of those funds, whichever is the  
689 greater amount, shall be deposited in the State Treasury to the

690 credit of the "State Aid Road Fund," created by Section 65-9-17.  
691 Those funds shall be pledged to pay the principal of and interest  
692 on state aid road bonds heretofore issued under Sections 19-9-51  
693 through 19-9-77, in lieu of and in substitution for the funds  
694 previously allocated to counties under this section. Those funds  
695 may not be pledged for the payment of any state aid road bonds  
696 issued after April 1, 1981; however, this prohibition against the  
697 pledging of any such funds for the payment of bonds shall not  
698 apply to any bonds for which intent to issue those bonds has been  
699 published, for the first time, as provided by law before March 29,  
700 1981. From the amount of taxes paid into the special fund under  
701 this subsection and subsection (9) of this section, there shall be  
702 first deducted and paid the amount necessary to pay the expenses  
703 of the Office of State Aid Road Construction, as authorized by the  
704 Legislature for all other general and special fund agencies. The  
705 remainder of the fund shall be allocated monthly to the several  
706 counties in accordance with the following formula:

707 (a) One-third (1/3) shall be allocated to all counties  
708 in equal shares;

709 (b) One-third (1/3) shall be allocated to counties  
710 based on the proportion that the total number of rural road miles  
711 in a county bears to the total number of rural road miles in all  
712 counties of the state; and

713 (c) One-third (1/3) shall be allocated to counties  
714 based on the proportion that the rural population of the county  
715 bears to the total rural population in all counties of the state,  
716 according to the latest federal decennial census.

717 For the purposes of this subsection, the term "gasoline,  
718 diesel fuel or kerosene taxes" means such taxes as defined in  
719 paragraph (f) of Section 27-5-101.

720 The amount of funds allocated to any county under this  
721 subsection for any fiscal year after fiscal year 1994 shall not be  
722 less than the amount allocated to the county for fiscal year 1994.

723 Monies allocated to a county from the State Aid Road Fund for  
724 fiscal year 1995 or any fiscal year thereafter that exceed the  
725 amount of funds allocated to that county from the State Aid Road  
726 Fund for fiscal year 1994, first must be expended by the county  
727 for replacement or rehabilitation of bridges on the state aid road  
728 system that have a sufficiency rating of less than twenty-five  
729 (25), according to National Bridge Inspection standards before  
730 the monies may be approved for expenditure by the State Aid Road  
731 Engineer on other projects that qualify for the use of state aid  
732 road funds.

733 Any reference in the general laws of this state or the  
734 Mississippi Code of 1972 to Section 27-5-105 shall mean and be  
735 construed to refer and apply to subsection (4) of Section  
736 27-65-75.

737 (5) One Million Six Hundred Sixty-six Thousand Six Hundred  
738 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into  
739 the special fund known as the "State Public School Building Fund"  
740 created and existing under the provisions of Sections 37-47-1  
741 through 37-47-67. Those payments into that fund are to be made on  
742 the last day of each succeeding month hereafter.

743 (6) An amount each month beginning August 15, 1983, through  
744 November 15, 1986, as specified in Section 6 of Chapter 542, Laws  
745 of 1983, shall be paid into the special fund known as the  
746 Correctional Facilities Construction Fund created in Section 6 of  
747 Chapter 542, Laws of 1983.

748 (7) On or before August 15, 1992, and each succeeding month  
749 thereafter through July 15, 2000, two and two hundred sixty-six  
750 one-thousandths percent (2.266%) of the total sales tax revenue  
751 collected during the preceding month under the provisions of this  
752 chapter, except that collected under the provisions of Section  
753 27-65-17(2) shall be deposited by the commission into the School  
754 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On  
755 or before August 15, 2000, and each succeeding month thereafter,

756 two and two hundred sixty-six one-thousandths percent (2.266%) of  
757 the total sales tax revenue collected during the preceding month  
758 under the provisions of this chapter, except that collected under  
759 the provisions of Section 27-65-17(2), shall be deposited into the  
760 School Ad Valorem Tax Reduction Fund created under Section  
761 37-61-35 until such time that the total amount deposited into the  
762 fund during a fiscal year equals Forty-two Million Dollars  
763 (\$42,000,000.00). Thereafter, the amounts diverted under this  
764 subsection (7) during the fiscal year in excess of Forty-two  
765 Million Dollars (\$42,000,000.00) shall be deposited into the  
766 Education Enhancement Fund created under Section 37-61-33 for  
767 appropriation by the Legislature as other education needs and  
768 shall not be subject to the percentage appropriation requirements  
769 set forth in Section 37-61-33.

770 (8) On or before August 15, 1992, and each succeeding month  
771 thereafter, nine and seventy-three one-thousandths percent  
772 (9.073%) of the total sales tax revenue collected during the  
773 preceding month under the provisions of this chapter, except that  
774 collected under the provisions of Section 27-65-17(2), shall be  
775 deposited into the Education Enhancement Fund created under  
776 Section 37-61-33.

777 (9) On or before August 15, 1994, and each succeeding month  
778 thereafter, from the revenue collected under this chapter during  
779 the preceding month, Two Hundred Fifty Thousand Dollars  
780 (\$250,000.00) shall be paid into the State Aid Road Fund.

781 (10) On or before August 15, 1994, and each succeeding month  
782 thereafter through August 15, 1995, from the revenue collected  
783 under this chapter during the preceding month, Two Million Dollars  
784 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad  
785 Valorem Tax Reduction Fund established in Section 27-51-105.

786 (11) Notwithstanding any other provision of this section to  
787 the contrary, on or before February 15, 1995, and each succeeding  
788 month thereafter, the sales tax revenue collected during the

789 preceding month under the provisions of Section 27-65-17(2) and  
790 the corresponding levy in Section 27-65-23 on the rental or lease  
791 of private carriers of passengers and light carriers of property  
792 as defined in Section 27-51-101 shall be deposited, without  
793 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund  
794 established in Section 27-51-105.

795 (12) Notwithstanding any other provision of this section to  
796 the contrary, on or before August 15, 1995, and each succeeding  
797 month thereafter, the sales tax revenue collected during the  
798 preceding month under the provisions of Section 27-65-17(1) on  
799 retail sales of private carriers of passengers and light carriers  
800 of property, as defined in Section 27-51-101 and the corresponding  
801 levy in Section 27-65-23 on the rental or lease of these vehicles,  
802 shall be deposited, after diversion, into the Motor Vehicle Ad  
803 Valorem Tax Reduction Fund established in Section 27-51-105.

804 (13) On or before July 15, 1994, and on or before the  
805 fifteenth day of each succeeding month thereafter, that portion of  
806 the avails of the tax imposed in Section 27-65-22 that is derived  
807 from activities held on the Mississippi state fairgrounds complex,  
808 shall be paid into a special fund that is created in the State  
809 Treasury and shall be expended upon legislative appropriation  
810 solely to defray the costs of repairs and renovation at the Trade  
811 Mart and Coliseum.

812 (14) On or before August 15, 1998, and each succeeding month  
813 thereafter through July 15, 2005, that portion of the avails of  
814 the tax imposed in Section 27-65-23 that is derived from sales by  
815 cotton compresses or cotton warehouses and that would otherwise be  
816 paid into the General Fund, shall be deposited in an amount not to  
817 exceed Two Million Dollars (\$2,000,000.00) into the special fund  
818 created under Section 69-37-39.

819 (15) Notwithstanding any other provision of this section to  
820 the contrary, on or before September 15, 2000, and each succeeding  
821 month thereafter, the sales tax revenue collected during the

822 preceding month under the provisions of Section 27-65-19(1)(f) and  
823 (g)(i)2, shall be deposited, without diversion, into the  
824 Telecommunications Ad Valorem Tax Reduction Fund established in  
825 Section 27-38-7.

826 (16) On or before August 15, 2000, and each succeeding month  
827 thereafter, the sales tax revenue collected during the preceding  
828 month under the provisions of this chapter on the gross proceeds  
829 of sales of a project as defined in Section 57-30-1 shall be  
830 deposited, after all diversions except the diversion provided for  
831 in subsection (1) of this section, into the Sales Tax Incentive  
832 Fund created in Section 57-30-3.

833 (17) Notwithstanding any other provision of this section to  
834 the contrary, on or before April 15, 2002, and each succeeding  
835 month thereafter, the sales tax revenue collected during the  
836 preceding month under Section 27-65-23 on sales of parking  
837 services of parking garages and lots at airports shall be  
838 deposited, without diversion, into the special fund created under  
839 Section 27-5-101(d).

840 (18) On or before August 15, 2006, and each succeeding month  
841 thereafter through July 15, 2007, from the sales tax revenue  
842 collected during the preceding month under the provisions of this  
843 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)  
844 shall be deposited into the Special Funds Transfer Fund created in  
845 Section 4 of Chapter 556, Laws of 2003.

846 (19) The remainder of the amounts collected under the  
847 provisions of this chapter shall be paid into the State Treasury  
848 to the credit of the General Fund.

849 (20) It shall be the duty of the municipal officials of any  
850 municipality that expands its limits, or of any community that  
851 incorporates as a municipality, to notify the commissioner of  
852 that action thirty (30) days before the effective date. Failure  
853 to so notify the commissioner shall cause the municipality to  
854 forfeit the revenue that it would have been entitled to receive

855 during this period of time when the commissioner had no knowledge  
856 of the action. If any funds have been erroneously disbursed to  
857 any municipality or any overpayment of tax is recovered by the  
858 taxpayer, the commissioner may make correction and adjust the  
859 error or overpayment with the municipality by withholding the  
860 necessary funds from any later payment to be made to the  
861 municipality.

862 **SECTION 15.** Section 4, Chapter 556, Laws of 2003, is amended  
863 as follows:

864 Section 4. (1) There is created in the State Treasury a  
865 special fund to be known as the Special Funds Transfer Fund, which  
866 shall be comprised of the monies required to be deposited into the  
867 fund under Section 27-65-75(18) for the repayment of certain funds  
868 transferred to the Budget Contingency Fund. Upon receipt of  
869 monies deposited into the fund under Section 27-65-75(18), the  
870 State Treasurer shall transfer those monies to the special funds  
871 from which transfers were made under Sections 2 and 3 of Chapter  
872 556, Laws of 2003, and under Sections 12 and 13 of this act.

873 (2) Unexpended amounts remaining in the fund on September  
874 30, 2007, shall lapse into the State General Fund, and any  
875 interest earned or investment earnings on amounts in the fund  
876 shall be deposited to the credit of the fund.

877 **SECTION 16.** Section 27-25-506, Mississippi Code of 1972, is  
878 amended as follows:

879 27-25-506. (1) There is \* \* \* created a special fund in the  
880 State Treasury into which the state's share of proceeds collected  
881 under Sections 27-25-505 and 27-25-705 shall be deposited.

882 The state's share of all oil and gas severance taxes derived  
883 from oil and gas resources under state-owned lands or from severed  
884 state-owned minerals shall be deposited into the State Treasury to  
885 the credit of the trust fund created in Section 206A, Mississippi  
886 Constitution of 1890. The following amounts of the remainder of  
887 tax collections apportioned to the state shall be deposited to the



888 credit of the trust fund created in Section 206A, Mississippi  
889 Constitution of 1890:

890 (a) For fiscal year 1994, all amounts collected in  
891 excess of Thirty-five Million Dollars (\$35,000,000.00);

892 (b) For fiscal year 1995, all amounts collected in  
893 excess of Thirty-two Million Five Hundred Thousand Dollars  
894 (\$32,500,000.00);

895 (c) For fiscal year 1996, all amounts collected in  
896 excess of Thirty Million Dollars (\$30,000,000.00);

897 (d) For fiscal year 1997, all amounts collected in  
898 excess of Twenty-seven Million Five Hundred Thousand Dollars  
899 (\$27,500,000.00);

900 (e) For fiscal year 1998, all amounts collected in  
901 excess of Twenty-five Million Dollars (\$25,000,000.00);

902 (f) For fiscal year 1999, all amounts collected in  
903 excess of Twenty Million Dollars (\$20,000,000.00);

904 (g) For fiscal year 2000, all amounts collected in  
905 excess of Fifteen Million Dollars (\$15,000,000.00); and

906 (h) For fiscal year 2001 through December 31, 2000, all  
907 amounts collected and transferred in excess of Ten Million Dollars  
908 (\$10,000,000.00).

909 \* \* \*

910 (2) The monies collected under paragraphs (a) through (h) of  
911 subsection (1) of this section that are not deposited into the  
912 trust fund shall be deposited into the State General Fund.

913 The remainder of the tax collections apportioned to the state  
914 under subsection (1) of this section for the period beginning  
915 after December 31, 2000, through the end of fiscal year 2004 shall  
916 be deposited into the Budget Contingency Fund created in Section  
917 27-103-301. For fiscal year 2005 and each fiscal year thereafter,  
918 all amounts collected from the remainder of tax collections  
919 apportioned to the state that do not exceed Ten Million Dollars  
920 (\$10,000,000.00) shall be deposited into the State General Fund,

921 and all amounts collected from the remainder of tax collections  
922 apportioned to the state that exceed Ten Million Dollars  
923 (\$10,000,000.00) shall be deposited into the Budget Contingency  
924 Fund.

925 All monies deposited into the Budget Contingency Fund under  
926 this subsection shall be appropriated by the Legislature for the  
927 support of \* \* \* the Mississippi Adequate Education Program \* \* \*.

928 **SECTION 17.** Section 43-13-407, Mississippi Code of 1972, is  
929 amended as follows:

930 43-13-407. (1) In accordance with the purposes of this  
931 article, there is established in the State Treasury the Health  
932 Care Expendable Fund, into which shall be transferred from the  
933 Health Care Trust Fund the following sums:

934 (a) In fiscal year 2000, Fifty Million Dollars  
935 (\$50,000,000.00);

936 (b) In fiscal year 2001, Fifty-five Million Dollars  
937 (\$55,000,000.00);

938 (c) In fiscal year 2002, Sixty Million Five Hundred  
939 Thousand Dollars (\$60,500,000.00);

940 (d) In fiscal year 2003, Sixty-six Million Five Hundred  
941 Fifty Thousand Dollars (\$66,550,000.00);

942 (e) In fiscal year 2004, a sum equal to the average  
943 annual amount of the income from the investment of the funds in  
944 the Health Care Trust Fund since July 1, 1999;

945 (f) In fiscal year 2005 and each subsequent fiscal  
946 year, a sum equal to the total earnings on the funds in the Health  
947 Care Trust Fund during the preceding fiscal year.

948 (2) In any fiscal year in which interest and dividends from  
949 the investment of the funds in the Health Care Trust Fund are not  
950 sufficient to fund the full amount of the annual transfer into the  
951 Health Care Expendable Fund as required in subsection (1) of this  
952 section, the State Treasurer shall transfer from tobacco

953 settlement installment payments an amount that is sufficient to  
954 fully fund the amount of the annual transfer.

955 (3) (a) On March 6, 2002, the State Treasurer shall  
956 transfer the sum of Eighty-seven Million Dollars (\$87,000,000.00)  
957 from the Health Care Trust Fund into the Health Care Expendable  
958 Fund. In addition, at the time the State of Mississippi receives  
959 the \* \* \* tobacco settlement installment payments for each of the  
960 calendar years 2002, 2003, 2004 and 2005, the State Treasurer  
961 shall deposit the full amount of each of those installment  
962 payments into the Health Care Expendable Fund \* \* \*.

963 (b) If during any fiscal year after March 6, 2002, the  
964 general fund revenues received by the state exceed the general  
965 fund revenues received during the previous fiscal year by more  
966 than five percent (5%), the Legislature shall repay to the Health  
967 Care Trust Fund one-third (1/3) of the amount of the general fund  
968 revenues that exceed the five percent (5%) growth in general fund  
969 revenues. The repayment required by this paragraph shall continue  
970 in each fiscal year in which there is more than five percent (5%)  
971 growth in general fund revenues, until the full amount of the  
972 funds that were transferred and deposited into the Health Care  
973 Expendable Fund under the provisions of paragraph (a) of this  
974 subsection have been repaid to the Health Care Trust Fund.

975 (4) All income from the investment of the funds in the  
976 Health Care Expendable Fund shall be credited to the account of  
977 the Health Care Expendable Fund. Any funds in the Health Care  
978 Expendable Fund at the end of a fiscal year shall not lapse into  
979 the State General Fund.

980 (5) The funds in the Health Care Expendable Fund shall be  
981 available for expenditure under specific appropriation by the  
982 Legislature beginning in fiscal year 2000, and shall be expended  
983 exclusively for health care purposes.

984 (6) Subsections (1), (2), (4) and (5) of this section shall  
985 stand repealed on July 1, 2005.

986           **SECTION 18.** Section 69-2-13, Mississippi Code of 1972, is  
987 amended as follows:

988           69-2-13. (1) There is \* \* \* established in the State  
989 Treasury a fund to be known as the "Emerging Crops Fund," which  
990 shall be used to pay the interest on loans made to farmers for  
991 nonland capital costs of establishing production of emerging crops  
992 on land in Mississippi, and to make loans and grants that are  
993 authorized under this section to be made from the fund. The fund  
994 shall be administered by the Mississippi Development Authority. A  
995 board comprised of the directors of the authority, the Mississippi  
996 Cooperative Extension Service, the Mississippi Small Farm  
997 Development Center and the Mississippi Agricultural and Forestry  
998 Experiment Station, or their designees, shall develop definitions,  
999 guidelines and procedures for the implementation of this chapter.  
1000 Funds for the Emerging Crops Fund shall be provided from the  
1001 issuance of bonds or notes under Sections 69-2-19 through 69-2-37  
1002 and from repayment of interest loans made from the fund.

1003           (2) (a) The Mississippi Development Authority shall develop  
1004 a program that gives fair consideration to making loans for the  
1005 processing and manufacturing of goods and services by  
1006 agribusiness, greenhouse production horticulture, and small  
1007 business concerns. It is the policy of the State of Mississippi  
1008 that the Mississippi Development Authority shall give due  
1009 recognition to and shall aid, counsel, assist and protect, insofar  
1010 as is possible, the interests of agribusiness, greenhouse  
1011 production horticulture, and small business concerns. To ensure  
1012 that the purposes of this subsection are carried out, the  
1013 Mississippi Development Authority shall loan not more than One  
1014 Million Dollars (\$1,000,000.00) to finance any single  
1015 agribusiness, greenhouse production horticulture, or small  
1016 business concern. Loans made under this subsection shall be made  
1017 in accordance with the criteria established in Section 57-71-11.  
1018 Notwithstanding any other provision of this paragraph (a) to the

1019 contrary, no loan may be approved under this paragraph (a) after  
1020 the effective date of this section, and no loan may be made under  
1021 this paragraph (a), unless approved before the effective date of  
1022 this section, during the period beginning July 1, 2004, and ending  
1023 June 30, 2005, until the requirements of subsection (14) of this  
1024 section have been satisfied.

1025           (b) The Mississippi Development Authority may, out of  
1026 the total amount of bonds authorized to be issued under this  
1027 chapter, make available funds to any planning and development  
1028 district in accordance with the criteria established in Section  
1029 57-71-11. Planning and development districts that receive monies  
1030 under this provision shall use the monies to make loans to private  
1031 companies for purposes consistent with this subsection.

1032           (c) The Mississippi Development Authority is \* \* \*  
1033 authorized to engage legal services, financial advisors,  
1034 appraisers and consultants if needed to review and close loans  
1035 made under this subsection and to establish and assess reasonable  
1036 fees, including, but not limited to, liquidation expenses.

1037           (3) (a) The Mississippi Development Authority shall, in  
1038 addition to the other programs described in this section, provide  
1039 for a program of loans to be made to agribusiness or greenhouse  
1040 production horticulture enterprises for the purpose of encouraging  
1041 thereby the extension of conventional financing and the issuance  
1042 of letters of credit to such agribusiness or greenhouse production  
1043 horticulture enterprises by private institutions. Monies to make  
1044 those loans by the Mississippi Development Authority shall be  
1045 drawn from the Emerging Crops Fund. The amount of a loan to any  
1046 single agribusiness or greenhouse production horticulture  
1047 enterprise under this paragraph (a) shall not exceed twenty  
1048 percent (20%) of the total cost of the project for which financing  
1049 is sought or Two Hundred Thousand Dollars (\$200,000.00), whichever  
1050 is less. No interest shall be charged on those loans, and only  
1051 the amount actually loaned shall be required to be repaid.

1052 Repayments shall be deposited into the Emerging Crops Fund.  
1053 Notwithstanding any other provision of this paragraph (a) to the  
1054 contrary, no loan may be approved under this paragraph (a) after  
1055 the effective date of this section, and no loan may be made under  
1056 this paragraph (a), unless approved before the effective date of  
1057 this section, during the period beginning July 1, 2004, and ending  
1058 June 30, 2005, until the requirements of subsection (14) of this  
1059 section have been satisfied.

1060 (b) The Mississippi Development Authority shall, in  
1061 addition to the other programs described in this section, provide  
1062 for a program of loans or loan guaranties, or both, to be made to  
1063 or on behalf of any agribusiness enterprise engaged in beef  
1064 processing for the purpose of encouraging thereby the extension of  
1065 conventional financing and the issuance of letters of credit to  
1066 those agribusiness enterprises by private institutions. Monies to  
1067 make those loans or loan guaranties, or both, by the Mississippi  
1068 Development Authority shall be drawn from the Emerging Crops Fund  
1069 and shall not exceed Thirty-five Million Dollars (\$35,000,000.00)  
1070 in the aggregate. The amount of a loan to any single agribusiness  
1071 enterprise or loan guaranty on behalf of those agribusiness  
1072 enterprise, or both, under this paragraph (b) shall not exceed the  
1073 total cost of the project for which financing is sought or  
1074 Thirty-five Million Dollars (\$35,000,000.00), whichever is less.  
1075 The interest charged on a loan made under this paragraph (b) shall  
1076 be at a rate determined by the Mississippi Development Authority.  
1077 All repayments of any loan made under this paragraph (b) shall be  
1078 deposited into the Emerging Crops Fund. Assistance received by an  
1079 agribusiness enterprise under this paragraph (b) shall not  
1080 disqualify the agribusiness enterprise from obtaining any other  
1081 assistance under this chapter.

1082 (4) (a) Through June 30, 2005, the Mississippi Development  
1083 Authority may loan or grant to qualified planning and development  
1084 districts, and to small business investment corporations,

1085 bank-based community development corporations, the Recruitment and  
1086 Training Program, Inc., the City of Jackson Business Development  
1087 Loan Fund, the Lorman Southwest Mississippi Development  
1088 Corporation, the West Jackson Community Development Corporation,  
1089 the East Mississippi Development Corporation, and other entities  
1090 meeting the criteria established by the Mississippi Development  
1091 Authority (all referred to hereinafter as "qualified entities"),  
1092 funds for the purpose of establishing loan revolving funds to  
1093 assist in providing financing for minority economic development.  
1094 The monies loaned or granted by the Mississippi Development  
1095 Authority shall be drawn from the Emerging Crops Fund and shall  
1096 not exceed Twenty-five Million Dollars (\$25,000,000.00) in the  
1097 aggregate. Planning and development districts or qualified  
1098 entities that receive monies under this provision shall use those  
1099 monies to make loans to minority business enterprises consistent  
1100 with criteria established by the Mississippi Development  
1101 Authority. That criteria shall include, at a minimum, the  
1102 following:

1103 (i) The business enterprise must be a private,  
1104 for-profit enterprise.

1105 (ii) If the business enterprise is a  
1106 proprietorship, the borrower must be a resident citizen of the  
1107 State of Mississippi; if the business enterprise is a corporation  
1108 or partnership, at least fifty percent (50%) of the owners must be  
1109 resident citizens of the State of Mississippi.

1110 (iii) The borrower must have at least five percent  
1111 (5%) equity interest in the business enterprise.

1112 (iv) The borrower must demonstrate ability to  
1113 repay the loan.

1114 (v) The borrower must not be in default of any  
1115 previous loan from the state or federal government.

1116 (vi) Loan proceeds may be used for financing all  
1117 project costs associated with development or expansion of a new

1118 small business, including fixed assets, working capital, start-up  
1119 costs, rental payments, interest expense during construction and  
1120 professional fees related to the project.

1121 (vii) Loan proceeds shall not be used to pay off  
1122 existing debt for loan consolidation purposes; to finance the  
1123 acquisition, construction, improvement or operation of real  
1124 property that is to be held primarily for sale or investment; to  
1125 provide for, or free funds, for speculation in any kind of  
1126 property; or as a loan to owners, partners or stockholders of the  
1127 applicant that do not change ownership interest by the applicant.  
1128 However, this does not apply to ordinary compensation for services  
1129 rendered in the course of business.

1130 (viii) The maximum amount that may be loaned to  
1131 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars  
1132 (\$250,000.00).

1133 (ix) The Mississippi Development Authority shall  
1134 review each loan before it is made, and no loan shall be made to  
1135 any borrower until the loan has been reviewed and approved by the  
1136 Mississippi Development Authority.

1137 (b) For the purpose of this subsection, the term  
1138 "minority business enterprise" means a socially and economically  
1139 disadvantaged small business concern, organized for profit,  
1140 performing a commercially useful function that is owned and  
1141 controlled by one or more minorities or minority business  
1142 enterprises certified by the Mississippi Development Authority, at  
1143 least fifty percent (50%) of whom are resident citizens of the  
1144 State of Mississippi. For purposes of this subsection, the term  
1145 "socially and economically disadvantaged small business concern"  
1146 shall have the meaning ascribed to that term under the Small  
1147 Business Act (15 USCS, Section 637(a)), or women, and the term  
1148 "owned and controlled" means a business in which one or more  
1149 minorities or minority business enterprises certified by the  
1150 Mississippi Development Authority own sixty percent (60%) or, in



1151 the case of a corporation, sixty percent (60%) of the voting  
1152 stock, and control sixty percent (60%) of the management and daily  
1153 business operations of the business.

1154 From and after July 1, 2005, monies not loaned or granted by  
1155 the Mississippi Development Authority to planning and development  
1156 districts or qualified entities under this subsection, and monies  
1157 not loaned by planning and development districts or qualified  
1158 entities, shall be deposited to the credit of the sinking fund  
1159 created and maintained in the State Treasury for the retirement of  
1160 bonds issued under Section 69-2-19.

1161 (c) Notwithstanding any other provision of this  
1162 subsection to the contrary, if federal funds are not available for  
1163 commitments made by a planning and development district to provide  
1164 assistance under any federal loan program administered by the  
1165 planning and development district in coordination with the  
1166 Appalachian Regional Commission or Economic Development  
1167 Administration, or both, a planning and development district may  
1168 use funds in its loan revolving fund, which have not been  
1169 committed otherwise to provide assistance, for the purpose of  
1170 providing temporary funding for such commitments. If a planning  
1171 and development district uses uncommitted funds in its loan  
1172 revolving fund to provide that temporary funding, the district  
1173 shall use funds repaid to the district under the temporarily  
1174 funded federal loan program to replenish the funds used to provide  
1175 the temporary funding. Funds used by a planning and development  
1176 district to provide temporary funding under this paragraph (c)  
1177 must be repaid to the district's loan revolving fund no later than  
1178 twelve (12) months after the date the district provides the  
1179 temporary funding. A planning and development district may not  
1180 use uncommitted funds in its loan revolving fund to provide  
1181 temporary funding under this paragraph (c) on more than two (2)  
1182 occasions during a calendar year. A planning and development  
1183 district may provide temporary funding for multiple commitments on

1184 each such occasion. The maximum aggregate amount of uncommitted  
1185 funds in a loan revolving fund that may be used for those purposes  
1186 during a calendar year shall not exceed seventy percent (70%) of  
1187 the uncommitted funds in the loan revolving fund on the date the  
1188 district first provides temporary funding during the calendar  
1189 year.

1190 (d) If the Mississippi Development Authority determines  
1191 that a planning and development district or qualified entity has  
1192 provided loans to minority businesses in a manner inconsistent  
1193 with the provisions of this subsection, then the amount of those  
1194 loans so provided shall be withheld by the Mississippi Development  
1195 Authority from any additional grant funds to which the planning  
1196 and development district or qualified entity becomes entitled  
1197 under this subsection. If the Mississippi Development Authority  
1198 determines, after notifying the planning and development district  
1199 or qualified entity twice in writing and providing the planning  
1200 and development district or qualified entity a reasonable  
1201 opportunity to comply, that a planning and development district or  
1202 qualified entity has consistently failed to comply with this  
1203 subsection, the Mississippi Development Authority may declare the  
1204 planning and development district or qualified entity in default  
1205 under this subsection and, upon receipt of notice thereof from the  
1206 Mississippi Development Authority, the planning and development  
1207 district or qualified entity shall immediately cease providing  
1208 loans under this subsection, shall refund to the Mississippi  
1209 Development Authority for distribution to other planning and  
1210 development districts or qualified entities all funds held in its  
1211 revolving loan fund and, if required by the Mississippi  
1212 Development Authority, shall convey to the Mississippi Development  
1213 Authority, all administrative and management control of loans  
1214 provided by it under this subsection.

1215 (e) If the Mississippi Development Authority  
1216 determines, after notifying a planning and development district or

1217 qualified entity twice in writing and providing copies of that  
1218 notification to each member of the Legislature in whose district  
1219 or in a part of whose district the planning and development  
1220 district or qualified entity is located and providing the planning  
1221 and development district or qualified entity a reasonable  
1222 opportunity to take corrective action, that a planning and  
1223 development district or qualified entity administering a revolving  
1224 loan fund under the provisions of this subsection is not actively  
1225 engaged in lending as defined by the rules and regulations of the  
1226 Mississippi Development Authority, the Mississippi Development  
1227 Authority may declare the planning and development district or  
1228 qualified entity in default under this subsection and, upon  
1229 receipt of notice thereof from the Mississippi Development  
1230 Authority, the planning and development district or qualified  
1231 entity shall immediately cease providing loans under this  
1232 subsection, shall refund to the Mississippi Development Authority  
1233 for distribution to other planning and development districts or  
1234 qualified entities all funds held in its revolving loan fund and,  
1235 if required by the Mississippi Development Authority, shall convey  
1236 to the Mississippi Development Authority all administrative and  
1237 management control of loans provided by it under this subsection.

1238 (5) The Mississippi Development Authority shall develop a  
1239 program that will assist minority business enterprises by  
1240 guaranteeing bid, performance and payment bonds which those  
1241 minority businesses are required to obtain in order to contract  
1242 with federal agencies, state agencies or political subdivisions of  
1243 the state. Monies for the program shall be drawn from the monies  
1244 allocated under subsection (4) of this section to assist the  
1245 financing of minority economic development and shall not exceed  
1246 Three Million Dollars (\$3,000,000.00) in the aggregate. The  
1247 Mississippi Development Authority may promulgate rules and  
1248 regulations for the operation of the program established under  
1249 this subsection. For the purpose of this subsection (5) the term

1250 "minority business enterprise" has the meaning assigned to that  
1251 term in subsection (4) of this section.

1252 (6) The Mississippi Development Authority may loan or grant  
1253 to public entities and to nonprofit corporations funds to defray  
1254 the expense of financing (or to match any funds available from  
1255 other public or private sources for the expense of financing)  
1256 projects in this state that are devoted to the study, teaching  
1257 and/or promotion of regional crafts and that are deemed by the  
1258 authority to be significant tourist attractions. The monies  
1259 loaned or granted shall be drawn from the Emerging Crops Fund and  
1260 shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00)  
1261 in the aggregate.

1262 (7) Through June 30, 2006, the Mississippi Development  
1263 Authority shall make available to the Mississippi Department of  
1264 Agriculture and Commerce funds for the purpose of establishing  
1265 loan revolving funds and other methods of financing for  
1266 agribusiness programs administered under the Mississippi  
1267 Agribusiness Council Act of 1993. The monies made available by  
1268 the Mississippi Development Authority shall be drawn from the  
1269 Emerging Crops Fund and shall not exceed One Million Two Hundred  
1270 Thousand Dollars (\$1,200,000.00) in the aggregate. The  
1271 Mississippi Department of Agriculture and Commerce shall establish  
1272 control and auditing procedures for use of these funds. These  
1273 funds will be used primarily for quick payment to farmers for  
1274 vegetable and fruit crops processed and sold through vegetable  
1275 processing plants associated with the Department of Agriculture  
1276 and Commerce and the Mississippi State Extension Service.

1277 (8) From and after July 1, 1996, the Mississippi Development  
1278 Authority shall make available to the Mississippi Small Farm  
1279 Development Center One Million Dollars (\$1,000,000.00) to be used  
1280 by the center to assist small entrepreneurs as provided in Section  
1281 37-101-25, Mississippi Code of 1972. The monies made available by

1282 the Mississippi Development Authority shall be drawn from the  
1283 Emerging Crops Fund.

1284 (9) The Mississippi Development Authority shall make  
1285 available to the Agribusiness and Natural Resource Development  
1286 Center through Alcorn State University an amount not to exceed Two  
1287 Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal year 2001  
1288 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal  
1289 year 2002 from the cash balance of the Emerging Crops Fund to  
1290 support the development of a cooperative program for agribusiness  
1291 development, marketing and natural resources development. This  
1292 subsection (9) shall stand repealed on June 30, 2005.

1293 (10) The Mississippi Development Authority shall make  
1294 available to the Small Farm Development Center at Alcorn State  
1295 University funds in an aggregate amount not to exceed Three  
1296 Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash  
1297 balance of the Emerging Crops Fund. The Small Farm Development  
1298 Center at Alcorn State University shall use those funds to make  
1299 loans to producers of sweet potatoes and cooperatives anywhere in  
1300 the State of Mississippi owned by sweet potato producers to assist  
1301 in the planting of sweet potatoes and the purchase of sweet potato  
1302 production and harvesting equipment. A report of the loans made  
1303 under this subsection shall be furnished by January 15 of each  
1304 year to the Chairman of the Senate Agriculture Committee and the  
1305 Chairman of the House Agriculture Committee.

1306 (11) The Mississippi Development Authority shall make  
1307 available to the Mississippi Department of Agriculture and  
1308 Commerce "Make Mine Mississippi" program an amount not to exceed  
1309 One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from  
1310 the cash balance of the Emerging Crops Fund.

1311 (12) The Mississippi Development Authority shall make  
1312 available to the Mississippi Department of Agriculture and  
1313 Commerce an amount not to exceed One Hundred Fifty Thousand  
1314 Dollars (\$150,000.00) to be drawn from the cash balance of the

1315 Emerging Crops Fund to be used for the rehabilitation and  
1316 maintenance of the Mississippi Farmers Central Market in Jackson,  
1317 Mississippi.

1318 (13) The Mississippi Development Authority shall make  
1319 available to the Mississippi Department of Agriculture and  
1320 Commerce an amount not to exceed Twenty-five Thousand Dollars  
1321 (\$25,000.00) to be drawn from the cash balance of the Emerging  
1322 Crops Fund to be used for advertising purposes related to the  
1323 Mississippi Farmers Central Market in Jackson, Mississippi.

1324 (14) The State Treasurer shall transfer to the Budget  
1325 Contingency Fund created in Section 27-103-301, Five Million  
1326 Dollars (\$5,000,000.00) in the aggregate throughout the period  
1327 beginning July 1, 2004, and ending June 30, 2005, out of the  
1328 Emerging Crops Fund, monies derived from the repayment of loans  
1329 made under subsection (2)(a) and subsection (3)(a) of this section  
1330 that have not otherwise been committed to provide loans under  
1331 those subsections.

1332 **PART 4 - MISCELLANEOUS REVENUES**

1333 **SECTION 19.** Section 7-7-211, Mississippi Code of 1972, is  
1334 amended as follows:

1335 7-7-211. The department shall have the power and it shall be  
1336 its duty:

1337 (a) To identify and define for all public offices of  
1338 the state and its subdivisions generally accepted accounting  
1339 principles as promulgated by nationally recognized professional  
1340 organizations and to consult with the State Fiscal Officer in the  
1341 prescription and implementation of accounting rules and  
1342 regulations;

1343 (b) To prescribe, for all public offices of regional  
1344 and local subdivisions of the state, systems of accounting,  
1345 budgeting and reporting financial facts relating to those offices  
1346 in conformity with legal requirements and with generally accepted  
1347 accounting principles as promulgated by nationally recognized

1348 professional organizations; to assist such subdivisions in need of  
1349 assistance in the installation of such systems; to revise such  
1350 systems when deemed necessary, and to report to the Legislature at  
1351 periodic times the extent to which each office is maintaining such  
1352 systems, along with such recommendations to the Legislature for  
1353 improvement as seem desirable;

1354 (c) To study and analyze existing managerial policies,  
1355 methods, procedures, duties and services of the various state  
1356 departments and institutions upon written request of the Governor,  
1357 the Legislature or any committee or other body empowered by the  
1358 Legislature to make such request to determine whether and where  
1359 operations can be eliminated, combined, simplified and improved;

1360 (d) To postaudit each year and, when deemed necessary,  
1361 preaudit and investigate the financial affairs of each and every  
1362 department, institution, board, commission, office or other  
1363 agency of each branch of state government, as part of the  
1364 publication of a comprehensive annual financial report for the  
1365 State of Mississippi. In complying with the requirements of this  
1366 subsection, the department shall have the authority to conduct all  
1367 necessary audit procedures on an interim and year-end basis;

1368 (e) To postaudit and, when deemed necessary, preaudit  
1369 and investigate separately the financial affairs of (i) the  
1370 offices, boards and commissions of county governments and any  
1371 departments and institutions thereof and therein; (ii) public  
1372 school districts, departments of education and junior college  
1373 districts; and (iii) any other local offices or agencies which  
1374 share revenues derived from taxes or fees imposed by the state  
1375 Legislature or receive grants from revenues collected by  
1376 governmental divisions of the state; the cost of such audits,  
1377 investigations or other services to be paid as follows: Such part  
1378 shall be paid by the state from appropriations made by the  
1379 Legislature for the operation of the State Department of Audit as  
1380 may exceed the sum of Thirty Dollars (\$30.00) per hour for the

1381 services of each staff person engaged in performing the audit or  
1382 other service, which sum shall be paid by the county, district,  
1383 department, institution or other agency audited out of its general  
1384 fund or any other available funds from which such payment is not  
1385 prohibited by law;

1386 (f) To postaudit and, when deemed necessary, preaudit  
1387 and investigate the financial affairs of the levee boards;  
1388 agencies created by the Legislature or by executive order of the  
1389 Governor; profit or nonprofit business entities administering  
1390 programs financed by funds flowing through the State Treasury or  
1391 through any of the agencies of the state, or its subdivisions; and  
1392 all other public bodies supported by funds derived in part or  
1393 wholly from public funds, except municipalities which annually  
1394 submit an audit prepared by a qualified certified public  
1395 accountant using methods and procedures prescribed by the  
1396 department;

1397 (g) To make written demand, when necessary, for the  
1398 recovery of any amounts representing public funds improperly  
1399 withheld, misappropriated and/or otherwise illegally expended by  
1400 an officer, employee or administrative body of any state, county  
1401 or other public office, and/or for the recovery of the value of  
1402 any public property disposed of in an unlawful manner by a public  
1403 officer, employee or administrative body, such demands to be made  
1404 (i) upon the person or persons liable for such amounts and upon  
1405 the surety on official bond thereof, and/or (ii) upon any  
1406 individual, partnership, corporation or association to whom the  
1407 illegal expenditure was made or with whom the unlawful disposition  
1408 of public property was made, if such individual, partnership,  
1409 corporation or association knew or had reason to know through the  
1410 exercising of reasonable diligence that the expenditure was  
1411 illegal or the disposition unlawful. Such demand shall be  
1412 premised on competent evidence, which shall include at least one  
1413 (1) of the following: (i) sworn statements, (ii) written



1414 documentation, (iii) physical evidence, or (iv) reports and  
1415 findings of government or other law enforcement agencies. Other  
1416 provisions notwithstanding, a demand letter issued pursuant to  
1417 this subsection shall remain confidential by the State Auditor  
1418 until the individual against whom the demand letter is being filed  
1419 has been served with a copy of such demand letter. If, however,  
1420 such individual cannot be notified within fifteen (15) days using  
1421 reasonable means and due diligence, such notification shall be  
1422 made to the individual's bonding company, if he or she is bonded.  
1423 Each such demand shall be paid into the proper treasury of the  
1424 state, county or other public body through the office of the  
1425 department in the amount demanded within thirty (30) days from the  
1426 date thereof, together with interest thereon in the sum of one  
1427 percent (1%) per month from the date such amount or amounts were  
1428 improperly withheld, misappropriated and/or otherwise illegally  
1429 expended. In the event, however, such person or persons shall  
1430 refuse, neglect or otherwise fail to pay the amount demanded and  
1431 the interest due thereon within the allotted thirty (30) days, the  
1432 State Auditor shall have the authority and it shall be his duty to  
1433 institute suit, and the Attorney General shall prosecute the same  
1434 in any court of the state to the end that there shall be recovered  
1435 the total of such amounts from the person or persons and surety on  
1436 official bond named therein; and the amounts so recovered shall be  
1437 paid into the proper treasury of the state, county or other public  
1438 body through the State Auditor;

1439           (h) To investigate any alleged or suspected violation  
1440 of the laws of the state by any officer or employee of the state,  
1441 county or other public office in the purchase, sale or the use of  
1442 any supplies, services, equipment or other property belonging  
1443 thereto; and in such investigation to do any and all things  
1444 necessary to procure evidence sufficient either to prove or  
1445 disprove the existence of such alleged or suspected violations.

1446 The Department of Investigation of the State Department of Audit  
1447 may investigate, for the purpose of prosecution, any suspected  
1448 criminal violation of the provisions of this chapter. For the  
1449 purpose of administration and enforcement of this chapter, the  
1450 enforcement employees of the Department of Investigation of the  
1451 State Department of Audit have the powers of a law enforcement  
1452 officer of this state, and shall be empowered to make arrests and  
1453 to serve and execute search warrants and other valid legal process  
1454 anywhere within the State of Mississippi. All enforcement  
1455 employees of the Department of Investigation of the State  
1456 Department of Audit hired on or after July 1, 1993, shall be  
1457 required to complete the Law Enforcement Officers Training Program  
1458 and shall meet the standards of the program;

1459 (i) To issue subpoenas, with the approval of, and  
1460 returnable to, a judge of a chancery or circuit court, in termtime  
1461 or in vacation, to examine the records, documents or other  
1462 evidence of persons, firms, corporations or any other entities  
1463 insofar as such records, documents or other evidence relate to  
1464 dealings with any state, county or other public entity. The  
1465 circuit or chancery judge must serve the county in which the  
1466 records, documents or other evidence is located; or where all or  
1467 part of the transaction or transactions occurred which are the  
1468 subject of the subpoena;

1469 (j) In any instances in which the State Auditor is or  
1470 shall be authorized or required to examine or audit, whether  
1471 preaudit or postaudit, any books, ledgers, accounts or other  
1472 records of the affairs of any public hospital owned or owned and  
1473 operated by one or more political subdivisions or parts thereof or  
1474 any combination thereof, or any school district, including  
1475 activity funds thereof, it shall be sufficient compliance  
1476 therewith, in the discretion of the State Auditor, that such  
1477 examination or audit be made from the report of any audit or other  
1478 examination certified by a certified public accountant and

1479 prepared by or under the supervision of such certified public  
1480 accountant. Such audits shall be made in accordance with  
1481 generally accepted standards of auditing, with the use of an audit  
1482 program prepared by the State Auditor, and final reports of such  
1483 audits shall conform to the format prescribed by the State  
1484 Auditor. All files, working papers, notes, correspondence and all  
1485 other data compiled during the course of the audit shall be  
1486 available, without cost, to the State Auditor for examination and  
1487 abstracting during the normal business hours of any business day.  
1488 The expense of such certified reports shall be borne by the  
1489 respective hospital, or any available school district funds other  
1490 than minimum program funds, subject to examination or audit. The  
1491 State Auditor shall not be bound by such certified reports and  
1492 may, in his or their discretion, conduct such examination or audit  
1493 from the books, ledgers, accounts or other records involved as may  
1494 be appropriate and authorized by law;

1495 (k) The State Auditor shall have the authority to  
1496 contract with qualified public accounting firms to perform  
1497 selected audits required in subsections (d), (e) and (f) of this  
1498 section, if funds are made available for such contracts by the  
1499 Legislature, or if funds are available from the governmental  
1500 entity covered by subsections (d), (e) and (f). Such audits shall  
1501 be made in accordance with generally accepted standards of  
1502 auditing, with the use of an audit program prepared by the State  
1503 Auditor, and final reports of such audits shall conform to the  
1504 format prescribed by the State Auditor. All files, working  
1505 papers, notes, correspondence and all other data compiled during  
1506 the course of the audit shall be available, without cost, to the  
1507 State Auditor for examination and abstracting during the normal  
1508 business hours of any business day;

1509 (l) The State Auditor shall have the authority to  
1510 establish training courses and programs for the personnel of the  
1511 various state and local governmental entities under the

1512 jurisdiction of the Office of the State Auditor. The training  
1513 courses and programs shall include, but not be limited to, topics  
1514 on internal control of funds, property and equipment control and  
1515 inventory, governmental accounting and financial reporting, and  
1516 internal auditing. The State Auditor is authorized to charge a  
1517 fee from the participants of these courses and programs, which fee  
1518 shall be deposited into the Department of Audit Special Fund.  
1519 State and local governmental entities are authorized to pay such  
1520 fee and any travel expenses out of their general funds or any  
1521 other available funds from which such payment is not prohibited by  
1522 law;

1523 (m) Upon written request by the Governor or any member  
1524 of the State Legislature, the State Auditor may audit any state  
1525 funds and/or state and federal funds received by any nonprofit  
1526 corporation incorporated under the laws of this state;

1527 (n) To conduct performance audits of personal or  
1528 professional service contracts by state agencies on a random  
1529 sampling basis, or upon request of the State Personal Service  
1530 Contract Review Board under Section 25-9-120(3).

1531 **SECTION 20.** Section 7-7-213, Mississippi Code of 1972, is  
1532 amended as follows:

1533 7-7-213. The costs of audits and other services required by  
1534 Sections 7-7-201 through 7-7-215, except for those audits and  
1535 services authorized by Section 7-7-211(k) which shall be funded by  
1536 appropriations made by the Legislature from such funds as it deems  
1537 appropriate, shall be paid from a special fund that is created in  
1538 the State Treasury, to be known as the State Department of Audit  
1539 Fund, into which will be paid each year the amounts received for  
1540 performing audits required by law. Except as provided in Section  
1541 7-7-211(d) \* \* \*, the amounts to be charged for performing audits  
1542 and other services shall be the actual cost, not to exceed Thirty  
1543 Dollars (\$30.00) per hour for the services of each staff person  
1544 engaged in performing the audit or other service. In the event of

1545 failure by any unit of government to pay the charges authorized  
1546 herein, the Department of Audit shall notify the State Fiscal  
1547 Officer, and upon a determination that the charges are  
1548 substantially correct, the State Fiscal Officer shall notify the  
1549 defaulting unit of his determination. If payment is not made  
1550 within thirty (30) days after such notification, the State Fiscal  
1551 Officer shall notify the State Treasurer and Department of Public  
1552 Accounts that no further warrants are to be issued to the  
1553 defaulting unit until the deficiency is paid.

1554 The cost of any service by the department not required of it  
1555 under the provisions of the cited sections but made necessary by  
1556 the willful fault or negligence of an officer or employee of any  
1557 public office of the state shall be recovered (i) from such  
1558 officer or employee and/or surety on official bond thereof and/or  
1559 (ii) from the individual, partnership, corporation or association  
1560 involved, in the same manner and under the same terms, when  
1561 necessary, as provided the department for recovering public funds  
1562 in Section 7-7-211.

1563 The State Auditor shall deliver a copy of any audit of the  
1564 fiscal and financial affairs of a county to the chancery clerk of  
1565 such county and shall deliver a notice stating that a copy of such  
1566 audit is on file in the chancery clerk's office to some newspaper  
1567 published in the county to be published. If no newspaper is  
1568 published in the county, a copy of such notice shall be delivered  
1569 to a newspaper having a general circulation therein.

1570 **SECTION 21.** Section 27-3-79, Mississippi Code of 1972, is  
1571 amended as follows:

1572 27-3-79. (1) (a) The State Tax Commission shall develop  
1573 and implement a tax amnesty program in accordance with the  
1574 provisions of this subsection (1). The program shall commence on  
1575 September 1, 1986, and end on November 30, 1986. The program  
1576 shall apply to all taxes which are required to be collected by the  
1577 State Tax Commission or commissioner and which were first due and

1578 payable in any year prior to 1986. Tax amnesty shall be available  
1579 to any individuals or corporations who are liable for such taxes  
1580 and who have failed to pay all or any portion of their taxes,  
1581 failed to file returns or filed inaccurate returns; however, tax  
1582 amnesty shall not be available to individuals or corporations  
1583 subject to tax-related criminal investigations or prosecution, or  
1584 where the taxes have been previously assessed by the commission,  
1585 or to estimated tax payments required to be made under Section  
1586 27-7-319. All civil and criminal penalties for nonpayment of  
1587 taxes, including the penalties set forth in paragraph (b) of this  
1588 subsection (1), shall be waived for any eligible individual or  
1589 corporation who, during the tax amnesty period, makes total  
1590 payment of the taxes due. The State Tax Commission is authorized  
1591 to do all things necessary to carry out the tax amnesty programs  
1592 which are not inconsistent with this subsection (1).

1593         (b) Any person eligible for the tax amnesty program and  
1594 who fails to make total payment of the taxes due during the tax  
1595 amnesty period or any person who, after July 1, 1986, willfully  
1596 attempts in any manner to evade or defeat any tax imposed by the  
1597 State Tax Commission, or assists in the evading of such tax or the  
1598 payment thereof shall, in addition to other penalties provided by  
1599 law, be guilty of a felony and, upon conviction thereof, shall be  
1600 fined not more than One Hundred Thousand Dollars (\$100,000.00)  
1601 and, in the case of a corporation, not more than Five Hundred  
1602 Thousand Dollars (\$500,000.00), or imprisoned not more than five  
1603 (5) years, or both.

1604         (c) Any prosecutions for tax evasion as described in  
1605 this subsection (1) shall be commenced within six (6) years next  
1606 after the statutory due date for the taxes in issue.

1607         (2) (a) The State Tax Commission shall develop and  
1608 implement a tax amnesty program in accordance with the provisions  
1609 of this subsection (2). The program shall begin on September 1,  
1610 2004, and end on November 30, 2004. The program shall apply to

1611 all taxes that are required to be collected by the State Tax  
1612 Commission or commissioner and that were first due and payable for  
1613 the year 2001 and after. Tax amnesty shall be available to any  
1614 individuals or corporations who are liable for those taxes and who  
1615 have failed to pay all or any portion of their taxes, failed to  
1616 file returns or filed inaccurate returns; however, tax amnesty  
1617 shall not be available to individuals or corporations subject to  
1618 tax-related criminal investigations or prosecution, or where the  
1619 taxes have been previously assessed by the commission, or to  
1620 estimated tax payments required to be made under Section 27-7-319.  
1621 All civil and criminal penalties for nonpayment of taxes,  
1622 including the penalties set forth in paragraph (b) of this  
1623 subsection (2), shall be waived for any eligible individual or  
1624 corporation who, during the tax amnesty period, makes total  
1625 payment of the taxes due. The State Tax Commission is authorized  
1626 to do all things necessary to carry out the tax amnesty programs  
1627 that are not inconsistent with this subsection (2).

1628 (b) Any person eligible for the tax amnesty program and  
1629 who fails to make total payment of the taxes due during the tax  
1630 amnesty period or any person who, after July 1, 2004, willfully  
1631 attempts in any manner to evade or defeat any tax imposed by the  
1632 State Tax Commission, or assists in the evading of that tax or the  
1633 payment thereof shall, in addition to other penalties provided by  
1634 law, be guilty of a felony and, upon conviction thereof, shall be  
1635 fined not more than One Hundred Thousand Dollars (\$100,000.00)  
1636 and, in the case of a corporation, not more than Five Hundred  
1637 Thousand Dollars (\$500,000.00), or imprisoned not more than five  
1638 (5) years, or both.

1639 (c) Any prosecutions for tax evasion as described in  
1640 this subsection (2) shall be begun within six (6) years next after  
1641 the statutory due date for the taxes in issue.

1642 **SECTION 22.** Section 27-65-33, Mississippi Code of 1972, is  
1643 amended as follows:

1644           27-65-33. (1) Except as otherwise provided in this section,  
1645 the taxes levied by this chapter shall be due and payable on or  
1646 before the twentieth day of the month next succeeding the month in  
1647 which the tax accrues, except as otherwise provided. Returns and  
1648 payments placed in the mail must be postmarked by the due date in  
1649 order to be considered timely filed, except when the due date  
1650 falls on a weekend or holiday, returns and payments placed in the  
1651 mail must be postmarked by the first working day following the due  
1652 date in order to be considered timely filed. The taxpayer shall  
1653 make a return showing the gross proceeds of sales or the gross  
1654 income of the business, and any and all allowable deductions, or  
1655 exempt sales, and compute the tax due for the period covered.

1656           As compensation for collecting sales and use taxes, complying  
1657 fully with the applicable statutes, filing returns and supplements  
1658 thereto and paying all taxes by the twentieth of the month  
1659 following the period covered, the taxpayer may discount and retain  
1660 two percent (2%) of the liability on each return subject to the  
1661 following limitations:

1662           (a) The compensation or discount shall not apply to  
1663 taxes levied under the provisions of Sections 27-65-19 and  
1664 27-65-21, or on charges for ginning cotton under Section 27-65-23.

1665           (b) The compensation or discount shall not apply to  
1666 taxes collected by a county official or state agency.

1667           (c) The compensation or discount shall not exceed Fifty  
1668 Dollars (\$50.00) per month, or Six Hundred Dollars (\$600.00) per  
1669 calendar year, per taxpayer for sales tax returns filed and shall  
1670 not exceed Fifty Dollars (\$50.00) per month, or Six Hundred  
1671 Dollars (\$600.00) per calendar year, per taxpayer for use tax  
1672 returns filed.

1673           (d) The compensation or discount shall not apply to any  
1674 wholesale tax, the rate of which is equal to or greater than the  
1675 tax rate applicable to retail sales of the same property or  
1676 service. The retailer of such items shall be entitled to the



1677 compensation based on the tax computed on retail sales before  
1678 application of the credit for any tax paid to the wholesaler,  
1679 jobber, or other person.

1680 (e) The compensation or discount allowed and taken for  
1681 any filing period may be reassessed and collected when an audit of  
1682 a taxpayer's records reveals a tax deficiency for that period.

1683 (2) A taxpayer required to collect sales taxes under this  
1684 chapter and having an average monthly sales tax liability of at  
1685 least Twenty Thousand Dollars (\$20,000.00) for the preceding  
1686 calendar year shall pay to the State Tax Commission on or before  
1687 June 25, 2003, and on or before the twenty-fifth day of June of  
1688 each succeeding year thereafter, an amount equal to at least  
1689 seventy-five percent (75%) of such taxpayer's estimated sales tax  
1690 liability for the month of June of the current calendar year, or  
1691 an amount equal to at least seventy-five percent (75%) of the  
1692 taxpayer's sales tax liability for the month of June of the  
1693 preceding calendar year. Payments required to be made under this  
1694 subsection must be received by the State Tax Commission no later  
1695 than June 25 in order to be considered timely made. A taxpayer  
1696 that fails to comply with the requirements of this subsection may  
1697 be assessed a penalty in an amount equal to ten percent (10%) of  
1698 the taxpayer's actual sales tax liability for the month of June  
1699 for which the estimated payment was required to be made. Payments  
1700 made by a taxpayer under this subsection shall not be considered  
1701 to be collected for the purposes of any sales tax diversions  
1702 required by law until the taxpayer files a return for the actual  
1703 sales taxes collected during the month of June. This subsection  
1704 shall not apply to any agency, department or instrumentality of  
1705 the United States, any agency, department, institution,  
1706 instrumentality or political subdivision of the State of  
1707 Mississippi, or any agency, department, institution or  
1708 instrumentality of any political subdivision of the State of  
1709 Mississippi. Payments made pursuant to this subsection for the

1710 month of June 2003, shall be deposited by the State Tax Commission  
1711 into the Budget Contingency Fund created under Section 27-103-301,  
1712 and payments made pursuant to this subsection for the month of  
1713 June of 2004, and each succeeding year thereafter, shall be  
1714 deposited by the State Tax Commission into the State General Fund.

1715 (3) All returns shall be sworn to by the taxpayer, if made  
1716 by an individual, or by the president, vice president, secretary  
1717 or treasurer of a corporation, or authorized agent, if made on  
1718 behalf of a corporation. If made on behalf of a partnership,  
1719 joint venture, association, trust, estate, or in any other group  
1720 or combination acting as a unit, any individual delegated by such  
1721 firm shall swear to the return on behalf of the taxpayer. The  
1722 commissioner may prescribe methods by which the taxpayer may swear  
1723 to his return.

1724 (4) The commissioner may promulgate rules and regulations to  
1725 require or permit filing periods of any duration, in lieu of  
1726 monthly filing periods, for any taxpayer or group thereof.

1727 (5) The commissioner may require the execution and filing by  
1728 the taxpayer with the commissioner of a good and solvent bond with  
1729 some surety company authorized to do business in Mississippi as  
1730 surety thereon in an amount double the aggregate tax liability by  
1731 such taxpayer for any previous three (3) months' period within the  
1732 last calendar year or estimated three (3) months' tax liability.  
1733 Said bond is to be conditioned for the prompt payment of such  
1734 taxes as may be due for each such return.

1735 (6) The commissioner, for good cause, may grant such  
1736 reasonable additional time within which to make any return  
1737 required under the provisions of this chapter as he may deem  
1738 proper, but the time for filing any return shall not be extended  
1739 beyond the twentieth of the month next succeeding the regular due  
1740 date of the return without the imposition of interest at the rate  
1741 of one percent (1%) per month or fractional part of a month from  
1742 the time the return was due until the tax is paid.

1743           (7) For persistent, willful, or recurring failure to make  
1744 any return and pay the tax shown thereby to be due by the time  
1745 specified, there shall be added to the amount of tax shown to be  
1746 due ten percent (10%) damages, or interest at the rate of one  
1747 percent (1%) per month, or both.

1748           (8) Any taxpayer may, upon making application therefor,  
1749 obtain from the commissioner an extension of time for the payment  
1750 of taxes due on credit sales until collections thereon have been  
1751 made. When such extension is granted, the taxpayer shall  
1752 thereafter include in each monthly or quarterly report all  
1753 collections made during the preceding month or quarter, and shall  
1754 pay the taxes due thereon at the time of filing such report. Such  
1755 permission may be revoked or denied at the discretion of the  
1756 commissioner when, in his opinion, a total sales basis will best  
1757 reflect the taxable income or expedite examination of the  
1758 taxpayer's records.

1759           (9) Any taxpayer reporting credit sales before collection  
1760 thereof has been made may take credit on subsequent returns or  
1761 reports for bad debts actually charged off, if such amounts  
1762 charged off have previously been included in taxable gross income  
1763 or taxable gross proceeds of sales, as the case may be, and the  
1764 tax paid thereon. However, any amounts subsequently collected on  
1765 accounts that have been charged off as bad debts shall be included  
1766 in subsequent reports and the tax shall be paid thereon.

1767           (10) In cases where an extension of time has been granted by  
1768 the commissioner for payment of taxes due on credit sales and the  
1769 taxpayer thereafter discontinues the business, such taxpayer shall  
1770 be required to file with the commissioner within ten (10) days, or  
1771 such further time as the commissioner may direct, from the date of  
1772 the discontinuance of such business, a special report showing the  
1773 amounts of any credit sales which have not been included in  
1774 determining the measure of the tax previously paid and any other  
1775 information with reference to credit sales as the commissioner may

1776 require. The commissioner shall thereupon investigate the facts  
1777 with reference to credit sales and the condition of the accounts,  
1778 and shall determine, from the best evidence available, the value  
1779 of all open accounts, notes, or other evidence of debt arising  
1780 from credit sales. The value of all notes, open accounts and  
1781 other evidence of debt, as thus determined by the commissioner,  
1782 shall be used in determining the amount of the tax for which such  
1783 taxpayer shall be liable. When the amount of the tax shall have  
1784 been ascertained, the taxpayer shall be required to pay the same  
1785 within ten (10) days or such further time as the commissioner may  
1786 allow, notwithstanding the fact that such note or accounts may  
1787 still remain uncollected.

1788         **SECTION 23.** Sections 52 through 63, Chapter 522, Laws of  
1789 2003, are amended as follows:

1790         Section 52. As used in Sections 52 through 63 of this act,  
1791 the following words shall have the meanings ascribed herein unless  
1792 the context clearly requires otherwise:

1793             (a) "Variable rate bonds" shall mean state-supported  
1794 debt which bears interest at a rate or rates which vary from time  
1795 to time and shall include variable rate refunding bonds.

1796             (b) "Interest rate exchange or similar agreement" shall  
1797 mean a written contract entered into by the state with a  
1798 counterparty in connection with state-supported debt to provide  
1799 for an exchange of payments based upon fixed and/or variable  
1800 rates, shall include interest rates, caps, collars, floors and  
1801 similar agreements and options on each of the foregoing, and shall  
1802 be for exchanges in currency of the United States of America only  
1803 with such terms determined by the commission to be in the  
1804 financial best interest of the state.

1805             (c) "State-supported debt" shall mean any bonds or  
1806 notes, including bonds or notes issued to fund reserve funds and  
1807 costs of issuance and refunding bonds or refunding notes,  
1808 currently outstanding or authorized to be issued by the state for

1809 which the state is or will be constitutionally obligated to pay  
1810 debt service or is or will be contractually obligated to pay debt  
1811 service subject to an appropriation; however, this definition  
1812 shall not apply to debt issued by the Mississippi Development Bank  
1813 or similar state agencies or authorities.

1814 (d) "Counterparty" shall mean the provider of or other  
1815 party to an interest rate exchange or similar agreement.

1816 (e) "State" shall mean the State of Mississippi.

1817 (f) "Commission" shall mean the State Bond Commission  
1818 of the state.

1819 (g) "Variable rate debt instruments" shall mean  
1820 variable rate bonds, variable rate refunding bonds and interest  
1821 rate exchange or similar agreements which result in the state  
1822 effectively paying interest at a rate or rates which vary from  
1823 time to time.

1824 (h) "Excluded agreements" shall mean the total notional  
1825 amount of interest rate exchange or similar agreements entered  
1826 into for the purpose of reducing, reversing or unwinding another  
1827 interest rate exchange or similar agreement or eliminating a  
1828 situation of risk or exposure under an existing interest rate  
1829 exchange or similar agreement, including, but not limited to, a  
1830 counterparty downgrade, default, or other actual or potential  
1831 economic loss.

1832 Section 53. The purpose of Sections 52 through 63 of this  
1833 act is to provide full and complete authority for the state,  
1834 acting by and through the commission, to issue or enter into  
1835 variable rate debt instruments. No procedure or proceedings,  
1836 publications, notices, consents, limitations, approvals, orders,  
1837 acts or things, other than those required by Sections 52 through  
1838 63 of this act, shall be required to issue or enter into any  
1839 variable rate debt instruments or to do any act or perform  
1840 anything under Sections 52 through 63 of this act except as  
1841 otherwise may be prescribed in Sections 52 through 63 of this act.

1842 The powers conferred by Sections 52 through 63 of this act shall  
1843 be in addition and supplemental to, and not in substitution for,  
1844 and the limitations imposed by Sections 52 through 63 of this act  
1845 shall not affect the powers conferred by any other law. Sections  
1846 52 through 63 of this act are remedial in nature and shall be  
1847 liberally construed.

1848 Section 54. (1) Notwithstanding any other provision of law  
1849 to the contrary, any otherwise authorized state-supported debt may  
1850 be issued as variable rate bonds. Except as otherwise provided in  
1851 Sections 52 through 63 of this act or when in conflict with the  
1852 provisions in Sections 52 through 63 of this act, such variable  
1853 rate bonds shall be subject to the terms and provisions of the  
1854 legislation authorizing the issuance of such state-supported debt.

1855 (2) Variable rate bonds issued by the state pursuant to the  
1856 provisions of subsections (1) of this section or Section 55 of  
1857 this act, shall be issued pursuant to an authorizing resolution of  
1858 the commission. Such variable rate bonds may be issued in one or  
1859 more series, may bear such date or dates, may bear interest at  
1860 such rate or rates, varying from time to time, not to exceed that  
1861 allowed by law for the class of bonds being issued, may be in such  
1862 denominations, may be subject to such terms of redemption (with or  
1863 without premium) may be sold at private sale with a competitive  
1864 element (which sale shall be on such terms and in such manner as  
1865 the commission shall determine) and may contain such other terms  
1866 and covenants (including, without limitation, covenants for the  
1867 security and better marketability of such variable rate bonds), as  
1868 may be provided by resolution of the commission. Pursuant to the  
1869 provisions of Sections 52 through 63 of this act, the commission  
1870 may enter into such agreements as may be necessary in connection  
1871 with the issuance of such variable rate bonds.

1872 Section 55. (1) This section and other applicable  
1873 provisions of Sections 52 through 63 of this act, without  
1874 reference to any other statute, shall be deemed full and complete

1875 authority for the issuance of variable rate refunding bonds by the  
1876 state, and shall be construed as an additional and alternative  
1877 method therefor.

1878 (2) The state, acting by and through the commission, may  
1879 refund outstanding bonds through the issuance of variable rate  
1880 refunding bonds. Any such refunding may be effected whether or  
1881 not the bonds to be refunded shall have then matured or shall  
1882 thereafter mature.

1883 (3) Variable rate refunding bonds issued pursuant to  
1884 Sections 52 through 63 of this act may be secured by a pledge of:  
1885 (a) the same source of security as the bonds to be refunded, or  
1886 (b) such other security as the state may lawfully pledge, or both;  
1887 all as may be provided by resolution of the commission.

1888 (4) At the time of the issuance of such variable rate  
1889 refunding bonds, the commission shall find by resolution that at  
1890 the time of such refunding, such refunding is expected to result  
1891 in an overall net present value savings to maturity of not less  
1892 than two percent (2%) of the bonds being refunded.

1893 Section 56. In connection with state-supported debt, the  
1894 commission shall have the power to:

1895 (a) Enter into interest rate exchange or similar  
1896 agreements with any person under such terms and conditions as the  
1897 commission may determine, including, but not limited to,  
1898 provisions as to default or early termination;

1899 (b) Procure insurance, letters of credit or other  
1900 credit enhancement with respect to agreements described in  
1901 paragraph (a) of this section;

1902 (c) Provide security for the payment or performance of  
1903 its obligations with respect to agreements described in paragraph  
1904 (a) of this section from such sources and with the same effect as  
1905 is authorized by applicable law with respect to security for its  
1906 bonds, notes or other obligations; however, any payment or  
1907 performance of obligations with respect to agreements described in

1908 paragraph (a) of this section in connection with debt obligations  
1909 which carry the full faith and credit of the state shall be  
1910 subject to appropriation;

1911 (d) Modify, amend, or replace, such agreements  
1912 described in paragraph (a) of this section; and

1913 (e) Because of the complexity of agreements described  
1914 in paragraph (a) of this section, the commission may solicit the  
1915 provision of such agreements on a competitive or negotiated basis  
1916 with a competitive element included.

1917 Section 57. Any interest rate exchange or similar agreements  
1918 entered into pursuant to Section 56 of this act shall be subject  
1919 to the following limitations:

1920 (a) The counterparty thereto shall have credit ratings  
1921 from at least one nationally recognized statistical rating agency  
1922 that is within the two (2) highest investment grade categories and  
1923 ratings which are obtained from any other nationally recognized  
1924 statistical rating agencies shall also be within the three (3)  
1925 highest investment grade categories, or the payment obligations of  
1926 the counterparty shall be unconditionally guaranteed by an entity  
1927 with such credit ratings;

1928 (b) The written contract shall require that should the  
1929 rating: (i) of the counterparty, if its payment obligations are  
1930 not unconditionally guaranteed by another entity, or (ii) of the  
1931 entity unconditionally guaranteeing its payment obligations, if so  
1932 secured, fall below the rating required by paragraph (a) of this  
1933 section, that the obligations of such counterparty shall be fully  
1934 and continuously collateralized by direct obligations of, or  
1935 obligations the principal and interest on which are guaranteed by  
1936 the United States of America with a net market value of at least  
1937 one hundred two percent (102%) of the net market value of the  
1938 contract of the authorized insurer and such collateral shall be  
1939 deposited as agreed to by the commission;



1940           (c) The counterparty has a net worth of at least One  
1941 Hundred Million Dollars (\$100,000,000.00), or the counterparty's  
1942 obligations under the interest rate exchange or similar agreement  
1943 are guaranteed by a person or entity having a net worth of at  
1944 least One Hundred Million Dollars (\$100,000,000.00);

1945           (d) The total notional amount of all interest rate  
1946 exchange or similar agreements for the state to be in effect shall  
1947 not exceed an amount equal to fifty percent (50%) of the total  
1948 amount of state-supported debt outstanding as of the initial date  
1949 of entering into each new agreement; however, such total notional  
1950 amount shall not include any excluded agreements;

1951           (e) No interest rate exchange or similar agreement  
1952 shall have a maturity exceeding the maturity of the related  
1953 state-supported debt;

1954           (f) Each interest rate exchange or similar agreement  
1955 shall be subject to a finding by the commission that its terms and  
1956 conditions reflect a fair market value of such agreement as of the  
1957 date of its execution, regardless of whether such agreement was  
1958 solicited on a competitive or negotiated basis with a competitive  
1959 element; and

1960           (g) Each interest rate exchange or similar agreement,  
1961 including the modification or termination thereof, shall be  
1962 subject to the approval of the commission or its designee.

1963           Section 58. (1) As of the initial date of each issuance of  
1964 variable rate debt instruments, the total of the principal and  
1965 notional amounts of such variable rate debt instruments  
1966 outstanding and in effect shall not exceed an amount equal to  
1967 fifty percent (50%) of the total principal amount of  
1968 state-supported debt outstanding.

1969           (2) The limitation contained in subsection (2) of this  
1970 section shall not include any excluded agreements.

1971           Section 59. Nothing in Sections 52 through 63 of this act  
1972 shall be construed as to apply to or limit any debt obligation or

1973 related instrument of the state or any other issuers except those  
1974 obligations or instruments which are or relate to state-supported  
1975 debt.

1976 Section 60. Sections 52 through 63 of this act shall be  
1977 deemed to be full and complete authority for the exercise of the  
1978 powers herein granted, but Sections 52 through 63 of this act  
1979 shall not be deemed to repeal or to be in derogation of any  
1980 existing law of this state.

1981 Section 61. All variable rate bonds issued under Sections 52  
1982 through 63 of this act shall be fully negotiable in accordance  
1983 with their terms and shall be "securities" within the meaning of  
1984 Article 8 of the Uniform Commercial Code, subject to the  
1985 provisions of such bonds pertaining to registration. It shall not  
1986 be necessary to file financing statements or continuation  
1987 statements to protect the lien and pledge granted by a  
1988 governmental unit to the holders of any variable rate bonds issued  
1989 under Sections 52 through 63 of this act.

1990 Section 62. All variable rate bonds issued under the  
1991 provisions of Sections 52 through 63 of this act and income  
1992 therefrom shall be exempt from all taxation in the State of  
1993 Mississippi.

1994 Section 63. If any one or more sections, clauses, sentences  
1995 or parts of Sections 52 through 63 of this act shall for any  
1996 reason be questioned in any court and shall be adjudged  
1997 unconstitutional or invalid, such judgment shall not affect,  
1998 impair or invalidate the remaining provisions of Sections 52  
1999 through 63 of this act, but shall be confined in its operations to  
2000 the specific provisions so held invalid, and inapplicability or  
2001 invalidity of any such section, clause, provision or part shall  
2002 not be taken to affect or prejudice in any way the remaining part  
2003 or parts of Sections 52 through 63 of this act.

2004

**PART 5 - INSURANCE**

2005           **SECTION 24.** Section 27-15-83, Mississippi Code of 1972, is  
2006 brought forward as follows:

2007           27-15-83. (1) Upon each foreign insurance company licensed  
2008 as a single line company defined under Section 83-19-1, the  
2009 privilege tax is as follows:

- 2010           (a) Fire and Allied Lines and/or
- 2011                 Industrial Fire..... \$200.00
- 2012           (b) Casualty/Liability..... \$200.00
- 2013           (c) Fidelity and/or Surety..... \$200.00
- 2014           (d) Workers' Compensation..... \$200.00
- 2015           (e) Boiler and Machinery..... \$200.00
- 2016           (f) Plate Glass..... \$200.00
- 2017           (g) Aircraft..... \$200.00
- 2018           (h) Inland Marine and/or Ocean Marine..... \$200.00
- 2019           (i) Automobile Physical Damage/Automobile
- 2020                 Liability..... \$200.00
- 2021           (j) Homeowners/Farmowners..... \$200.00
- 2022           (k) Guaranty/Mortgage Guaranty..... \$200.00
- 2023           (l) Trip Accident and Baggage..... \$200.00
- 2024           (m) Legal..... \$200.00
- 2025           (n) Life and/or Accident and Health;
- 2026                 Credit Life, Accident and Health;
- 2027                 Industrial Life, Accident and Health;
- 2028                 and Variable Contracts..... \$200.00
- 2029           (o) Title..... \$200.00
- 2030           (p) Fraternal..... \$ 50.00

2031           (2) For any combination of classifications of a foreign  
2032 insurance company, the privilege tax for a multiple line company  
2033 shall be Three Hundred Fifty Dollars (\$350.00).

2034           (3) Any stock, mutual, reciprocal or reinsurance company  
2035 shall pay the appropriate privilege tax for each line of insurance  
2036 the company is licensed to underwrite.

2037 (4) For each domestic insurance which has its home office  
2038 located in Mississippi, the privilege tax shall be one-half (1/2)  
2039 of the fees listed in this section.

2040 (5) Each insurance company or association which amends its  
2041 privilege license shall pay a fee of Twenty-five Dollars (\$25.00).

2042 **SECTION 25.** Section 27-15-85, Mississippi Code of 1972, is  
2043 brought forward as follows:

2044 27-15-85. (1) Upon each incorporated insurance agency  
2045 licensed to represent fire, casualty, liability, fidelity, surety,  
2046 guaranty and inland marine insurance companies in municipalities  
2047 of Classes 1, 2, 3 and 4..... \$100.00.

2048 Upon each such incorporated insurance agency in  
2049 municipalities of Classes 5, 6, 7 and elsewhere in the  
2050 state..... \$ 50.00.

2051 The license issued to such incorporated agency shall specify  
2052 the type, types or kinds of insurance that such incorporated  
2053 agency is licensed and qualified to transact. Every person acting  
2054 as agent or solicitor for any such agency shall qualify under the  
2055 provisions of Laws, 2001, Chapter 510; and no person shall be  
2056 exempt from the privilege tax placed on insurance agents by this  
2057 section by reason of the fact that he is a stockholder or officer  
2058 in any such incorporated agency, or by reason of the fact that he  
2059 represents such an agency, but every agent or solicitor, except  
2060 two (2) executive officers of such agency, shall pay the privilege  
2061 tax herein imposed.

2062 (2) Upon each incorporated general agent, as defined in  
2063 Section 83-17-1..... \$100.00.

2064 (3) Upon each incorporated "supervising general agent" for  
2065 life, health and accident insurers as defined in Section  
2066 83-17-1..... \$100.00.

2067 The privilege licenses issued under this section to  
2068 "supervising general agents" shall not constitute authority to  
2069 solicit business within the State of Mississippi, and shall be

2070 renewed annually at the time and in the manner prescribed by  
2071 Section 83-17-25 on application forms which shall be furnished by  
2072 the Commissioner of Insurance and shall show the name of the  
2073 insurance company or companies such "supervising general agent"  
2074 represents, and other additional information as may be required by  
2075 the Commissioner of Insurance.

2076       **SECTION 26.** Section 27-15-87, Mississippi Code of 1972, is  
2077 brought forward as follows:

2078       27-15-87. Upon each fire, casualty, liability, fidelity,  
2079 surety, guaranty and/or inland marine agent or solicitor when the  
2080 total commission of the agency is in excess of Three Thousand  
2081 Dollars (\$3,000.00) annually..... \$50.00.

2082       Upon each such agent or solicitor when the total commission  
2083 of the agency does not exceed Three Thousand Dollars (\$3,000.00)  
2084 annually..... \$25.00.

2085       Every agent or insurance solicitor for an agent, connected  
2086 with any insurance agent, firm or corporation who solicits the  
2087 sale of any of the above-named insurance, whether stock, mutual or  
2088 reciprocal insurance carriers, directly or indirectly, shall be  
2089 liable for the above tax.

2090       Whenever a solicitor is employed by any such agent or agency  
2091 to solicit business for its account, to be placed in the companies  
2092 represented by said agent or agency, such agent or agency shall  
2093 make application as provided for in Section 83-17-75(6), and  
2094 Section 83-17-217, Mississippi Code of 1972, and pay the above tax  
2095 on such solicitor and such license issued to him shall authorize  
2096 such solicitor to solicit insurance for the agency.

2097       At the time of the purchase of the license herein provided,  
2098 every person, firm, corporation or solicitor shall file an  
2099 affidavit with the Insurance Commissioner of the state stating the  
2100 amount of commissions earned by said agency (whether such agency  
2101 be conducted by a person, firm or corporation) during the past  
2102 year, and this affidavit shall be filed at least once each year,

2103 and in the event that the commissioner has reason to believe that  
2104 such affidavit is incorrect, then in such event, said Insurance  
2105 Commissioner may refuse to accept said affidavit and demand  
2106 further proof as to the clarification of said person, firm or  
2107 corporation applying for said license. If the applicant for said  
2108 license was not engaged in the insurance business during the year  
2109 preceding the application for said license, then, in such event,  
2110 the affidavit shall show said fact, and the Insurance Commissioner  
2111 shall issue to said applicant a yearly license at and for the sum  
2112 of Twenty-five Dollars (\$25.00) as above provided.

2113 **SECTION 27.** Section 27-15-93, Mississippi Code of 1972, is  
2114 brought forward as follows:

2115 27-15-93. (1) Upon each incorporated insurance agency  
2116 licensed to represent life, health or accident insurance  
2117 companies..... \$ 25.00.

2118 The license issued to such incorporated agency shall specify  
2119 the type, types or kinds of insurance that such incorporated  
2120 agency is licensed and qualified to transact. Every person acting  
2121 as agent for any such agency shall qualify under the provisions of  
2122 Laws, 2001, Chapter 510; and no person shall be exempt from the  
2123 privilege tax placed on insurance agents by this section by reason  
2124 of the fact that he is a stockholder or officer in any such  
2125 incorporated agency, or by reason of the fact that he represents  
2126 such an agency, but every agent shall pay the privilege tax herein  
2127 imposed.

2128 (2) Upon each incorporated supervising general agent, as  
2129 defined in Section 83-17-1..... \$100.00.

2130 (3) Upon each life insurance agent engaged exclusively in  
2131 writing life insurance..... \$ 20.00.

2132 And any life insurance company that knowingly issues a policy  
2133 where the application has been submitted to it by an agent or  
2134 other person who has not paid all the taxes herein imposed upon

2135 each agent or person shall be liable for and pay to the state the  
2136 sum of Fifty Dollars (\$50.00) for each policy written.

2137         Provided, that any insurance agent who has paid the tax  
2138 required as a life insurance agent, shall be permitted to write  
2139 health, accident and industrial insurance without the payment of  
2140 additional tax.

2141         **SECTION 28.** Section 27-15-95, Mississippi Code of 1972, is  
2142 brought forward as follows:

2143         27-15-95. Upon each person, other than an incorporated  
2144 insurance agency taxed under Section 27-15-93, writing health and  
2145 accident, or industrial life insurance..... \$20.00.

2146         **SECTION 29.** Section 83-49-47, Mississippi Code of 1972, is  
2147 brought forward as follows:

2148         83-49-47. (1) No person shall act as a representative of a  
2149 sponsor or agent of a sponsor as defined in Section 83-17-1,  
2150 Mississippi Code of 1972, without first having obtained a license  
2151 from the commissioner to act as an agent or representative of a  
2152 sponsor of prepaid legal services in this state.

2153         (2) The annual license fee shall be Ten Dollars (\$10.00).  
2154 The fee for said license shall be paid to the commissioner on or  
2155 before March 1 of each year.

2156         (3) Before any licensee changes his address, he shall return  
2157 his license to the commissioner, who shall endorse the license  
2158 indicating the change.

2159         (4) Each person to whom the license or the renewal thereof  
2160 may be issued shall file sworn answers, subject to the penalties  
2161 of perjury, to such interrogatories as the commissioner may  
2162 require. The commissioner shall have authority, at any time, to  
2163 require the applicant to disclose fully the identity of all  
2164 stockholders, partners, officers and employees, and he may, in his  
2165 discretion, refuse to issue or renew a license in the name of any  
2166 firm, partnership or corporation if he is not satisfied that any  
2167 officer, employee, stockholder or partner thereof who may

2168 materially influence the applicant's conduct meets the standards  
2169 of this chapter.

2170 (5) Upon the filing of an application and the payment of the  
2171 license fee, the commissioner shall make an investigation of each  
2172 applicant and shall issue a license if he finds the applicant is  
2173 qualified in accordance with this act. If the commissioner does  
2174 not so find, he shall, within ninety (90) days after he has  
2175 received such application, so notify the applicant and, at the  
2176 request of the applicant, give the applicant a full hearing.

2177 (6) The commissioner shall issue or renew a license applied  
2178 for when he is satisfied that the person to be licensed:

2179 (a) Is competent and trustworthy and intends to act in  
2180 good faith as an agent or representative of a sponsor of prepaid  
2181 legal services plans in this state;

2182 (b) Has a good business reputation and has had  
2183 experience, training or education so as to be qualified to act as  
2184 an agent or representative of a sponsor of prepaid legal services  
2185 plans.

2186 **SECTION 30.** Section 83-11-237, Mississippi Code of 1972, is  
2187 brought forward as follows:

2188 83-11-237. (1) An automobile club operating in this state  
2189 pursuant to a certificate of authority issued hereunder shall,  
2190 within thirty (30) days of the date of appointment, file with the  
2191 commissioner a notice of appointment of a club agent by an  
2192 automobile club to sell memberships in the automobile club to the  
2193 public. This notification shall be upon such form as the  
2194 commissioner may prescribe, shall contain the name, address, age,  
2195 sex, and social security number of such club agent, and also  
2196 contain proof satisfactory to the commissioner that such applicant  
2197 is of good reputation and that he has received training from the  
2198 club or is otherwise qualified in the field of automobile club  
2199 service contracts and the laws of this state pertaining thereto.  
2200 Upon termination of any club agent's appointment by an automobile



2201 club, such automobile club shall, within thirty (30) days  
2202 thereafter, notify the commissioner of such termination.

2203 (2) The registration fee for club agents shall be Five  
2204 Dollars (\$5.00) annually, and such registration shall be renewable  
2205 on April 1 of each year unless sooner revoked or suspended.

2206 **PART 6 - TOBACCO**

2207 **SECTION 31.** Section 27-69-3, Mississippi Code of 1972, is  
2208 amended as follows:

2209 \* \* \*

2210 27-69-3. When used in this chapter:

2211 (a) "State" means the State of Mississippi as  
2212 geographically defined, and any and all waters under the  
2213 jurisdiction of the State of Mississippi.

2214 (b) "State Auditor" means the Auditor of Public  
2215 Accounts of the State of Mississippi, or his legally appointed  
2216 deputy, clerk or agent.

2217 (c) "Commissioner" means the Chairman of the State Tax  
2218 Commission of the State of Mississippi, and his authorized agents  
2219 and employees.

2220 (d) "Person" means any individual, company,  
2221 corporation, partnership, association, joint venture, estate,  
2222 trust, or any other group, or combination acting as a unit, and  
2223 the plural as well as the singular, unless the intention to give a  
2224 more limited meaning is disclosed by the context.

2225 (e) "Consumer" means a person who comes into possession  
2226 of tobacco for the purpose of consuming it, giving it away, or  
2227 disposing of it in any way by sale, barter or exchange.

2228 (f) "Tobacco" means any cigarettes, cigars, cheroots,  
2229 stogies, smoking tobacco (including granulated, plug cut, crimp  
2230 cut, ready rubbed, and other kinds and forms of tobacco, or  
2231 substitutes therefor, prepared in such manner as to be suitable  
2232 for smoking in a pipe or cigarette) and including plug and twist  
2233 chewing tobacco and snuff, when such "tobacco" is manufactured and

2234 prepared for sale or personal consumption. All words used herein  
2235 shall be given the meaning as defined in the regulations of the  
2236 Treasury Department of the United States of America.

2237 (g) "First sale" means and includes the first sale, or  
2238 distribution of such tobacco in intrastate commerce, or the first  
2239 use or consumption of such tobacco within this state.

2240 (h) "Drop shipment" means and includes any delivery of  
2241 tobacco received by any person within this state, when payment for  
2242 such tobacco is made to the shipper, or seller by or through a  
2243 person other than a consignee.

2244 (i) "Distributor" includes every person, except  
2245 retailers as defined herein, in the state who manufactures or  
2246 produces tobacco or who ships, transports, or imports into this  
2247 state, or in any manner acquires or possesses tobacco, and makes a  
2248 first sale of the same in the state.

2249 (j) "Wholesaler" includes dealers, whose principal  
2250 business is that of a wholesale dealer or jobber, who is known to  
2251 the retail trade as such, and whose place of business is located  
2252 in Mississippi or in a state which affords reciprocity to  
2253 wholesalers domiciled in Mississippi, who shall sell any taxable  
2254 tobacco to retail dealers only for the purpose of resale.

2255 (k) "Retailer" includes every person, other than a  
2256 wholesale dealer, as defined above, whose principal business is  
2257 that of selling merchandise at retail, who shall sell, or offer  
2258 for sale tobacco to the consumer. The sale of tobacco in quantity  
2259 lots by retailers to other retailers, transient vendors, or other  
2260 persons, shall not be construed as wholesale and shall not qualify  
2261 such retailer for a permit as a wholesaler.

2262 (l) "Dealer" includes every person, firm, corporation  
2263 or association of persons, except retailers as defined herein, who  
2264 manufacture tobacco for distribution, for sale, for use or for  
2265 consumption in the State of Mississippi.

2266           The word "dealer" is further defined to mean any person,  
2267 firm, corporation or association of persons, except retailers as  
2268 defined herein, who imports tobacco from any state or foreign  
2269 country for distribution, sale, use, or consumption in the State  
2270 of Mississippi.

2271           (m) "Distributing agent" includes every person in the  
2272 state who acts as an agent of any person outside the State of  
2273 Mississippi, by receiving tobacco in interstate commerce, and  
2274 storing such tobacco in this state subject to distribution, or  
2275 delivery upon order from said person outside the state to  
2276 distributors, wholesalers, retailers and dealers.

2277           (n) "Transient vendor" means and includes every person  
2278 commonly and generally termed "peddlers" and every person acting  
2279 for himself, or as an agent, employee, salesman, or in any  
2280 capacity for another, whether as owner, bailee, or other custodian  
2281 of tobacco, and going from person to person, dealer to dealer,  
2282 house to house, or place to place, and selling or offering for  
2283 sale at retail or wholesale tobacco, and every person who does not  
2284 keep a regular place of business open at all times in regular  
2285 hours, and every person who goes from person to person, dealer to  
2286 dealer, house to house, or place to place, and sells or offers for  
2287 sale tobacco which he carries with him, and who delivers the same  
2288 at the time of, or immediately after the sale, or without  
2289 returning to the place of business operations (a permanent place  
2290 of business within the state) between the taking of the order and  
2291 the delivery of the tobacco, or

2292           All persons who go from person to person, house to house,  
2293 place to place, or dealer to dealer, soliciting orders by  
2294 exhibiting samples, or taking orders, and thereafter making  
2295 delivery of tobacco, or filling the order without carrying or  
2296 sending the order to the permanent place of business, and  
2297 thereafter making delivery of the tobacco pursuant to the terms of  
2298 the order, or

2299 All persons who go from person to person, place to place,  
2300 house to house, or dealer to dealer, carrying samples and selling  
2301 tobacco from samples, and afterwards making delivery without  
2302 taking and sending an order therefor to a permanent place of  
2303 business for the filling of the order, and delivery of the  
2304 tobacco, or the exchange of tobacco having become damaged or  
2305 unsalable, or the purchase by tobacco of advertising space, or

2306 All persons who have in their possession, or under their  
2307 control, any tobacco offered, or to be offered for sale or to be  
2308 delivered, unless the sale or delivery thereof is to be made in  
2309 pursuance of a bona fide order for the tobacco, to be sold or  
2310 delivered, said order to be evidenced by an invoice or memorandum.

2311 (o) "Contraband tobacco" means all tobacco found in the  
2312 possession of any person whose permit to engage in dealing in  
2313 tobacco has been revoked by the commissioner; and any cigarettes  
2314 found in the possession of any person to which the proper tax  
2315 stamps have not been affixed; and any cigarettes improperly  
2316 stamped when found in the possession of any person; and all other  
2317 tobacco upon which the excise tax has not been paid.

2318 (p) "Sale" means an exchange for money or goods, giving  
2319 away, or distributing any tobacco as defined in this chapter.

2320 (q) "Forty-eight (48) hours" and "seventy-two (72)  
2321 hours" means two (2) calendar days and three (3) calendar days,  
2322 respectively, excluding Sundays and legal holidays.

2323 (r) "Stamp" or "stamping," or the import of such word,  
2324 when used in this chapter, means any manner of stamp or impression  
2325 permitted by the commissioner that carries out the purposes of the  
2326 chapter in clearly indicating upon the packages of cigarettes  
2327 taxed the due payment of the tax and clearly identifying, by  
2328 serial number or otherwise, the permittee who affixed the stamp to  
2329 the particular package.

2330 (s) "Manufacturer's list price" means the full sales  
2331 price at which tobacco is sold or offered for sale by a

2332 manufacturer to the wholesaler or distributor in this state  
2333 without any deduction for freight, trade discount, cash discounts,  
2334 special discounts or deals, cash rebates, or any other reduction  
2335 from the regular selling price. In the event freight charges on  
2336 shipments to wholesalers or distributors are not paid by the  
2337 manufacturer, then such freight charges required to be paid by the  
2338 wholesalers and distributors shall be added to the amount paid to  
2339 the manufacturer in order to determine "manufacturer's list  
2340 price." In the case of a wholesaler or distributor whose place of  
2341 business is located outside this state, the "manufacturer's list  
2342 price" for tobacco sold in this state by such wholesaler or  
2343 distributor shall in all cases be considered to be the same as  
2344 that of a wholesaler or distributor located within this state.

2345 (t) "Tobacco settlement" means the settlement of the  
2346 case of Mike Moore, Attorney General ex rel. State of Mississippi  
2347 v. The American Tobacco Company et al. (Chancery Court of Jackson  
2348 County, Mississippi, Cause No. 94-1429).

2349 (u) "Nonparticipating manufacturer" means a  
2350 manufacturer of cigarettes that is not a participating  
2351 manufacturer in the tobacco settlement.

2352 (v) "Participating manufacturer" means a manufacturer  
2353 of cigarettes that is a participating manufacturer in the tobacco  
2354 settlement.

2355 **SECTION 32.** Section 27-69-5, Mississippi Code of 1972, is  
2356 amended as follows:

2357 27-69-5. Every manufacturer, distributor, wholesaler, dealer  
2358 or retailer who desires to become engaged in the sale or use of  
2359 tobacco upon which a tax is required to be paid shall file with  
2360 the commissioner an application for a permit to engage in such  
2361 business. The application for a permit shall be filed on blanks  
2362 to be furnished by the commissioner for that purpose. The  
2363 application must be subscribed and sworn to by the person owning  
2364 the business, or having an ownership interest therein. If the

2365 applicant is a corporation, a duly authorized agent shall execute  
2366 the application. The application shall show the name of such  
2367 person, and in case of partnership, the name of each partner  
2368 thereof, the person's post office address, the location of the  
2369 place of business to which the permit shall apply, and the nature  
2370 of the business in which engaged, and any other information the  
2371 commissioner may require. No manufacturer, distributor,  
2372 wholesaler, dealer or retailer shall sell any tobacco until such  
2373 application has been filed, the prescribed permit fee paid, and  
2374 the permit obtained. Except as otherwise provided in this  
2375 paragraph, said permit shall expire on January 31 of each year.  
2376 However, a retail permit shall continue in force during the time  
2377 that the permit holder to whom it is issued continues in the same  
2378 business at the same location unless such permit is revoked by the  
2379 commissioner for cause or is revoked pursuant to any provision of  
2380 the Mississippi Juvenile Tobacco Access Prevention Act in Sections  
2381 97-32-1 through 97-32-23.

2382 An application shall be filed, and a permit obtained for each  
2383 place of business owned or operated by each distributor,  
2384 wholesaler, dealer or retailer.

2385 Upon receipt of the application and any permit fee  
2386 hereinafter provided for, the commissioner may issue to every  
2387 manufacturer, distributor, wholesaler, dealer or retailer, for the  
2388 place of business designated, a nonassignable permit, authorizing  
2389 the sale or use of tobacco in the state. Said permit shall  
2390 provide that the same is revocable, and may be forfeited or  
2391 suspended upon violation of any provision of this chapter, the  
2392 Mississippi Tobacco Youth Access Prevention Act of 1997 or any  
2393 rule or regulation adopted by the commissioner. If such permit  
2394 is revoked or suspended, said manufacturer, distributor,  
2395 wholesaler, dealer or retailer shall not sell any tobacco from  
2396 such place of business until a new permit is granted, or the  
2397 suspension of the old permit removed.

2398 A permit cannot be transferred from one person to another,  
2399 and the permit shall at all times be publicly displayed by the  
2400 manufacturer, distributor, wholesaler, dealer or retailer in his  
2401 place of business so as to be seen easily by the public. A permit  
2402 may be refused to any person previously convicted of violations of  
2403 this chapter.

2404 **SECTION 33.** Section 27-69-7, Mississippi Code of 1972, is  
2405 amended as follows:

2406 27-69-7. In addition to the excise tax on each person  
2407 selling, using, consuming, handling or distributing tobacco as  
2408 hereinafter provided, it is hereby made the duty of the  
2409 commissioner to collect a privilege tax of One Hundred Dollars  
2410 (\$100.00) for each permit issued to every manufacturer,  
2411 distributor, wholesaler or dealer doing business directly or  
2412 indirectly in this state. However, the amount of the privilege  
2413 tax to be paid for a permit issued for a period of less than  
2414 twelve (12) months shall be the proportionate amount of the annual  
2415 privilege tax that the number of months, or part of a month,  
2416 remaining until the permit expiration date bears to twelve (12)  
2417 months, but in no case shall the privilege tax be less than Ten  
2418 Dollars (\$10.00).

2419 Foreign manufacturers, wholesalers, or distributors shall  
2420 secure a permit from the commissioner, upon the payment of a fee  
2421 of One Hundred Dollars (\$100.00), and shall agree in an  
2422 application sworn to and certified, that the excise tax shall be  
2423 paid on all shipments of taxable tobacco into the State of  
2424 Mississippi, that the required tax stamps shall be affixed to  
2425 cigarettes, and that the commissioner, or his authorized agent,  
2426 shall be permitted to inspect and audit their records of tobacco  
2427 shipments into the State of Mississippi at any and all reasonable  
2428 times.

2429 It is further provided that any person who engages in any  
2430 business for which a permit is required by this chapter, before

2431 procuring a permit, or after the permit is cancelled, shall be  
2432 guilty of a misdemeanor, and punishable by a fine of not exceeding  
2433 Five Hundred Dollars (\$500.00), nor less than Fifty Dollars  
2434 (\$50.00).

2435       **SECTION 34.** Section 27-69-11, Mississippi Code of 1972, is  
2436 amended as follows:

2437       27-69-11. Any person engaged in the business of buying,  
2438 selling, manufacturing or distributing within this state, tobacco  
2439 as a wholesaler or manufacturer without having secured the  
2440 required permit from the commissioner shall be guilty of a  
2441 misdemeanor.

2442       **SECTION 35.** Section 27-69-13, Mississippi Code of 1972, is  
2443 amended as follows:

2444       27-69-13. (1) There is \* \* \* imposed, levied and assessed,  
2445 to be collected and paid as hereinafter provided in this chapter,  
2446 an excise tax on each person or dealer in cigarettes, cigars,  
2447 stogies, snuff, chewing tobacco, and smoking tobacco, or  
2448 substitutes therefor, upon the sale, use, consumption, handling or  
2449 distribution in the State of Mississippi, as follows:

2450           (a) On cigarettes, the rate of tax shall be  
2451 Eighteen-twentieths of One Cent (18/20 of 1¢) on each cigarette  
2452 sold with a maximum length of one hundred twenty (120)  
2453 millimeters; any cigarette in excess of this length shall be taxed  
2454 as if it were two (2) or more cigarettes. \* \* \* However, if the  
2455 federal tax rate on cigarettes in effect on July 1, 1985, is  
2456 reduced, then the rate as provided herein shall be increased by  
2457 the amount of the federal tax reduction. Such tax increase shall  
2458 take effect on the first day of the month following the effective  
2459 date of such reduction in the federal tax rate.

2460           (b) On cigars, cheroots, stogies, snuff, chewing and  
2461 smoking tobacco and all other tobacco products except cigarettes,  
2462 the rate of tax shall be fifteen percent (15%) of the  
2463 manufacturer's list price.



2464       (2) No stamp evidencing the tax herein levied on cigarettes  
2465 shall be of a denomination of less than One Cent (1¢), and  
2466 whenever the tax computed at the rates herein prescribed on  
2467 cigarettes shall be a specified amount, plus a fractional part of  
2468 One Cent (1¢), the package shall be stamped for the next full  
2469 cent \* \* \*.

2470       (3) Every wholesaler shall purchase stamps as provided in  
2471 this chapter, and affix the same to all packages of cigarettes  
2472 handled by him as herein provided.

2473       (4) The \* \* \* tax levied by this section is levied upon the  
2474 sale, use, gift, possession, or consumption of tobacco within the  
2475 State of Mississippi, and the impact of the tax levied by this  
2476 chapter is hereby declared to be on the vendee, user, consumer, or  
2477 possessor of tobacco in this state; and when the tax is paid by  
2478 any other person, such payment shall be considered as an advance  
2479 payment and shall thereafter be added to the price of the tobacco  
2480 and recovered from the ultimate consumer or user.

2481       (5) (a) In addition to the tax imposed under this section,  
2482 there is imposed an equity assessment in the amount of Two Cents  
2483 (2¢) per cigarette on all cigarettes subject to the tax imposed  
2484 under this section. The assessment shall be increased annually  
2485 beginning January 1, 2005, by the amount of three percent (3%) or  
2486 the increase in the Consumer Price Index, whichever is greater.  
2487 Such equity assessment is imposed on the manufacturer.

2488       (b) A wholesaler shall provide a manufacturer a report  
2489 by the tenth day of each month setting forth the number of  
2490 cigarettes on which stamps were affixed by the wholesaler during  
2491 the preceding month and identifying those cigarettes by  
2492 manufacturer, brand and style.

2493       (c) A manufacturer shall remit the equity assessment to  
2494 the state by the twentieth day of each month for cigarettes on  
2495 which stamps were affixed during preceding month.

2496           (d) A participating manufacturer shall be allowed a  
2497 credit against the equity assessment for the amount of the annual  
2498 tobacco settlement installment payments made to the state under  
2499 the tobacco settlement by that manufacturer for the preceding  
2500 year.

2501           **SECTION 36.** Section 27-69-41, Mississippi Code of 1972, is  
2502 amended as follows:

2503           27-69-41. If any person subject to the provisions of this  
2504 chapter, or any rules or regulations promulgated by the  
2505 commissioner under authority hereof, shall be found to have failed  
2506 to affix the stamps required, or to have the same affixed as  
2507 herein provided, or to pay any tax due hereunder, or to have  
2508 violated any of the provisions of this chapter, or rules and  
2509 regulations promulgated by the commissioner in the administration  
2510 of this chapter, there shall be collected from such person, in  
2511 addition to the tax that may be due, a penalty of fifty percent  
2512 (50%) of the tax due; and the commissioner, or his duly authorized  
2513 representative, may make immediate demand upon such person for the  
2514 payment of all such taxes and penalties. Provided, that the  
2515 commissioner, for good reason shown, may remit all or any part of  
2516 the penalties imposed, but the taxpayer must pay all taxes due and  
2517 interest thereon, at the rate of twelve percent (12%) per annum.  
2518 The keeping of any unstamped cigarettes or untaxed tobacco at a  
2519 place of business where such articles are sold, shall be prima  
2520 facie evidence of intent to violate the provisions of this  
2521 chapter.

2522           If a manufacturer does not pay the equity assessment imposed  
2523 under Section 27-69-13(5), the manufacturer may be assessed a  
2524 penalty of ten percent (10%) of the amount of the equity  
2525 assessment due or the manufacturer's products may be barred from  
2526 sale or consumption, or both, in this state. If a wholesaler does  
2527 not provide a manufacturer with the information required under

2528 Section 27-69-13(5), the commissioner may suspend sales of tobacco  
2529 stamps to the wholesaler.

2530 All administrative provisions of the Mississippi Sales Tax  
2531 Law, including those which fix damages, penalties and interest for  
2532 nonpayment of taxes and for noncompliance with the provisions of  
2533 said chapter, and all other requirements and duties imposed upon  
2534 taxpayers, shall apply to all persons liable for taxes under the  
2535 provisions of this chapter, and the commissioner shall exercise  
2536 all the power and authority and perform all the duties with  
2537 respect to taxpayers under this chapter as are provided in the  
2538 Sales Tax Law, except where there is conflict, then the provisions  
2539 of this chapter shall control.

2540 **SECTION 37.** Section 27-69-31, Mississippi Code of 1972, is  
2541 amended as follows:

2542 27-69-31. Except as otherwise provided in this section,  
2543 dealers subject to the provisions of this chapter shall be  
2544 allowed, as compensation for their services in affixing the stamps  
2545 herein required, a sum equal to eight percent (8%) of the face  
2546 value of the stamps purchased by them, provided that the  
2547 commission shall allow no discount on the purchase of stamps by  
2548 wholesalers of an aggregate amount of less than One Hundred  
2549 Dollars (\$100.00), and by retailers of an aggregate amount of less  
2550 than Fifty Dollars (\$50.00) in any one (1) order.

2551 It is further provided that the commissioner may, in his  
2552 discretion, either reduce the compensation allowed, or disallow  
2553 any compensation for the affixing of stamps, for failure of such  
2554 dealer to comply with any provisions of the law or rules and  
2555 regulations promulgated by the commissioner.

2556 There shall be no compensation or discount allowed under this  
2557 section from and after July 1, 2004.

2558 **SECTION 38.** Section 27-69-75, Mississippi Code of 1972, is  
2559 amended as follows:

2560 27-69-75. All taxes levied by this chapter shall be payable  
2561 to the commissioner in cash, or by personal check, cashier's  
2562 check, bank exchange, post office money order or express money  
2563 order, and shall be deposited by the commissioner in the State  
2564 Treasury on the same day collected. No remittance other than cash  
2565 shall be a final discharge of liability for the tax herein  
2566 assessed and levied, unless and until it has been paid in cash to  
2567 the commissioner.

2568 All tobacco taxes collected, including tobacco license taxes,  
2569 shall be deposited into the State Treasury to the credit of the  
2570 General Fund.

2571 Wholesalers who are entitled to purchase stamps \* \* \* may  
2572 have consigned to them, without advance payment, such stamps, if  
2573 and when such wholesaler shall give to the commissioner a good and  
2574 sufficient bond executed by some surety company authorized to do  
2575 business in this state, conditioned to secure the payment for the  
2576 stamps so consigned. The commissioner shall require payment for  
2577 such stamps not later than thirty (30) days from the date the  
2578 stamps were consigned.

2579 **PART 7 - STATE LAW ENFORCEMENT**

2580 **SECTION 39.** (1) There is created a law enforcement division  
2581 of the Department of Public Safety for purposes of managing the  
2582 law enforcement functions of the Mississippi Department of  
2583 Transportation, the Public Service Commission and the Bureau of  
2584 Narcotics. The primary duty of the division shall be directing  
2585 the enforcement of the laws of the state and the laws and  
2586 regulations of the Mississippi Department of Transportation, the  
2587 Public Service Commission and the Bureau of Narcotics.

2588 (2) The Department of Public Safety shall use existing  
2589 personnel to carry out the purposes of subsection (1) of this  
2590 section.

2591 **SECTION 40.** Section 41-29-107, Mississippi Code of 1972, is  
2592 amended as follows:

2593           41-29-107. There is \* \* \* created the Bureau of Narcotics  
2594 within, and under the supervision of, the Mississippi Department  
2595 of Public Safety. The \* \* \* bureau shall have as chief  
2596 administrative officer a director who shall be appointed by the  
2597 Governor with the advice and consent of the Senate. The director  
2598 is empowered to employ or appoint necessary agents. The \* \* \*  
2599 director may also employ such secretarial, clerical and  
2600 administrative personnel, including a duly licensed attorney, as  
2601 necessary for the operation of the bureau, and shall have such  
2602 quarters, equipment and facilities as needed. The salary and  
2603 qualifications of the attorney authorized by this section shall be  
2604 fixed by the director, but the salary shall not exceed the salary  
2605 authorized for an assistant attorney general who performs similar  
2606 duties. The bureau shall be under the management of the  
2607 Department of Public Safety.

2608           The director and agents so appointed shall be citizens of the  
2609 United States and of the State of Mississippi, and of good moral  
2610 character. The agents shall be not less than twenty-one (21) nor  
2611 shall have attained the age of thirty-six (36) years of age at the  
2612 time of such appointment. In addition thereto, those appointed  
2613 shall have satisfactorily completed at least two (2) years of  
2614 college studies. However, two (2) years of satisfactory service  
2615 as a law enforcement officer and the completion of the prescribed  
2616 course of study at a school operated by the Bureau of Narcotics  
2617 and Dangerous Drugs, United States Justice Department, shall  
2618 satisfy one (1) year of such college studies, and four (4) years  
2619 of satisfactory service as a law enforcement officer and the  
2620 completion of the prescribed course of study at such federal  
2621 bureau school as stated heretofore shall fully satisfy the two (2)  
2622 years of college requirement. The director shall also be required  
2623 to complete a prescribed course of study at a school operated by  
2624 the Bureau of Narcotics and Dangerous Drugs, United States Justice  
2625 Department.

2626           During the period of the first twelve (12) months after  
2627 appointment, any employee of the bureau shall be subject to  
2628 dismissal at the will of the director. After twelve (12) months'  
2629 service, no employee of the bureau shall be subject to dismissal  
2630 unless charges have been filed with the director, showing cause  
2631 for dismissal of the employee of the bureau. A date shall be set  
2632 for hearing before the director and the employee notified in  
2633 writing of the date of such hearing and of the charges filed. The  
2634 hearing shall be held not less than ten (10) days after  
2635 notification to the employee. After the hearing, at which the  
2636 employee shall be entitled to legal counsel, a written order of  
2637 the director shall be necessary for dismissal and the decision  
2638 shall be final. Any such order of the director shall be a public  
2639 record and subject to inspection as such.

2640           The Commissioner of Public Safety may assign members of the  
2641 Mississippi Highway Safety Patrol, regardless of age, to the  
2642 bureau at the request of the director of the bureau; however, when  
2643 any highway patrolman or other employee, agent or official of the  
2644 Mississippi Department of Public Safety is assigned to duty with,  
2645 or is employed by, the bureau, he shall not be subject to  
2646 assignment or transfer to any other bureau or department within  
2647 the Mississippi Department of Public Safety except by the  
2648 director. Any highway patrolman assigned to duty with the bureau  
2649 shall retain his status as a highway patrolman, but shall be under  
2650 the supervision of the director. For purposes of seniority within  
2651 the Highway Safety Patrol and for purposes of retirement under the  
2652 Mississippi Highway Safety Patrol Retirement System, highway  
2653 patrolmen assigned to the bureau will be credited as if performing  
2654 duty with the Highway Safety Patrol.

2655           The director may enter into contracts or agreements with the  
2656 State Board of Health for purposes of recruitment and screening of  
2657 applicants through the merit system.

2658           The director may enter into agreements with bureaus or  
2659 departments of other states or of the United States for the  
2660 exchange or temporary assignment of agents for special undercover  
2661 assignments and for performance of specific duties.

2662           The director is \* \* \* authorized to assign agents of the  
2663 bureau to such duty and to request and accept agents from such  
2664 other bureaus or departments for such duty.

2665           **SECTION 41.** Section 65-1-131, Mississippi Code of 1972, is  
2666 amended as follows:

2667           65-1-131. (1) The Mississippi Transportation Commission may  
2668 appoint and commission qualified persons as security officers of  
2669 the Mississippi Department of Transportation who shall be under  
2670 the management of the Department of Public Safety. Any such  
2671 security officer so appointed shall be a full-time employee of the  
2672 Transportation Department and shall not be employed by any  
2673 privately owned guard or security service, and shall at all times  
2674 be answerable and responsible to the Department of Public Safety.

2675           (2) A security officer appointed and commissioned as  
2676 provided in subsection (1) of this section shall, before entering  
2677 upon his duties as such officer, take the oath of office  
2678 prescribed by Section 268, Mississippi Constitution of 1890, which  
2679 shall be endorsed upon his commission. The commission, with the  
2680 oath endorsed upon it, shall be entered in the official minute  
2681 book of the Transportation Commission.

2682           (3) A security officer appointed and commissioned pursuant  
2683 to the provisions of subsection (1) of this section, shall, while  
2684 engaged in the performance of his duties, carry on his person a  
2685 badge identifying him as a security officer of the Mississippi  
2686 Department of Transportation and an identification card issued by  
2687 the Transportation Commission. When in uniform, each such  
2688 security officer shall wear his badge in plain view.

2689           (4) A security officer appointed and commissioned under  
2690 subsection (1) of this section may exercise the same powers of

2691 arrest and the right to bear firearms that may be exercised by any  
2692 state, municipal or other police officer in this state, but only  
2693 with respect to violations of law which are committed on or within  
2694 buildings, property or facilities owned by or under the  
2695 jurisdiction of the Transportation Commission or the  
2696 Transportation Department. Any right granted under this  
2697 subsection in no way relieves the requirements of appropriate  
2698 affidavit and warrant for arrest from the appropriate jurisdiction  
2699 and authority pursuant to the laws of this state.

2700 (5) On behalf of each person who is employed as a security  
2701 officer under subsection (1) of this section and who is trained as  
2702 a security officer at the Mississippi Law Enforcement Officers'  
2703 Training Academy, the Transportation Department shall be required  
2704 to pay to the academy at least an amount equal to the per student  
2705 cost of operation of said academy as tuition.

2706 **SECTION 42.** Section 77-1-21, Mississippi Code of 1972, is  
2707 amended as follows:

2708 77-1-21. For the purpose of enforcing the provisions of the  
2709 Mississippi Motor Carrier Regulatory Law of 1938, the commission  
2710 is hereby authorized to employ, in addition to personnel already  
2711 employed by the commission, one (1) chief enforcement officer and  
2712 twenty-one (21) inspectors, the salaries of whom shall be fixed by  
2713 the commission. Such officers shall be under the management of  
2714 the Department of Public Safety. The chief enforcement officer  
2715 and the inspectors shall devote their full time to the performance  
2716 of their duties and shall take an oath faithfully to perform the  
2717 duties of their position. The commission shall require bonds to  
2718 be carried on such employees as the commission may deem necessary,  
2719 the cost thereof to be paid by the commission. The chief  
2720 enforcement officer and inspectors shall be qualified by  
2721 experience and training in law enforcement or investigative work,  
2722 and shall attend and satisfactorily complete an appropriate course  
2723 of instruction established by the Commissioner of Public Safety at



2724 the law enforcement officers training academy. The chief  
2725 enforcement officer and the inspectors herein referred to shall be  
2726 selected after an examination as to physical and mental fitness.  
2727 Such employees shall be citizens of the United States and the  
2728 State of Mississippi, and of good moral character. All such  
2729 members of staff shall be appointed by the commission and shall be  
2730 subject to removal at any time by the commission.

2731 **PART 8 - GAMING**

2732 **SECTION 43.** Section 75-76-129, Mississippi Code of 1972, is  
2733 amended as follows:

2734 **[Through June 30, 2022, this section shall read as follows:]**

2735 75-76-129. On or before the last day of each month all  
2736 taxes, fees, interest, penalties, damages, fines or other monies  
2737 collected by the State Tax Commission during that month under the  
2738 provisions of this chapter, with the exception of (a) the local  
2739 government fees imposed under Section 75-76-195, and (b) an amount  
2740 equal to Three Million Dollars (\$3,000,000.00) of the revenue  
2741 collected pursuant to the fee imposed under Section  
2742 75-76-177(1)(c), or an amount equal to twenty-five percent (25%)  
2743 of the revenue collected pursuant to the fee imposed under Section  
2744 75-76-177(1)(c), whichever is the greater amount, shall be paid by  
2745 the State Tax Commission to the State Treasurer to be deposited in  
2746 the State General Fund. The local government fees shall be  
2747 distributed by the State Tax Commission pursuant to Section  
2748 75-76-197. An amount equal to Three Million Dollars  
2749 (\$3,000,000.00) of the revenue collected during that month  
2750 pursuant to the fee imposed under Section 75-76-177(1)(c) shall be  
2751 deposited by the State Tax Commission into the bond sinking fund  
2752 created in Section 65-39-3. The revenue collected during that  
2753 month pursuant to the fee imposed under Section 75-76-177(1)(c)  
2754 that is in excess of Three Million Dollars (\$3,000,000.00), but is  
2755 less than twenty-five percent (25%) of the amount of revenue  
2756 collected during that month, shall be distributed as follows:

2757           (a) Twenty-five Thousand Dollars (\$25,000.00) shall be  
2758 deposited each month into a special fund that is created in the  
2759 State Treasury. Monies in the special fund may be expended, upon  
2760 appropriation by the Legislature, to assist counties in  
2761 eradicating or controlling beaver populations. Monies in the fund  
2762 at the end of a fiscal year shall not lapse into the General Fund  
2763 and interest earned on any amounts in the fund shall be credited  
2764 to the special fund.

2765           (b) The amount each month that exceeds Twenty-five  
2766 Thousand Dollars (\$25,000.00) but which is less than One Million  
2767 Six Hundred Sixty-six Thousand Six Hundred and Sixty-six Dollars  
2768 (\$1,666,666.00), shall be deposited into the Local System Bridge  
2769 Replacement and Rehabilitation Fund created under Section  
2770 65-37-13.

2771           (c) The amount each month that exceeds One Million Six  
2772 Hundred Ninety-one Thousand Six Hundred and Sixty-six Dollars  
2773 (\$1,691,666.00) shall be deposited into the Local System Road Fund  
2774 created under Section 65-18-9.

2775           **[From and after July 1, 2022, this section shall read as**  
2776 **follows:]**

2777           75-76-129. On or before the last day of each month, all  
2778 taxes, fees, interest, penalties, damages, fines or other monies  
2779 collected by the State Tax Commission during that month under the  
2780 provisions of this chapter, with the exception of the local  
2781 government fees imposed under Section 75-76-195, shall be paid by  
2782 the State Tax Commission to the State Treasurer to be deposited in  
2783 the State General Fund. The local government fees shall be  
2784 distributed by the State Tax Commission pursuant to Section  
2785 75-76-197.

2786           **SECTION 44.** Section 65-37-13, Mississippi Code of 1972, is  
2787 amended as follows:

2788           65-37-13. (1) There is created in the State Treasury a  
2789 special fund to be designated as the "Local System Bridge

2790 Replacement and Rehabilitation Fund." The fund shall consist of  
2791 the monies directed to be deposited into the fund under Section  
2792 75-76-129 and such other monies as the Legislature may designate  
2793 for deposit into the fund. Monies in the fund may be expended  
2794 upon legislative appropriation in accordance with the provisions  
2795 of Sections 65-37-1 through 65-37-15.

2796 \* \* \*

2797 (2) Such monies as are deposited in the fund under the  
2798 provisions of this section may be expended upon requisition  
2799 therefor by the State Aid Engineer in accordance with the  
2800 provisions of Sections 65-37-1 through 65-37-15. The Office of  
2801 State Aid Road Construction shall be entitled to reimbursement  
2802 from monies in the fund, upon requisitions therefor by the State  
2803 Aid Engineer, for the actual expenses incurred by the office in  
2804 administering the provisions of the local system bridge  
2805 replacement and rehabilitation program. Unexpended amounts  
2806 remaining in the fund at the end of a fiscal year shall not lapse  
2807 into the State General Fund, and any interest earned on amounts in  
2808 the fund shall be deposited to the credit of the fund.

2809 (3) Monies in the Local System Bridge Replacement and  
2810 Rehabilitation Fund shall be allocated and become available for  
2811 distribution to counties in accordance with the formula prescribed  
2812 in Section 65-37-4 beginning January 1, 1995, on a  
2813 project-by-project basis. Monies in the Local System Bridge  
2814 Replacement and Rehabilitation Fund may not be used or expended  
2815 for any purpose except as authorized under Sections 65-37-1  
2816 through 65-37-15.

2817 (4) Monies in the Local System Bridge Replacement and  
2818 Rehabilitation Fund may be credited to a county in advance of the  
2819 normal accrual to finance certain projects, subject to the  
2820 approval of the State Aid Engineer and subject further to the  
2821 following limitations:

2822           (a) That the maximum amount of such monies that may be  
2823 advanced to any county shall not exceed ninety percent (90%) of  
2824 the funds estimated to accrue to such county during the remainder  
2825 of the term of office of the board of supervisors of such county;

2826           (b) That no advance credit of funds will be made to any  
2827 county when the unobligated balance in the Local System Bridge  
2828 Replacement and Rehabilitation Fund is less than One Million  
2829 Dollars (\$1,000,000.00); and

2830           (c) That such advance crediting of funds be effected by  
2831 the State Aid Engineer at the time of the approval of the plans  
2832 and specifications for the proposed projects.

2833           It is the intent of this provision to utilize to the fullest  
2834 practicable extent the balance of monies in the Local System  
2835 Bridge Replacement and Rehabilitation Fund on hand at all times.

2836           **SECTION 45.** Section 65-18-9, Mississippi Code of 1972, is  
2837 amended as follows:

2838           65-18-9. (1) The State Aid Engineer shall allocate annually  
2839 the amount of the state aid road allocation of a county that is  
2840 requested by such county for use in the construction,  
2841 reconstruction and paving of local system roads in the county if  
2842 the county has met the requirements of this chapter; provided,  
2843 however, that the State Aid Engineer shall not allocate more than  
2844 twenty-five percent (25%) of the annual state aid road allocation  
2845 of a county for such purposes.

2846           (2) The State Aid Engineer shall allocate annually the  
2847 amount of the Local System Bridge Replacement and Rehabilitation  
2848 Program allocation of a county that is requested by such county  
2849 for use in the construction, reconstruction and paving of local  
2850 system roads in the county if:

2851           (a) The State Aid Engineer has certified, pursuant to  
2852 Section 65-37-7, that all the local system bridges within the  
2853 county have a sufficiency rating of greater than fifty (50) or  
2854 that all such bridges within the county with a sufficiency rating

2855 of fifty (50) or less are currently under contract for replacement  
2856 or rehabilitation; and

2857 (b) The county has met the requirements of this  
2858 chapter.

2859 (3) There is created in the State Treasury a special fund to  
2860 be designated as the "Local System Road Fund." The fund shall  
2861 consist of the monies directed to be deposited into the fund under  
2862 Section 75-76-129 and such other monies as the Legislature may  
2863 designate for deposit into the fund. The State Aid Engineer shall  
2864 allocate annually to each county monies in the fund according to  
2865 state aid road formula under Section 27-65-75(4). Monies  
2866 allocated to a county under this subsection may be used by a  
2867 county in the construction, reconstruction and paving of local  
2868 system roads in the county if the county meets the requirements of  
2869 this chapter.

2870 (4) The State Aid Engineer shall establish specific designs  
2871 and standards to be followed by such counties in the construction,  
2872 reconstruction and paving of local system roads. The specific  
2873 designs and standards shall be based upon policies on geometric  
2874 design of local rural roads, highways and streets adopted and  
2875 published by the American Association of State Highway and  
2876 Transportation Officials.

2877 **SECTION 46.** Section 65-18-11, Mississippi Code of 1972, is  
2878 amended as follows:

2879 65-18-11. (1) In order for a county to be eligible to  
2880 utilize its Local System Bridge Replacement and Rehabilitation  
2881 Program allocation, any of its state aid road funds, or any of the  
2882 monies allocated to it from the Local System Road Fund, for the  
2883 Local System Road Program, a county must meet the following  
2884 conditions:

2885 (a) The county has employed a county engineer, together  
2886 with such other technical assistance as is necessary to carry out  
2887 the duties of this chapter, the same as provided under the

2888 provisions of Section 65-9-15, for its state aid road system and,  
2889 through its official minutes, has authorized the county engineer  
2890 to perform the necessary engineering services connected with the  
2891 Local System Road Program. The county engineer shall prepare the  
2892 necessary plans and designs for all construction projects,  
2893 including state aid projects and projects provided under this  
2894 chapter. He also shall provide engineering supervision for the  
2895 construction of such projects and shall approve all estimate  
2896 payments made on the projects. Engineering cost for any project  
2897 performed under the Local System Road Program may be paid from any  
2898 funds allocated to a county under the program; however, the  
2899 maximum fee paid to an engineer shall not exceed twelve percent  
2900 (12%) of the final construction cost. No such cost shall be  
2901 reimbursed to the county before the letting of the project; and

2902 (b) The county has presented a plan for the  
2903 construction, reconstruction and paving of a local system road  
2904 which plan has been made and approved by the county engineer of  
2905 the county, showing the specific road or project to be improved,  
2906 stating the condition of the existing roadbed, drainage and  
2907 bridges and outlining the type of construction or reconstruction  
2908 to be made and the designs and specifications therefor, including  
2909 the paving of the road and the sources of revenue to be used and  
2910 the sources and types of material to be used thereon. The plan  
2911 shall be presented to the State Aid Engineer for the initial  
2912 approval of the beginning of a project to receive monies.

2913 (2) After the initial approval of the plan and plans as  
2914 specified in subsection (1)(b) of this section has been made by  
2915 the State Aid Engineer, the county shall be eligible to receive  
2916 all funds made available to the county under the Local System Road  
2917 Program to be used exclusively for the construction,  
2918 reconstruction or paving of the local system road. The project  
2919 may be done either by contract or by using county equipment and  
2920 employees. It shall be according to the original plan or any

2921 amendments thereto which have been approved by the State Aid  
2922 Engineer. The board may use county equipment and employees if the  
2923 construction can be accomplished at a more reasonable cost than  
2924 can be achieved by contract.

2925 **SECTION 47.** Section 75-76-193, Mississippi Code of 1972, is  
2926 amended as follows:

2927 75-76-193. (1) In calculating gross revenue, any prizes,  
2928 premiums, drawings, benefits or tickets which are redeemable for  
2929 money or merchandise or other promotional allowance, except money  
2930 or tokens paid at face value directly to a patron as the result of  
2931 a specific wager and the amount the cash paid to purchase an  
2932 annuity to fund winnings paid to that patron over several years by  
2933 an independent financial institution, must not be deducted as  
2934 losses from winnings at any game except a slot machine.

2935 (2) In calculating gross revenue from slot machines, the  
2936 actual cost to the licensee of any personal property distributed  
2937 to a patron as the result of a legitimate wager may be deducted as  
2938 a loss, but not travel expenses, food, refreshments, lodging or  
2939 services.

2940 (3) In calculating gross revenue from any game, including,  
2941 but not limited to, a slot machine, the payments of cash and/or  
2942 the transfers of any other thing or things of value to patrons  
2943 based on the result of the game shall not be deducted as losses  
2944 paid to patrons where the type of item used or risked by the  
2945 patron to participate in the game, including, but not limited to,  
2946 a chip, token, point or credit, would not be considered revenue to  
2947 the licensee if the patron lost in the game. Those transactions  
2948 where the item used or risked by the patron is not included in the  
2949 computation of gross revenue of the licensee shall not constitute  
2950 a wager. The licensee shall maintain detailed records to identify  
2951 whether the payments of cash and/or transfers of things of value  
2952 to patrons are the result of a wager or a nonwager event.

2953 **PART 9 - EDUCATION**

2954           **SECTION 48.** Section 37-9-24, Mississippi Code of 1972, is  
2955 brought forward as follows:

2956           37-9-24. (1) Except as otherwise provided in this section,  
2957 no school district shall contract with any licensed personnel for  
2958 a number of employment days which shall be less than one hundred  
2959 eighty-five (185).

2960           Beginning with the 1994-1995 school year, no school district  
2961 shall contract with any licensed personnel for less than one  
2962 hundred eighty-seven (187) employment days.

2963           (2) Licensed personnel may be employed for less than a full  
2964 school year if the contract states the exact period of time for  
2965 which the licensed person is to be employed.

2966           **SECTION 49.** Section 37-13-63, Mississippi Code of 1972, is  
2967 brought forward as follows:

2968           37-13-63. (1) All public schools in the state shall be kept  
2969 in session for at least one hundred eighty (180) days in each  
2970 scholastic year.

2971           (2) If the school board of any school district shall  
2972 determine that it is not economically feasible or practicable to  
2973 operate any school within the district for the full one hundred  
2974 eighty (180) days required for a scholastic year as contemplated  
2975 due to an enemy attack, a man-made, technological or natural  
2976 disaster in which the Governor has declared a disaster emergency  
2977 under the laws of this state or the President of the United States  
2978 has declared an emergency or major disaster to exist in this  
2979 state, said school board may notify the State Department of  
2980 Education of such disaster and submit a plan for altering the  
2981 school term. If the State Board of Education finds such disaster  
2982 to be the cause of the school not operating for the contemplated  
2983 school term and that such school was in a school district covered  
2984 by the Governor's or President's disaster declaration, it may  
2985 permit said school board to operate the schools in its district  
2986 for less than one hundred eighty (180) days.



2987           **SECTION 50.** Section 37-19-7, Mississippi Code of 1972, is  
2988 brought forward as follows:

2989           37-19-7. (1) This section shall be known and may be cited  
2990 as the Mississippi "Teacher Opportunity Program (TOP)." The  
2991 allowance in the minimum education program and the Mississippi  
2992 Adequate Education Program for teachers' salaries in each county  
2993 and separate school district shall be determined and paid in  
2994 accordance with the scale for teachers' salaries as provided in  
2995 this subsection. For teachers holding the following types of  
2996 licenses or the equivalent as determined by the State Board of  
2997 Education, and the following number of years of teaching  
2998 experience, the scale shall be as follows:

2999   **2001-2002 School Year**

3000                           **Less Than 25 Years of Teaching Experience**

3001	AAAA.....	\$ 26,290.00
3002	AAA.....	25,440.00
3003	AA.....	24,590.00
3004	A.....	23,540.00

3005   **25 or More Years of Teaching Experience**

3006	AAAA.....	\$ 27,790.00
3007	AAA.....	26,940.00
3008	AA.....	26,090.00
3009	A.....	25,040.00

3010   **2002-2003 School Year**

3011                           **Less Than 25 Years of Teaching Experience**

3012	AAAA.....	\$ 27,850.00
3013	AAA.....	27,000.00
3014	AA.....	26,150.00
3015	A.....	24,700.00

3016   **25 or More Years of Teaching Experience**

3017	AAAA.....	\$ 29,850.00
3018	AAA.....	29,000.00
3019	AA.....	28,150.00

3020 A..... 26,700.00  
3021 For each one percent (1%) that the Sine Die General Fund  
3022 Revenue Estimate Growth exceeds five percent (5%) for fiscal year  
3023 2003, as certified by the Legislative Budget Office to the State  
3024 Board of Education and subject to specific appropriation therefor  
3025 by the Legislature, the State Board of Education shall revise the  
3026 salary scale to provide an additional one percent (1%) across the  
3027 board increase in the base salaries for each type of license.

3028 **2003-2004 School Year**

3029 **Less Than 25 Years of Teaching Experience**

3030 AAAA..... \$ 29,550.00  
3031 AAA..... 28,700.00  
3032 AA..... 27,850.00  
3033 A..... 26,000.00

3034 **25 or More Years of Teaching Experience**

3035 AAAA..... \$ 31,550.00  
3036 AAA..... 30,700.00  
3037 AA..... 29,850.00  
3038 A..... 28,000.00

3039 The State Board of Education shall revise the salary scale  
3040 prescribed above for the 2003-2004 school year to conform to any  
3041 adjustments made to the salary scale in the prior fiscal year due  
3042 to revenue growth over and above five percent (5%). For each one  
3043 percent (1%) that the Sine Die General Fund Revenue Estimate  
3044 Growth exceeds five percent (5%) for fiscal year 2004, as  
3045 certified by the Legislative Budget Office to the State Board of  
3046 Education and subject to specific appropriation therefor by the  
3047 Legislature, the State Board of Education shall revise the salary  
3048 scale to provide an additional one percent (1%) across the board  
3049 increase in the base salaries for each type of license.

3050 **2004-2005 School Year**

3051 **Less Than 25 Years of Teaching Experience**

3052 AAAA..... \$ 31,775.00

3053	AAA.....	30,850.00
3054	AA.....	29,925.00
3055	A.....	28,000.00

**25 or More Years of Teaching Experience**

3057	AAAA.....	\$ 33,775.00
3058	AAA.....	32,850.00
3059	AA.....	31,925.00
3060	A.....	30,000.00

3061 The State Board of Education shall revise the salary scale  
3062 prescribed above for the 2004-2005 school year to conform to any  
3063 adjustments made to the salary scale in prior fiscal years due to  
3064 revenue growth over and above five percent (5%). For each one  
3065 percent (1%) that the Sine Die General Fund Revenue Estimate  
3066 Growth exceeds five percent (5%) for fiscal year 2005, as  
3067 certified by the Legislative Budget Office to the State Board of  
3068 Education and subject to specific appropriation therefor by the  
3069 Legislature, the State Board of Education shall revise the salary  
3070 scale to provide an additional one percent (1%) across the board  
3071 increase in the base salaries for each type of license.

**2005-2006 School Year and School Years Thereafter**

**Less Than 25 Years of Teaching Experience**

3074	AAAA.....	\$ 34,000.00
3075	AAA.....	33,000.00
3076	AA.....	32,000.00
3077	A.....	30,000.00

**25 or More Years of Teaching Experience**

3079	AAAA.....	\$ 36,000.00
3080	AAA.....	35,000.00
3081	AA.....	34,000.00
3082	A.....	32,000.00

3083 The State Board of Education shall revise the salary scale  
3084 prescribed above for the 2005-2006 school year to conform to any  
3085 adjustments made to the salary scale in prior fiscal years due to

3086 revenue growth over and above five percent (5%). For each one  
3087 percent (1%) that the Sine Die General Fund Revenue Estimate  
3088 Growth exceeds five percent (5%) for fiscal year 2006, as  
3089 certified by the Legislative Budget Office to the State Board of  
3090 Education and subject to specific appropriation therefor by the  
3091 Legislature, the State Board of Education shall revise the salary  
3092 scale to provide an additional one percent (1%) across the board  
3093 increase in the base salaries for each type of license.

3094 It is the intent of the Legislature that any state funds made  
3095 available for salaries of licensed personnel in excess of the  
3096 funds paid for such salaries for the 1986-1987 school year shall  
3097 be paid to licensed personnel pursuant to a personnel appraisal  
3098 and compensation system implemented by the State Board of  
3099 Education. The State Board of Education shall have the authority  
3100 to adopt and amend rules and regulations as are necessary to  
3101 establish, administer and maintain the system.

3102 All teachers employed on a full-time basis shall be paid a  
3103 minimum salary in accordance with the above scale. However, no  
3104 school district shall receive any funds under this section for any  
3105 school year during which the local supplement paid to any  
3106 individual teacher shall have been reduced to a sum less than that  
3107 paid to that individual teacher for performing the same duties  
3108 from local supplement during the immediately preceding school  
3109 year. The amount actually spent for the purposes of group health  
3110 and/or life insurance shall be considered as a part of the  
3111 aggregate amount of local supplement but shall not be considered a  
3112 part of the amount of individual local supplement.

3113 **2001-2002 School Year Annual Increment**

3114 For teachers holding a Class AAAA license, the minimum base  
3115 pay specified in this subsection shall be increased by the sum of  
3116 Six Hundred Sixty Dollars (\$660.00) for each year of teaching  
3117 experience possessed by the person holding such license until such  
3118 person shall have twenty-five (25) years of teaching experience.

3119           For teachers holding a Class AAA license, the minimum base  
3120 pay specified in this subsection shall be increased by the sum of  
3121 Five Hundred Ninety-five Dollars (\$595.00) for each year of  
3122 teaching experience possessed by the person holding such license  
3123 until such person shall have twenty-five (25) years of teaching  
3124 experience.

3125           For teachers holding a Class AA license, the minimum base pay  
3126 specified in this subsection shall be increased by the sum of Five  
3127 Hundred Thirty Dollars (\$530.00) for each year of teaching  
3128 experience possessed by the person holding such license until such  
3129 person shall have twenty-five (25) years of teaching experience.

3130           For teachers holding a Class A license, the minimum base pay  
3131 specified in this subsection shall be increased by the sum of Four  
3132 Hundred Thirty-five Dollars (\$435.00) for each year of teaching  
3133 experience possessed by the person holding such license until such  
3134 person shall have twenty-one (21) years of teaching experience.

3135                           **2002-2003 School Year Annual Increment**

3136           For teachers holding a Class AAAA license, the minimum base  
3137 pay specified in this subsection shall be increased by the sum of  
3138 Six Hundred Eighty-five Dollars (\$685.00) for each year of  
3139 teaching experience possessed by the person holding such license  
3140 until such person shall have twenty-five (25) years of teaching  
3141 experience.

3142           For teachers holding a Class AAA license, the minimum base  
3143 pay specified in this subsection shall be increased by the sum of  
3144 Six Hundred Twenty Dollars (\$620.00) for each year of teaching  
3145 experience possessed by the person holding such license until such  
3146 person shall have twenty-five (25) years of teaching experience.

3147           For teachers holding a Class AA license, the minimum base pay  
3148 specified in this subsection shall be increased by the sum of Five  
3149 Hundred Fifty-five Dollars (\$555.00) for each year of teaching  
3150 experience possessed by the person holding such license until such  
3151 person shall have twenty-five (25) years of teaching experience.

3152 For teachers holding a Class A license, the minimum base pay  
3153 specified in this subsection shall be increased by the sum of Four  
3154 Hundred Forty-five Dollars (\$445.00) for each year of teaching  
3155 experience possessed by the person holding such license until such  
3156 person shall have twenty-two (22) years of teaching experience.

3157 **2003-2004 School Year Annual Increment**

3158 For teachers holding a Class AAAA license, the minimum base  
3159 pay specified in this subsection shall be increased by the sum of  
3160 Seven Hundred Ten Dollars (\$710.00) for each year of teaching  
3161 experience possessed by the person holding such license until such  
3162 person shall have twenty-five (25) years of teaching experience.

3163 For teachers holding a Class AAA license, the minimum base  
3164 pay specified in this subsection shall be increased by the sum of  
3165 Six Hundred Forty-five Dollars (\$645.00) for each year of teaching  
3166 experience possessed by the person holding such license until such  
3167 person shall have twenty-five (25) years of teaching experience.

3168 For teachers holding a Class AA license, the minimum base pay  
3169 specified in this subsection shall be increased by the sum of Five  
3170 Hundred Eighty Dollars (\$580.00) for each year of teaching  
3171 experience possessed by the person holding such license until such  
3172 person shall have twenty-five (25) years of teaching experience.

3173 For teachers holding a Class A license, the minimum base pay  
3174 specified in this subsection shall be increased by the sum of Four  
3175 Hundred Fifty-five Dollars (\$455.00) for each year of teaching  
3176 experience possessed by the person holding such license until such  
3177 person shall have twenty-three (23) years of teaching experience.

3178 **2004-2005 School Year Annual Increment**

3179 For teachers holding a Class AAAA license, the minimum base  
3180 pay specified in this subsection shall be increased by the sum of  
3181 Seven Hundred Forty Dollars (\$740.00) for each year of teaching  
3182 experience possessed by the person holding such license until such  
3183 person shall have twenty-five (25) years of teaching experience.

3184 For teachers holding a Class AAA license, the minimum base  
3185 pay specified in this subsection shall be increased by the sum of  
3186 Six Hundred Seventy-five Dollars (\$675.00) for each year of  
3187 teaching experience possessed by the person holding such license  
3188 until such person shall have twenty-five (25) years of teaching  
3189 experience.

3190 For teachers holding a Class AA license, the minimum base pay  
3191 specified in this subsection shall be increased by the sum of Six  
3192 Hundred Ten Dollars (\$610.00) for each year of teaching experience  
3193 possessed by the person holding such license until such person  
3194 shall have twenty-five (25) years of teaching experience.

3195 For teachers holding a Class A license, the minimum base pay  
3196 specified in this subsection shall be increased by the sum of Four  
3197 Hundred Sixty-five Dollars (\$465.00) for each year of teaching  
3198 experience possessed by the person holding such license until such  
3199 person shall have twenty-four (24) years of teaching experience.

3200 **2005-2006 School Year**

3201 **and School Years Thereafter Annual Increments**

3202 For teachers holding a Class AAAA license, the minimum base  
3203 pay specified in this subsection shall be increased by the sum of  
3204 Seven Hundred Seventy Dollars (\$770.00) for each year of teaching  
3205 experience possessed by the person holding such license until such  
3206 person shall have twenty-five (25) years of teaching experience.

3207 For teachers holding a Class AAA license, the minimum base  
3208 pay specified in this subsection shall be increased by the sum of  
3209 Seven Hundred Five Dollars (\$705.00) for each year of teaching  
3210 experience possessed by the person holding such license until such  
3211 person shall have twenty-five (25) years of teaching experience.

3212 For teachers holding a Class AA license, the minimum base pay  
3213 specified in this subsection shall be increased by the sum of Six  
3214 Hundred Forty Dollars (\$640.00) for each year of teaching  
3215 experience possessed by the person holding such license until such  
3216 person shall have twenty-five (25) years of teaching experience.

3217 For teachers holding a Class A license, the minimum base pay  
3218 specified in this subsection shall be increased by the sum of Four  
3219 Hundred Eighty Dollars (\$480.00) for each year of teaching  
3220 experience possessed by the person holding such license until such  
3221 person shall have twenty-four (24) years of teaching experience.

3222 The level of professional training of each teacher to be used  
3223 in establishing the salary allotment for the teachers for each  
3224 year shall be determined by the type of valid teacher's license  
3225 issued to those teachers on or before October 1 of the current  
3226 school year.

3227 (2) (a) The following employees shall receive an annual  
3228 salary supplement in the amount of Six Thousand Dollars  
3229 (\$6,000.00), plus fringe benefits, in addition to any other  
3230 compensation to which the employee may be entitled:

3231 (i) Any licensed teacher who has met the  
3232 requirements and acquired a Master Teacher certificate from the  
3233 National Board for Professional Teaching Standards and who is  
3234 employed by a local school board or the State Board of Education  
3235 as a teacher and not as an administrator. Such teacher shall  
3236 submit documentation to the State Department of Education that the  
3237 certificate was received prior to October 15 in order to be  
3238 eligible for the full salary supplement in the current school  
3239 year, or the teacher shall submit such documentation to the State  
3240 Department of Education prior to February 15 in order to be  
3241 eligible for a prorated salary supplement beginning with the  
3242 second term of the school year.

3243 (ii) Any licensed school counselor who has met the  
3244 requirements and acquired a National Certified School Counselor  
3245 (NCSC) endorsement from the National Board of Certified Counselors  
3246 and who is employed by a local school board or the State Board of  
3247 Education as a counselor and not as an administrator. Such  
3248 licensed school counselor shall submit documentation to the State  
3249 Department of Education that the endorsement was received prior to



3250 October 15 in order to be eligible for the full salary supplement  
3251 in the current school year, or the licensed school counselor shall  
3252 submit such documentation to the State Department of Education  
3253 prior to February 15 in order to be eligible for a prorated salary  
3254 supplement beginning with the second term of the school year.  
3255 However, the salary supplement authorized under this item shall be  
3256 discontinued two (2) years after the date on which the National  
3257 Board for Professional Teaching Standards offers a certification  
3258 process for a Master Teacher certificate for school counselors,  
3259 and any school counselor receiving the salary supplement will be  
3260 required to complete the Master Teacher certificate process under  
3261 item (i) of this paragraph in order to continue receiving such  
3262 salary supplement.

3263 (iii) Any licensed speech-language pathologist and  
3264 audiologist who has met the requirements and acquired a  
3265 Certificate of Clinical Competence from the American  
3266 Speech-Language-Hearing Association and who is employed by a local  
3267 school board. Such licensed speech-language pathologist and  
3268 audiologist shall submit documentation to the State Department of  
3269 Education that the certificate or endorsement was received prior  
3270 to October 15 in order to be eligible for the full salary  
3271 supplement in the current school year, or the licensed  
3272 speech-language pathologist and audiologist shall submit such  
3273 documentation to the State Department of Education prior to  
3274 February 15 in order to be eligible for a prorated salary  
3275 supplement beginning with the second term of the school year.  
3276 However, the salary supplement authorized under this item shall be  
3277 discontinued two (2) years after the date on which the National  
3278 Board for Professional Teaching Standards offers a certification  
3279 process for a Master Teacher certificate for school speech  
3280 pathologists and audiologists, and any school speech pathologist  
3281 and audiologist receiving the salary supplement will be required  
3282 to complete the Master Teacher certificate process under item (i)

3283 of this paragraph in order to continue receiving such salary  
3284 supplement.

3285           (b) An employee shall be reimbursed one (1) time for  
3286 the actual cost of completing the process of acquiring the  
3287 certificate or endorsement, excluding any costs incurred for  
3288 postgraduate courses, not to exceed Five Hundred Dollars (\$500.00)  
3289 for a school counselor or speech-language pathologist and  
3290 audiologist, regardless of whether or not the process resulted in  
3291 the award of the certificate or endorsement. A local school  
3292 district or any private individual or entity may pay the cost of  
3293 completing the process of acquiring the certificate or endorsement  
3294 for any employee of the school district described under paragraph  
3295 (a), and the State Department of Education shall reimburse the  
3296 school district for such cost, regardless of whether or not the  
3297 process resulted in the award of the certificate or endorsement.  
3298 If a private individual or entity has paid the cost of completing  
3299 the process of acquiring the certificate or endorsement for an  
3300 employee, the local school district may agree to directly  
3301 reimburse the individual or entity for such cost on behalf of the  
3302 employee.

3303           (c) All salary supplements, fringe benefits and process  
3304 reimbursement authorized under this subsection shall be paid  
3305 directly by the State Department of Education to the local school  
3306 district and shall be in addition to its minimum education program  
3307 allotments and not a part thereof in accordance with regulations  
3308 promulgated by the State Board of Education, and subject to  
3309 appropriation by the Legislature. Local school districts shall  
3310 not reduce the local supplement paid to any employee receiving  
3311 such salary supplement, and the employee shall receive any local  
3312 supplement to which employees with similar training and experience  
3313 otherwise are entitled.

3314           (d) The State Department of Education may not pay any  
3315 process reimbursement to a school district for an employee who

3316 does not complete the certification or endorsement process  
3317 required to be eligible for the certificate or endorsement. If an  
3318 employee for whom such cost has been paid in full or in part by a  
3319 local school district or private individual or entity fails to  
3320 complete the certification or endorsement process, the employee  
3321 shall be liable to the school district or individual or entity for  
3322 all amounts paid by the school district or individual or entity on  
3323 behalf of that employee toward his or her certificate or  
3324 endorsement.

3325         **SECTION 51.** Section 37-21-7, Mississippi Code of 1972, is  
3326 brought forward as follows:

3327         37-21-7. (1) This section shall be referred to as the  
3328 "Mississippi Elementary Schools Assistant Teacher Program," the  
3329 purpose of which shall be to provide an early childhood education  
3330 program that assists in the instruction of basic skills. The  
3331 State Board of Education is authorized, empowered and directed to  
3332 implement a statewide system of assistant teachers in kindergarten  
3333 classes and in the first, second and third grades. The assistant  
3334 teacher shall assist pupils in actual instruction under the strict  
3335 supervision of a licensed teacher.

3336         (2) (a) Except as otherwise authorized under subsection  
3337 (7), each school district shall employ the total number of  
3338 assistant teachers funded under subsection (6) of this section.  
3339 The superintendent of each district shall assign the assistant  
3340 teachers to the kindergarten, first-, second- and third-grade  
3341 classes in the district in a manner that will promote the maximum  
3342 efficiency, as determined by the superintendent, in the  
3343 instruction of skills such as verbal and linguistic skills,  
3344 logical and mathematical skills, and social skills.

3345         (b) If a licensed teacher to whom an assistant teacher  
3346 has been assigned is required to be absent from the classroom, the  
3347 assistant teacher may assume responsibility for the classroom in  
3348 lieu of a substitute teacher. However, no assistant teacher shall

3349 assume sole responsibility of the classroom for more than three  
3350 (3) consecutive school days. Further, in no event shall any  
3351 assistant teacher be assigned to serve as a substitute teacher for  
3352 any teacher other than the licensed teacher to whom that assistant  
3353 teacher has been assigned.

3354 (3) Assistant teachers shall have, at a minimum, a high  
3355 school diploma or a GED equivalent, and shall show demonstratable  
3356 proficiency in reading and writing skills. The State Department  
3357 of Education shall develop a testing procedure for assistant  
3358 teacher applicants to be used in all school districts in the  
3359 state.

3360 (4) (a) In order to receive funding, each school district  
3361 shall:

3362 (i) Submit a plan on the implementation of a  
3363 reading improvement program to the State Department of Education;  
3364 and

3365 (ii) Develop a plan of educational accountability  
3366 and assessment of performance, including pretests and posttests,  
3367 for reading in Grades 1 through 6.

3368 (b) Additionally, each school district shall:

3369 (i) Provide annually a mandatory preservice  
3370 orientation session, using an existing in-school service day, for  
3371 administrators and teachers on the effective use of assistant  
3372 teachers as part of a team in the classroom setting and on the  
3373 role of assistant teachers, with emphasis on program goals;

3374 (ii) Hold periodic workshops for administrators  
3375 and teachers on the effective use and supervision of assistant  
3376 teachers;

3377 (iii) Provide training annually on specific  
3378 instructional skills for assistant teachers;

3379 (iv) Annually evaluate their program in accordance  
3380 with their educational accountability and assessment of  
3381 performance plan; and

3382 (v) Designate the necessary personnel to supervise  
3383 and report on their program.

3384 (5) The State Department of Education shall:

3385 (a) Develop and assist in the implementation of a  
3386 statewide uniform training module, subject to the availability of  
3387 funds specifically appropriated therefor by the Legislature, which  
3388 shall be used in all school districts for training administrators,  
3389 teachers and assistant teachers. The module shall provide for the  
3390 consolidated training of each assistant teacher and teacher to  
3391 whom the assistant teacher is assigned, working together as a  
3392 team, and shall require further periodical training for  
3393 administrators, teachers and assistant teachers regarding the role  
3394 of assistant teachers;

3395 (b) Annually evaluate the program on the district and  
3396 state level. Subject to the availability of funds specifically  
3397 appropriated therefor by the Legislature, the department shall  
3398 develop: (i) uniform evaluation reports, to be performed by the  
3399 principal or assistant principal, to collect data for the annual  
3400 overall program evaluation conducted by the department; or (ii) a  
3401 program evaluation model that, at a minimum, addresses process  
3402 evaluation; and

3403 (c) Promulgate rules, regulations and such other  
3404 standards deemed necessary to effectuate the purposes of this  
3405 section. Noncompliance with the provisions of this section and  
3406 any rules, regulations or standards adopted by the department may  
3407 result in a violation of compulsory accreditation standards as  
3408 established by the State Board of Education and Commission on  
3409 School Accreditation.

3410 (6) In addition to other funds allotted under the Minimum  
3411 Education or Adequate Education Program, each school district  
3412 shall be allotted sufficient funding for the purpose of employing  
3413 assistant teachers. No assistant teacher shall be paid less than  
3414 the amount he or she received in the prior school year. No school

3415 district shall receive any funds under this section for any school  
3416 year during which the aggregate amount of the local contribution  
3417 to the salaries of assistant teachers by the district shall have  
3418 been reduced below such amount for the previous year.

3419 For the 2001-2002 school year, the minimum salary for  
3420 assistant teachers shall be Nine Thousand Three Hundred Sixty-five  
3421 Dollars (\$9,365.00).

3422 For the 2002-2003 school year, the minimum salary for  
3423 assistant teachers shall be Nine Thousand Nine Hundred Dollars  
3424 (\$9,900.00).

3425 For the 2003-2004 school year, the minimum salary for  
3426 assistant teachers shall be Ten Thousand Five Hundred Dollars  
3427 (\$10,500.00).

3428 For the 2004-2005 school year, the minimum salary for  
3429 assistant teachers shall be Eleven Thousand Two Hundred Dollars  
3430 (\$11,200.00).

3431 For the 2005-2006 school year and school years thereafter,  
3432 the minimum salary for assistant teachers shall be Twelve Thousand  
3433 Dollars (\$12,000.00).

3434 In addition, for each one percent (1%) that the Sine Die  
3435 General Fund Revenue Estimate Growth exceeds five percent (5%) in  
3436 fiscal year 2003, 2004, 2005 or 2006, as certified by the  
3437 Legislative Budget Office to the State Board of Education and  
3438 subject to the specific appropriation therefor by the Legislature,  
3439 the State Board of Education shall revise the salary scale in the  
3440 appropriate year to provide an additional one percent (1%) across  
3441 the board increase in the base salaries for assistant teachers.  
3442 The State Board of Education shall revise the salaries prescribed  
3443 above for assistant teachers to conform to any adjustments made in  
3444 prior fiscal years due to revenue growth over and above five  
3445 percent (5%). The assistant teachers shall not be restricted to  
3446 working only in the grades for which the funds were allotted, but

3447 may be assigned to other classes as provided in subsection (2)(a)  
3448 of this section.

3449 (7) (a) As an alternative to employing assistant teachers,  
3450 any school district may use the allotment provided under  
3451 subsection (6) of this section for the purpose of employing  
3452 licensed teachers for kindergarten, first-, second- and  
3453 third-grade classes; however, no school district shall be  
3454 authorized to use the allotment for assistant teachers for the  
3455 purpose of employing licensed teachers unless the district has  
3456 established that the employment of licensed teachers using such  
3457 funds will reduce the teacher:student ratio in the kindergarten,  
3458 first-, second- and third-grade classes. All state funds for  
3459 assistant teachers shall be applied to reducing teacher:student  
3460 ratio in Grades K-3.

3461 It is the intent of the Legislature that no school district  
3462 shall dismiss any assistant teacher for the purpose of using the  
3463 assistant teacher allotment to employ licensed teachers. School  
3464 districts may rely only upon normal attrition to reduce the number  
3465 of assistant teachers employed in that district.

3466 (b) In the event any school district meets Level 4 or 5  
3467 accreditation requirements, the State Board of Education, in its  
3468 discretion, may exempt such school district from any accreditation  
3469 requirements for the district's early childhood education program  
3470 or reading improvement program.

3471 **SECTION 52.** Section 37-61-33, Mississippi Code of 1972, is  
3472 amended as follows:

3473 **[Until July 1, 2005, this section shall read as follows:]**

3474 37-61-33. (1) There is created within the State Treasury a  
3475 special fund to be designated the "Education Enhancement Fund"  
3476 into which shall be deposited all the revenues collected pursuant  
3477 to Sections 27-65-75(7) and (8) and 27-67-31(a) and (b).

3478 (2) Of the amount deposited into the Education Enhancement  
3479 Fund, Sixteen Million Dollars (\$16,000,000.00) shall be

3480 appropriated each fiscal year to the State Department of Education  
3481 to be distributed to all school districts. Such money shall be  
3482 distributed to all school districts in the proportion that the  
3483 average daily attendance of each school district bears to the  
3484 average daily attendance of all school districts within the state  
3485 for the following purposes:

3486           (a) Purchasing, erecting, repairing, equipping,  
3487 remodeling and enlarging school buildings and related facilities,  
3488 including gymnasiums, auditoriums, lunchrooms, vocational training  
3489 buildings, libraries, teachers' homes, school barns,  
3490 transportation vehicles (which shall include new and used  
3491 transportation vehicles) and garages for transportation vehicles,  
3492 and purchasing land therefor.

3493           (b) Establishing and equipping school athletic fields  
3494 and necessary facilities connected therewith, and purchasing land  
3495 therefor.

3496           (c) Providing necessary water, light, heating, air  
3497 conditioning and sewerage facilities for school buildings, and  
3498 purchasing land therefor.

3499           (d) As a pledge to pay all or a portion of the debt  
3500 service on debt issued by the school district under Sections  
3501 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351  
3502 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302  
3503 and 37-41-81, or debt issued by boards of supervisors for  
3504 agricultural high schools pursuant to Section 37-27-65, if such  
3505 pledge is accomplished pursuant to a written contract or  
3506 resolution approved and spread upon the minutes of an official  
3507 meeting of the district's school board or board of supervisors.  
3508 The annual grant to such district in any subsequent year during  
3509 the term of the resolution or contract shall not be reduced below  
3510 an amount equal to the district's grant amount for the year in  
3511 which the contract or resolution was adopted. The intent of this  
3512 provision is to allow school districts to irrevocably pledge a



3513 certain, constant stream of revenue as security for long-term  
3514 obligations issued under the code sections enumerated in this  
3515 paragraph or as otherwise allowed by law. It is the intent of the  
3516 Legislature that the provisions of this paragraph shall be  
3517 cumulative and supplemental to any existing funding programs or  
3518 other authority conferred upon school districts or school boards.  
3519 Debt of a district secured by a pledge of sales tax revenue  
3520 pursuant to this paragraph shall not be subject to any debt  
3521 limitation contained in the foregoing enumerated code sections.

3522 (3) The remainder of the money deposited into the Education  
3523 Enhancement Fund shall be appropriated as follows:

3524 (a) To the State Department of Education as follows:

3525 (i) Sixteen and sixty-one one-hundredths percent  
3526 (16.61%) to the cost of the adequate education program determined  
3527 under Section 37-151-7; of the funds generated by the percentage  
3528 set forth in this section for the support of the adequate  
3529 education program, one and one hundred seventy-eight  
3530 one-thousandths percent (1.178%) of the funds shall be  
3531 appropriated to be used by the State Department of Education for  
3532 the purchase of textbooks to be loaned under Sections 37-43-1  
3533 through 37-43-59 to approved nonpublic schools, as described in  
3534 Section 37-43-1. The funds to be distributed to each nonpublic  
3535 school shall be in the proportion that the average daily  
3536 attendance of each nonpublic school bears to the total average  
3537 daily attendance of all nonpublic schools;

3538 (ii) Seven and ninety-seven one-hundredths percent  
3539 (7.97%) to assist the funding of transportation operations and  
3540 maintenance pursuant to Section 37-19-23; and

3541 (iii) The revenue generated from nine and  
3542 sixty-one one-hundredths percent (9.61%) that exceeds Fifteen  
3543 Million Nine Hundred Thousand Dollars (\$15,900,000.00), for  
3544 classroom supplies, instructional materials and equipment,  
3545 including computers and computer software, to be distributed to

3546 all school districts in the proportion that the average daily  
3547 attendance of each school district bears to the average daily  
3548 attendance of all school districts within the state. Classroom  
3549 supply funds shall not be expended for administrative purposes.  
3550 Local school districts shall allocate classroom supply funds  
3551 equally among all classroom teachers in the school district. For  
3552 purposes of this subparagraph, "teacher" means any employee of the  
3553 school board of a school district who is required by law to obtain  
3554 a teacher's license from the State Department of Education and who  
3555 is assigned to an instructional area of work as defined by the  
3556 department, but shall not include a federally funded teacher. Two  
3557 (2) or more teachers may agree to pool their classroom supply  
3558 funds for the benefit of a school within the district. It is the  
3559 intent of the Legislature that all classroom teachers shall be  
3560 involved in the development of a spending plan that addresses  
3561 individual classroom needs and supports the overall goals of the  
3562 school regarding supplies, instructional materials, equipment,  
3563 computers or computer software under the provisions of this  
3564 subparagraph, including the type, quantity and quality of such  
3565 supplies, materials and equipment. This plan shall be submitted  
3566 in writing to the school principal for approval. Classroom supply  
3567 funds allocated under this subparagraph shall supplement, not  
3568 replace, other local and state funds available for the same  
3569 purposes. School districts need not fully expend the funds  
3570 received under this subparagraph in the year in which they are  
3571 received, but such funds may be carried forward for expenditure in  
3572 any succeeding school year. The State Board of Education shall  
3573 develop and promulgate rules and regulations for the  
3574 administration of this subparagraph consistent with the above  
3575 criteria, with particular emphasis on allowing the individual  
3576 teachers to expend funds as they deem appropriate. The revenue  
3577 generated from the percentage under this subparagraph that does  
3578 not exceed Fifteen Million Nine Hundred Thousand Dollars

3579 (\$15,900,000.00) shall be deposited into the Budget Contingency  
3580 Fund created under Section 27-103-301, which shall be appropriated  
3581 to the State Department of Education for the support of  
3582 educational programs authorized by law;

3583 (b) Twenty-two and nine one-hundredths percent (22.09%)  
3584 to the Board of Trustees of State Institutions of Higher Learning  
3585 for the purpose of supporting institutions of higher learning; and

3586 (c) Fourteen and forty-one one-hundredths percent  
3587 (14.41%) to the State Board for Community and Junior Colleges for  
3588 the purpose of providing support to community and junior colleges.

3589 (4) The amount remaining in the Education Enhancement Fund  
3590 after funds are distributed as provided in subsections (2) and (3)  
3591 of this section shall be disbursed as follows:

3592 (a) Twenty-five Million Dollars (\$25,000,000.00) shall  
3593 be deposited into the Working Cash-Stabilization Reserve Fund  
3594 created pursuant to Section 27-103-203(1), until the balance in  
3595 such fund reaches the maximum balance of seven and one-half  
3596 percent (7-1/2%) of the General Fund appropriations in the  
3597 appropriate fiscal year. After the maximum balance in the Working  
3598 Cash-Stabilization Reserve Fund is reached, such money shall  
3599 remain in the Education Enhancement Fund to be appropriated in the  
3600 manner provided for in paragraph (b) of this subsection.

3601 (b) The remainder shall be appropriated for other  
3602 educational needs.

3603 (5) None of the funds appropriated pursuant to subsection  
3604 (3)(a) of this section shall be used to reduce the state's General  
3605 Fund appropriation for the categories listed in an amount below  
3606 the following amounts:

3607 (a) For subsection (3)(a)(ii) of this section,  
3608 Thirty-six Million Seven Hundred Thousand Dollars  
3609 (\$36,700,000.00);

3610 (b) For the aggregate of minimum program allotments in  
3611 the 1997 fiscal year, formerly provided for in Chapter 19, Title

3612 37, Mississippi Code of 1972, as amended, excluding those funds  
3613 for transportation as provided for in subsection (5)(a) in this  
3614 section.

3615 **[From and after July 1, 2005, this section reads as follows:]**

3616 37-61-33. (1) There is created within the State Treasury a  
3617 special fund to be designated the "Education Enhancement Fund"  
3618 into which shall be deposited all the revenues collected pursuant  
3619 to Sections 27-65-75(7) and (8) and 27-67-31(a) and (b).

3620 (2) Of the amount deposited into the Education Enhancement  
3621 Fund, Sixteen Million Dollars (\$16,000,000.00) shall be  
3622 appropriated each fiscal year to the State Department of Education  
3623 to be distributed to all school districts. Such money shall be  
3624 distributed to all school districts in the proportion that the  
3625 average daily attendance of each school district bears to the  
3626 average daily attendance of all school districts within the state  
3627 for the following purposes:

3628 (a) Purchasing, erecting, repairing, equipping,  
3629 remodeling and enlarging school buildings and related facilities,  
3630 including gymnasiums, auditoriums, lunchrooms, vocational training  
3631 buildings, libraries, teachers' homes, school barns,  
3632 transportation vehicles (which shall include new and used  
3633 transportation vehicles) and garages for transportation vehicles,  
3634 and purchasing land therefor.

3635 (b) Establishing and equipping school athletic fields  
3636 and necessary facilities connected therewith, and purchasing land  
3637 therefor.

3638 (c) Providing necessary water, light, heating, air  
3639 conditioning and sewerage facilities for school buildings, and  
3640 purchasing land therefor.

3641 (d) As a pledge to pay all or a portion of the debt  
3642 service on debt issued by the school district under Sections  
3643 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351  
3644 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302

3645 and 37-41-81, or debt issued by boards of supervisors for  
3646 agricultural high schools pursuant to Section 37-27-65, if such  
3647 pledge is accomplished pursuant to a written contract or  
3648 resolution approved and spread upon the minutes of an official  
3649 meeting of the district's school board or board of supervisors.  
3650 The annual grant to such district in any subsequent year during  
3651 the term of the resolution or contract shall not be reduced below  
3652 an amount equal to the district's grant amount for the year in  
3653 which the contract or resolution was adopted. The intent of this  
3654 provision is to allow school districts to irrevocably pledge a  
3655 certain, constant stream of revenue as security for long-term  
3656 obligations issued under the code sections enumerated in this  
3657 paragraph or as otherwise allowed by law. It is the intent of the  
3658 Legislature that the provisions of this paragraph shall be  
3659 cumulative and supplemental to any existing funding programs or  
3660 other authority conferred upon school districts or school boards.  
3661 Debt of a district secured by a pledge of sales tax revenue  
3662 pursuant to this paragraph shall not be subject to any debt  
3663 limitation contained in the foregoing enumerated code sections.

3664 (3) The remainder of the money deposited into the Education  
3665 Enhancement Fund shall be appropriated as follows:

3666 (a) To the State Department of Education as follows:

3667 (i) Sixteen and sixty-one one-hundredths percent  
3668 (16.61%) to the cost of the adequate education program determined  
3669 under Section 37-151-7; of the funds generated by the percentage  
3670 set forth in this section for the support of the adequate  
3671 education program, one and one hundred seventy-eight  
3672 one-thousandths percent (1.178%) of the funds shall be  
3673 appropriated to be used by the State Department of Education for  
3674 the purchase of textbooks to be loaned under Sections 37-43-1  
3675 through 37-43-59 to approved nonpublic schools, as described in  
3676 Section 37-43-1. The funds to be distributed to each nonpublic  
3677 school shall be in the proportion that the average daily

3678 attendance of each nonpublic school bears to the total average  
3679 daily attendance of all nonpublic schools;

3680 (ii) Seven and ninety-seven one-hundredths percent  
3681 (7.97%) to assist the funding of transportation operations and  
3682 maintenance pursuant to Section 37-19-23; and

3683 (iii) Nine and sixty-one one-hundredths percent  
3684 (9.61%) for classroom supplies, instructional materials and  
3685 equipment, including computers and computer software, to be  
3686 distributed to all school districts in the proportion that the  
3687 average daily attendance of each school district bears to the  
3688 average daily attendance of all school districts within the state.  
3689 Classroom supply funds shall not be expended for administrative  
3690 purposes. Local school districts shall allocate classroom supply  
3691 funds equally among all classroom teachers in the school district.  
3692 For purposes of this subparagraph, "teacher" means any employee of  
3693 the school board of a school district who is required by law to  
3694 obtain a teacher's license from the State Department of Education  
3695 and who is assigned to an instructional area of work as defined by  
3696 the department, but shall not include a federally funded teacher.  
3697 Two (2) or more teachers may agree to pool their classroom supply  
3698 funds for the benefit of a school within the district. It is the  
3699 intent of the Legislature that all classroom teachers shall be  
3700 involved in the development of a spending plan that addresses  
3701 individual classroom needs and supports the overall goals of the  
3702 school regarding supplies, instructional materials, equipment,  
3703 computers or computer software under the provisions of this  
3704 subparagraph, including the type, quantity and quality of such  
3705 supplies, materials and equipment. This plan shall be submitted  
3706 in writing to the school principal for approval. Classroom supply  
3707 funds allocated under this subparagraph shall supplement, not  
3708 replace, other local and state funds available for the same  
3709 purposes. School districts need not fully expend the funds  
3710 received under this subparagraph in the year in which they are

3711 received, but such funds may be carried forward for expenditure in  
3712 any succeeding school year. The State Board of Education shall  
3713 develop and promulgate rules and regulations for the  
3714 administration of this subparagraph consistent with the above  
3715 criteria, with particular emphasis on allowing the individual  
3716 teachers to expend funds as they deem appropriate;

3717 (b) Twenty-two and nine one-hundredths percent (22.09%)  
3718 to the Board of Trustees of State Institutions of Higher Learning  
3719 for the purpose of supporting institutions of higher learning; and

3720 (c) Fourteen and forty-one one-hundredths percent  
3721 (14.41%) to the State Board for Community and Junior Colleges for  
3722 the purpose of providing support to community and junior colleges.

3723 (4) The amount remaining in the Education Enhancement Fund  
3724 after funds are distributed as provided in subsections (2) and (3)  
3725 of this section shall be disbursed as follows:

3726 (a) Twenty-five Million Dollars (\$25,000,000.00) shall  
3727 be deposited into the Working Cash-Stabilization Reserve Fund  
3728 created pursuant to Section 27-103-203(1), until the balance in  
3729 such fund reaches the maximum balance of seven and one-half  
3730 percent (7-1/2%) of the General Fund appropriations in the  
3731 appropriate fiscal year. After the maximum balance in the Working  
3732 Cash-Stabilization Reserve Fund is reached, such money shall  
3733 remain in the Education Enhancement Fund to be appropriated in the  
3734 manner provided for in paragraph (b) of this subsection.

3735 (b) The remainder shall be appropriated for other  
3736 educational needs.

3737 (5) None of the funds appropriated pursuant to subsection  
3738 (3)(a) of this section shall be used to reduce the state's General  
3739 Fund appropriation for the categories listed in an amount below  
3740 the following amounts:

3741 (a) For subsection (3)(a)(ii) of this section,  
3742 Thirty-six Million Seven Hundred Thousand Dollars  
3743 (\$36,700,000.00);

3744 (b) For the aggregate of minimum program allotments in  
3745 the 1997 fiscal year, formerly provided for in Chapter 19, Title  
3746 37, Mississippi Code of 1972, as amended, excluding those funds  
3747 for transportation as provided for in subsection (5)(a) in this  
3748 section.

3749 **PART 10 - CORRECTIONS**

3750 **SECTION 53.** The Commissioner of Corrections is authorized to  
3751 transfer terminally ill offenders to the Community Corrections  
3752 Division of the Mississippi Department of Corrections when the  
3753 medical director for the department has reviewed and investigated  
3754 cases where offenders have been diagnosed with a serious illness.  
3755 If the medical director certifies to the Commissioner of  
3756 Corrections that an offender is suffering from a terminal illness,  
3757 the Commissioner may release the offender and direct that the  
3758 Division of Community Corrections shall supervise the offender for  
3759 the remainder of his or her sentence. The offender shall be under  
3760 the full and complete jurisdiction of the department and subject  
3761 to being returned and placed in the actual custody of the  
3762 department by the classification committee for violating an order  
3763 or condition of the terminally ill offender's release. For  
3764 purposes of this section, "terminally ill" means a medical  
3765 prognosis of limited expected survival, of one (1) year or less  
3766 of an offender who is experiencing an illness for which  
3767 therapeutic strategies directed toward cure and control of the  
3768 disease alone outside the context of symptom control are no longer  
3769 appropriate.

3770 **SECTION 54.** Section 47-5-20, Mississippi Code of 1972, is  
3771 amended as follows:

3772 47-5-20. In addition to the powers and duties enumerated in  
3773 Section 47-5-28, the commissioner shall have the following powers  
3774 and duties:

3775 (a) To establish the general policy of the department;



3776 (b) To approve proposals for the location of new  
3777 facilities, for major renovation activities, and for the creation  
3778 of new programs and divisions within the department as well as for  
3779 the abolition of the same; provided, however, that the  
3780 commissioner shall approve the location of no new facility unless  
3781 the board of supervisors of the county or the governing  
3782 authorities of the municipality in which the new facility is to be  
3783 located shall have had the opportunity with at least sixty (60)  
3784 days' prior notice to disapprove the location of the proposed  
3785 facility. If either the board of supervisors or the governing  
3786 authorities shall disapprove the facility, it shall not be located  
3787 in that county or municipality. Said notice shall be made by  
3788 certified mail, return receipt requested, to the members of the  
3789 board or governing authorities and to the clerk thereof;

3790 (c) Except as otherwise provided or required by law, to  
3791 open bids and approve the sale of any products or manufactured  
3792 goods by the department according to applicable provisions of law  
3793 regarding bidding and sale of state property, and according to  
3794 rules and regulations established by the State Fiscal Management  
3795 Board; \* \* \*

3796 (d) To adopt administrative rules and regulations  
3797 including, but not limited to, offender transfer procedures, award  
3798 of administrative earned time, personnel procedures, employment  
3799 practices; and

3800 (e) To authorize the transfer of terminally ill  
3801 offenders to the Community Corrections Division of the Mississippi  
3802 Department of Corrections.

3803 **SECTION 55.** Section 47-5-28, Mississippi Code of 1972, is  
3804 amended as follows:

3805 47-5-28. In addition to the powers and duties enumerated in  
3806 Section 47-5-20, the commissioner shall have the following powers  
3807 and duties:

3808           (a) To implement and administer laws and policy  
3809 relating to corrections and coordinate the efforts of the  
3810 department with those of the federal government and other state  
3811 departments and agencies, county governments, municipal  
3812 governments, and private agencies concerned with providing  
3813 offender services;

3814           (b) To establish standards, in cooperation with other  
3815 state agencies having responsibility as provided by law, provide  
3816 technical assistance, and exercise the requisite supervision as it  
3817 relates to correctional programs over all state-supported adult  
3818 correctional facilities and community-based programs;

3819           (c) To promulgate and publish such rules, regulations  
3820 and policies of the department as are needed for the efficient  
3821 government and maintenance of all facilities and programs in  
3822 accord insofar as possible with currently accepted standards of  
3823 adult offender care and treatment;

3824           (d) To provide the Parole Board with suitable and  
3825 sufficient office space and support resources and staff necessary  
3826 to conducting Parole Board business under the guidance of the  
3827 Chairman of the Parole Board;

3828           (e) To make an annual report to the Governor and the  
3829 Legislature reflecting the activities of the department and make  
3830 recommendations for improvement of the services to be performed by  
3831 the department;

3832           (f) To cooperate fully with periodic independent  
3833 internal investigations of the department and to file the report  
3834 with the Governor and the Legislature;

3835           (g) To perform such other duties necessary to  
3836 effectively and efficiently carry out the purposes of the  
3837 department as may be directed by the Governor;

3838           (h) To authorize the transfer of terminally ill  
3839 offenders to the Community Corrections Division of the Mississippi  
3840 Department of Corrections.

3841           **SECTION 56.** The provisions of Section 53 shall be codified  
3842 in Chapter 5, Title 47, Mississippi Code of 1972.

3843           **SECTION 57.** Section 47-5-138.1, Mississippi Code of 1972, is  
3844 amended as follows:

3845           47-5-138.1. (1) In addition to any other administrative  
3846 reduction of sentence, an offender in trusty status as defined by  
3847 the classification board of the Department of Corrections may be  
3848 awarded a trusty time allowance of thirty (30) days' reduction of  
3849 sentence for each thirty (30) days of participation in an approved  
3850 program while in trusty status, including satisfactory  
3851 participation in education or instructional programs, satisfactory  
3852 participation in work projects and satisfactory participation in  
3853 any special incentive program.

3854           (2) An offender in trusty status shall not be eligible for a  
3855 reduction of sentence under this section if:

3856           (a) The offender was sentenced to life imprisonment;  
3857 however, an offender, other than one sentenced to life  
3858 imprisonment for capital murder, who has reached the age of  
3859 sixty-five (65) or older and who has served at least fifteen (15)  
3860 years may petition the sentencing court for conditional release;

3861           (b) The offender was convicted as an habitual offender  
3862 under Sections 99-19-81 through 99-19-87;

3863           (c) The offender was convicted of a sex crime;

3864           (d) The offender has not served the mandatory time  
3865 required for parole eligibility, as prescribed under Section  
3866 47-7-3, for a conviction of robbery or attempted robbery through  
3867 the display of a deadly weapon, carjacking through the display of  
3868 a deadly weapon or a drive-by shooting;

3869           (e) The offender was convicted of violating Section  
3870 41-29-139 (a) and sentenced under Section 41-29-139 (b) or  
3871 41-29-139 (f); or

3872           (f) The offender was convicted of trafficking in  
3873 controlled substances under Section 41-29-139.

3874           **SECTION 58.** Section 47-7-5, Mississippi Code of 1972, is  
3875 amended as follows:

3876           47-7-5. (1) The State Parole Board, created under former  
3877 Section 47-7-5, is hereby created, continued and reconstituted and  
3878 shall be composed of five (5) members. The Governor shall appoint  
3879 the members with the advice and consent of the Senate. All terms  
3880 shall be at the will and pleasure of the Governor. Any vacancy  
3881 shall be filled by the Governor, with the advice and consent of  
3882 the Senate. The Governor shall appoint a chairman of the board.

3883           (2) Any person who is appointed to serve on the board shall  
3884 possess at least a bachelor's degree or a high school diploma and  
3885 four (4) years' work experience. Each member shall devote his  
3886 full time to the duties of his office and shall not engage in any  
3887 other business or profession or hold any other public office. A  
3888 member shall not receive compensation or per diem in addition to  
3889 his salary as prohibited under Section 25-3-38. Each member shall  
3890 keep such hours and workdays as required of full-time state  
3891 employees under Section 25-1-98. Individuals shall be appointed  
3892 to serve on the board without reference to their political  
3893 affiliations. Each board member, including the chairman, may be  
3894 reimbursed for actual and necessary expenses as authorized by  
3895 Section 25-3-41; but a member shall not be reimbursed for travel  
3896 expenses from his residence to the nearest State Penitentiary.

3897           (3) The board shall have exclusive responsibility for the  
3898 granting of parole as provided by Sections 47-7-3 and 47-7-17 and  
3899 shall have exclusive authority for revocation of the same. The  
3900 board shall have exclusive responsibility for investigating  
3901 clemency recommendations upon request of the Governor.

3902           (4) The board, its members and staff, shall be immune from  
3903 civil liability for any official acts taken in good faith and in  
3904 exercise of the board's legitimate governmental authority.

3905           (5) The budget of the board shall be funded through a  
3906 separate line item within the general appropriation bill for the

3907 support and maintenance of the department. Employees of the  
3908 department which are employed by or assigned to the board shall  
3909 work under the guidance and supervision of the board. There shall  
3910 be an executive secretary to the board who shall be responsible  
3911 for all administrative and general accounting duties related to  
3912 the board. The executive secretary shall keep and preserve all  
3913 records and papers pertaining to the board.

3914 (6) The board shall have no authority or responsibility for  
3915 supervision of offenders granted a release for any reason,  
3916 including, but not limited to, probation, parole or executive  
3917 clemency or other offenders requiring the same through interstate  
3918 compact agreements. The supervision shall be provided exclusively  
3919 by the staff of the Division of Community Corrections of the  
3920 department.

3921 (7) The State Parole Board shall review and investigate all  
3922 cases where offenders have been diagnosed with a serious illness.  
3923 If the Medical Director of the Department of Corrections certifies  
3924 to the State Parole Board that an offender is suffering from a  
3925 terminal illness, the State Parole Board shall parole the offender  
3926 with the approval and consent of the Commissioner of the  
3927 Department of Corrections and the medical director.

3928 (8) (a) The Parole Board shall maintain a central registry  
3929 of paroled inmates. The Parole Board shall place the following  
3930 information on the registry: name, address, photograph, crime for  
3931 which paroled, the date of the end of parole or flat-time date and  
3932 other information deemed necessary. The Parole Board shall  
3933 immediately remove information on a parolee at the end of his  
3934 parole or flat-time date.

3935 (b) When a person is placed on parole, the Parole Board  
3936 shall inform the parolee of the duty to report to the Parole  
3937 Officer any change in address ten (10) days before changing  
3938 address.

3939 (c) The Parole Board shall utilize an Internet website  
3940 or other electronic means to release or publish the information.

3941 (d) Records maintained on the registry shall be open to  
3942 law enforcement agencies and the public and shall be available no  
3943 later than July 1, 2003.

3944 (9) The Parole Board shall reconsider an eligible offender  
3945 for parole no later than one (1) year after an application for  
3946 parole is rejected.

3947 (10) This section shall stand repealed on July 1, 2005.

3948 **SECTION 59.** Section 47-7-3, Mississippi Code of 1972, is  
3949 amended as follows:

3950 47-7-3. (1) Every prisoner who has been convicted of any  
3951 offense against the State of Mississippi, and is confined in the  
3952 execution of a judgment of such conviction in the Mississippi  
3953 State Penitentiary for a definite term or terms of one (1) year or  
3954 over, or for the term of his or her natural life, whose record of  
3955 conduct shows that such prisoner has observed the rules of the  
3956 penitentiary, and who has served not less than one-fourth (1/4) of  
3957 the total of such term or terms for which such prisoner was  
3958 sentenced, or, if sentenced to serve a term or terms of thirty  
3959 (30) years or more, or, if sentenced for the term of the natural  
3960 life of such prisoner, has served not less than ten (10) years of  
3961 such life sentence, may be released on parole as hereinafter  
3962 provided, except that:

3963 (a) No prisoner convicted as a confirmed and habitual  
3964 criminal under the provisions of Sections 99-19-81 through  
3965 99-19-87 shall be eligible for parole;

3966 (b) Any person who shall have been convicted of a sex  
3967 crime shall not be released on parole except for a person under  
3968 the age of nineteen (19) who has been convicted under Section  
3969 97-3-67;

3970 (c) No one shall be eligible for parole until he shall  
3971 have served one (1) year of his sentence, unless such person has

3972 accrued any meritorious earned time allowances, in which case he  
3973 shall be eligible for parole if he has served (i) nine (9) months  
3974 of his sentence or sentences, when his sentence or sentences is  
3975 two (2) years or less; (ii) ten (10) months of his sentence or  
3976 sentences when his sentence or sentences is more than two (2)  
3977 years but no more than five (5) years; and (iii) one (1) year of  
3978 his sentence or sentences when his sentence or sentences is more  
3979 than five (5) years;

3980           (d) (i) No person shall be eligible for parole who  
3981 shall, on or after January 1, 1977, be convicted of robbery or  
3982 attempted robbery through the display of a firearm until he shall  
3983 have served ten (10) years if sentenced to a term or terms of more  
3984 than ten (10) years or if sentenced for the term of the natural  
3985 life of such person. If such person is sentenced to a term or  
3986 terms of ten (10) years or less, then such person shall not be  
3987 eligible for parole. The provisions of this paragraph (d) shall  
3988 also apply to any person who shall commit robbery or attempted  
3989 robbery on or after July 1, 1982, through the display of a deadly  
3990 weapon. This subparagraph (d)(i) shall not apply to persons  
3991 convicted after September 30, 1994;

3992           (ii) No person shall be eligible for parole who  
3993 shall, on or after October 1, 1994, be convicted of robbery,  
3994 attempted robbery or carjacking as provided in Section 97-3-115 et  
3995 seq., through the display of a firearm or drive-by shooting as  
3996 provided in Section 97-3-109. The provisions of this subparagraph  
3997 (d)(ii) shall also apply to any person who shall commit robbery,  
3998 attempted robbery, carjacking or a drive-by shooting on or after  
3999 October 1, 1994, through the display of a deadly weapon;

4000           (e) No person shall be eligible for parole who, on or  
4001 after July 1, 1994, is charged, tried, convicted and sentenced to  
4002 life imprisonment without eligibility for parole under the  
4003 provisions of Section 99-19-101;

4004 (f) No person shall be eligible for parole who is  
4005 charged, tried, convicted and sentenced to life imprisonment under  
4006 the provisions of Section 99-19-101;

4007 (g) No person shall be eligible for parole who is  
4008 convicted or whose suspended sentence is revoked after June 30,  
4009 1995, except that a first offender convicted of a nonviolent crime  
4010 after January 1, 2000, may be eligible for parole if the offender  
4011 meets the requirements in subsection (1) and this paragraph. In  
4012 addition to other requirements, if a first offender is convicted  
4013 of a drug or driving under the influence felony, the offender must  
4014 complete a drug and alcohol rehabilitation program prior to parole  
4015 or the offender may be required to complete a post-release drug  
4016 and alcohol program as a condition of parole. For purposes of  
4017 this paragraph, "nonviolent crime" means a felony other than  
4018 homicide, robbery, manslaughter, sex crimes, arson, burglary of an  
4019 occupied dwelling, aggravated assault, kidnapping, felonious abuse  
4020 of vulnerable adults, felonies with enhanced penalties, the sale  
4021 or manufacture of a controlled substance under the Uniform  
4022 Controlled Substances Law, and felony child abuse.

4023 (2) Notwithstanding any other provision of law, an inmate  
4024 shall not be eligible to receive earned time, good time or any  
4025 other administrative reduction of time which shall reduce the time  
4026 necessary to be served for parole eligibility as provided in  
4027 subsection (1) of this section; however, this subsection shall not  
4028 apply to the advancement of parole eligibility dates pursuant to  
4029 the Prison Overcrowding Emergency Powers Act. Moreover,  
4030 meritorious earned time allowances may be used to reduce the time  
4031 necessary to be served for parole eligibility as provided in  
4032 paragraph (c) of subsection (1) of this section.

4033 (3) The State Parole Board shall by rules and regulations  
4034 establish a method of determining a tentative parole hearing date  
4035 for each eligible offender taken into the custody of the  
4036 Department of Corrections. The tentative parole hearing date



4037 shall be determined within ninety (90) days after the department  
4038 has assumed custody of the offender. Such tentative parole  
4039 hearing date shall be calculated by a formula taking into account  
4040 the offender's age upon first commitment, number of prior  
4041 incarcerations, prior probation or parole failures, the severity  
4042 and the violence of the offense committed, employment history and  
4043 other criteria which in the opinion of the board tend to validly  
4044 and reliably predict the length of incarceration necessary before  
4045 the offender can be successfully paroled. If an application for  
4046 parole from an eligible offender is rejected, the parole board  
4047 shall reconsider the application from that offender no later than  
4048 one (1) year after the initial application for parole is rejected.

4049 (4) Any inmate within twenty-four (24) months of his parole  
4050 eligibility date and who meets the criteria established by the  
4051 classification board shall receive priority for placement in any  
4052 educational development and job training programs. Any inmate  
4053 refusing to participate in an educational development or job  
4054 training program may be ineligible for parole.

4055 **PART 11 - ENVIRONMENTAL QUALITY**

4056 **SECTION 60.** Section 49-2-21, Mississippi Code of 1972, is  
4057 amended as follows:

4058 49-2-21. The Attorney General shall be counsel and attorney  
4059 for the commission and the Department of Environmental Quality and  
4060 shall provide such legal services as may be requested from time to  
4061 time, without cost. The Attorney General shall be the sole legal  
4062 advisor of the commission and the department in all matters  
4063 relating to the commission and the department and to the powers  
4064 and duties of its officers.

4065 **SECTION 61.** (1) Beginning on July 1, 2004, in all instances  
4066 where no provision of law sets a fee, the Department of  
4067 Environmental Quality shall charge a fee of One Hundred Dollars  
4068 (\$100.00) for any general permit that it issues to any permittee.  
4069 For any other permit or any activity associated with the

4070 monitoring of the activities of a permittee, where no provision of  
4071 law sets a permit or monitoring fee, the department shall charge  
4072 all permittees a fee of Two Hundred Fifty Dollars (\$250.00). Fees  
4073 for permits shall be collected at the time of the issuance of the  
4074 permits. Monitoring fees shall be collected after completion of  
4075 the monitoring activity. All revenues collected from fees charged  
4076 under the authority of this section shall be deposited into the  
4077 State General Fund.

4078 (2) The department shall not charge any fees under the  
4079 authority of this section to animal feeding operations or confined  
4080 animal feeding operations.

4081 **SECTION 62.** Section 51-3-31, Mississippi Code of 1972, is  
4082 amended as follows:

4083 51-3-31. Any person desiring to use water for a beneficial  
4084 purpose shall apply to the board for a permit for such use on a  
4085 form prescribed by the board for such purpose. The application  
4086 shall be accompanied by a fee of Two Hundred Fifty Dollars  
4087 (\$250.00). The application shall provide such information as  
4088 deemed appropriate by the board to its decision to issue such  
4089 permit. The fees and applications required by this section also  
4090 shall apply to renewals of permits and any modifications to  
4091 permits. The board shall not charge any fees under this section  
4092 to animal feeding operations or confined animal feeding  
4093 operations.

4094 All fees received by the board as herein prescribed shall be  
4095 deposited in the General Fund of the state.

4096 **SECTION 63.** Section 53-7-7, Mississippi Code of 1972, is  
4097 amended as follows:

4098 53-7-7. (1) Except as provided in this section, it is  
4099 unlawful to commence an operation or operate a surface mine  
4100 without a permit or coverage under a general permit as provided by  
4101 this chapter.

4102           (2) Except as expressly provided in this section, this  
4103 chapter shall not apply to:

4104           (a) Excavations made by the owner of land for the  
4105 owner's own use and not for commercial purposes, where the  
4106 materials removed do not exceed one thousand (1,000) cubic yards  
4107 per year and where one (1) acre or less of land is affected;

4108           (b) Excavations made by a public agency on a one-time  
4109 basis for emergency use at an emergency site if:

4110                   (i) The excavation lies in the vicinity of the  
4111 emergency site and affects less than one-fourth (1/4) acre of  
4112 mined surface area;

4113                   (ii) The landowner has signed a statement giving  
4114 approval for the removal of the materials; and

4115                   (iii) The public agency notifies the department as  
4116 required by the commission within two (2) working days of the  
4117 removal of the materials.

4118           (c) Operations for any materials on any affected area  
4119 conducted before April 15, 1978, but this chapter shall apply to  
4120 any additional land which the operation extended to or encompassed  
4121 after April 15, 1978;

4122           (d) Operations for any materials that affected four (4)  
4123 acres or less and were greater than one thousand three hundred  
4124 twenty (1,320) feet from any other affected area if:

4125                   (i) The operation began before July 1, 2002; and

4126                   (ii) The operator notified the commission of the  
4127 commencement, expansion or resumption of the operation before July  
4128 1, 2002; and

4129           (e) Operations for any materials that affect four (4)  
4130 acres or less, are greater than one thousand three hundred twenty  
4131 (1,320) feet from any other affected area and commenced after July  
4132 1, 2002, if the operator notifies the department at least seven  
4133 (7) calendar days before commencement or expansion of the  
4134 operation as required in regulations adopted by the commission.

4135 The seven-day notice prior to mining requirement shall be waived  
4136 and the operator may begin mining immediately after notifying the  
4137 department if:

4138           (i) The operator agrees, in the notification, to  
4139 reclaim the mine site in accordance with the minimum standards  
4140 adopted by the commission; or

4141           (ii) The exempted operation is conducted for  
4142 Mississippi Department of Transportation projects or state aid  
4143 road construction projects funded in whole or in part by public  
4144 funds.

4145       (3) Exempt operations under paragraph (e) that are conducted  
4146 for the MDOT projects or state aid road construction projects  
4147 shall be reclaimed in accordance with the requirements of the  
4148 Mississippi Standard Specifications for Road and Bridge  
4149 Construction, Mississippi Department of Transportation or Division  
4150 of State Aid Road Construction, as applicable. Any operator  
4151 failing to reclaim as required under this subsection may be  
4152 subject to the penalties provided in Section 53-7-59(2).

4153       (4) If a landowner refuses to allow the operator to complete  
4154 reclamation in accordance with minimum standards or interferes  
4155 with or authorizes a third party to disturb or interfere with  
4156 reclamation in accordance with minimum standards, the landowner  
4157 shall assume the exempt notice and shall be responsible for any  
4158 reclamation.

4159       (5) All operations exempted under Sections 53-7-7(2)(d) and  
4160 53-7-7(2)(e) shall be subject to the prohibitions on mining in  
4161 certain areas contained in Sections 53-7-49 and 53-7-51 and may be  
4162 subject to the penalties in Section 53-7-59(2) for any violation  
4163 of those sections.

4164       (6) Any operator conducting operations exempted under  
4165 Section 53-7-7(2)(b) or 53-7-7(2)(e) failing to notify the  
4166 department in accordance with the regulations of the commission,  
4167 may be subject to penalties provided in Section 53-7-59(2). Any

4168 operator exempted under Section 53-7-7(2)(e) who agrees in the  
4169 notification to reclaim and fails to reclaim in accordance with  
4170 that paragraph may be subject to penalties provided in Section  
4171 53-7-59(2).

4172 (7) The department shall collect from every operator granted  
4173 an exemption the amount of One Hundred Dollars (\$100.00) from any  
4174 operator whose mining operations are exempted under the authority  
4175 of this section. The department shall charge an annual monitoring  
4176 fee of One Hundred Dollars (\$100.00) to any exempted and  
4177 non-exempted operators to help defray the costs of monitoring  
4178 surface mining activity. All fees collected by authority of this  
4179 subsection shall be deposited into the State General Fund.

4180 **SECTION 64.** Section 53-7-21, Mississippi Code of 1972, is  
4181 amended as follows:

4182 53-7-21. (1) Unless exempted under Section 53-7-7, no  
4183 operator shall engage in surface mining without having first  
4184 obtained coverage under a general permit or having obtained from  
4185 the Permit Board a permit for each operation. The permit or  
4186 coverage under a general permit shall authorize the operator to  
4187 engage in surface mining upon the area of land described in the  
4188 application for a period of either five (5) years or longer period  
4189 of time as deemed appropriate by the Permit Board from the date of  
4190 issuance or until reclamation of the affected area is completed  
4191 and the reclamation bond is finally released, whichever comes  
4192 first.

4193 (2) Each operator holding a permit shall annually, before  
4194 the anniversary date of the permit, file with the department a  
4195 certificate of compliance in which the operator, under oath, shall  
4196 declare that the operator is following the approved mining and  
4197 reclamation plan and is abiding by this chapter and the rules and  
4198 regulations adopted under this chapter.

4199 (3) The department shall charge all permit holders an annual  
4200 permit monitoring fee of One Hundred Twenty-Five Dollars

4201 (\$125.00). All fees collected by authority of this subsection  
4202 shall be deposited into the State General Fund.

4203 **SECTION 65.** Section 53-7-25, Mississippi Code of 1972, is  
4204 amended as follows:

4205 53-7-25. (1) Each application for a surface mining permit  
4206 and for coverage under a general permit shall be accompanied by an  
4207 application fee in accordance with a published fee schedule  
4208 adopted by the commission. The application fee shall not be less  
4209 than One Hundred Dollars (\$100.00) plus Ten Dollars (\$10.00) per  
4210 acre included in the application. The total application fee shall  
4211 not exceed Five Hundred Dollars (\$500.00). The commission, in  
4212 considering regulations on the fee schedule, shall recognize the  
4213 difference in the various materials, taking into consideration the  
4214 commercial value of the material and the nature and size of  
4215 operation necessary to extract it.

4216 (2) All state agencies, political subdivisions of the state,  
4217 and local governing bodies shall be exempt from all fees required  
4218 by this chapter.

4219 (3) Upon submission of the certificate of compliance  
4220 required under Section 53-7-21, each operator shall pay a fee of  
4221 Fifty Dollars (\$50.00).

4222 (4) In addition to the fees provided for in this section,  
4223 the department shall charge a fee of One Hundred Dollars (\$100.00)  
4224 for any permit issued and for the renewal of permits. All funds  
4225 collected by authority of this subsection shall be deposited into  
4226 the State General Fund.

4227 **SECTION 66.** Section 53-7-27, Mississippi Code of 1972, is  
4228 amended as follows:

4229 53-7-27. (1) Before commencing any operation for which a  
4230 permit is required, each applicant for a permit shall submit to  
4231 the Permit Board an application, a proposed initial reclamation  
4232 plan and a performance bond in an amount proposed to be sufficient  
4233 by the applicant to reclaim the permit area.

4234 (2) The application shall be in the form prescribed by the  
4235 commission and shall contain the following information:

4236 (a) A legal description of the tract or tracts of land  
4237 in the affected area and one or more maps or plats of adequate  
4238 scale to clearly portray the location of the affected area. The  
4239 description shall contain sufficient information so that the  
4240 affected area may be located and distinguished from other lands  
4241 and shall identify the access from the nearest public road;

4242 (b) The approximate location and depth of the deposit  
4243 in the permit area and the total number of acres in the permit  
4244 area;

4245 (c) The name, address and management officers of the  
4246 permit applicant and any affiliated persons who shall be engaged  
4247 in the operations;

4248 (d) The name and address of any person holding legal  
4249 and equitable interests of record, if reasonably ascertainable, in  
4250 the surface estate of the permit area and in the surface estate of  
4251 land located within five hundred (500) feet of the exterior limits  
4252 of the permit area;

4253 (e) The name and address of any person residing on the  
4254 property of the permit area at the time of application;

4255 (f) Current or previous surface mining permits held by  
4256 the applicant, including any revocations, suspensions or bond  
4257 forfeitures;

4258 (g) The type and method of operation, the engineering  
4259 techniques and the equipment that is proposed to be used,  
4260 including mining schedules, the nature and expected amount of  
4261 overburden to be removed, the depth of excavations, a description  
4262 of the permit area, the anticipated hydrologic consequences of the  
4263 mining operation, and the proposed use of explosives for blasting,  
4264 including the nature of the explosive, the proposed location of  
4265 the blasting and the expected effect of the blasting;

4266 (h) A notarized statement showing the applicant's legal  
4267 right to surface mine the affected area;

4268 (i) The names and locations of all lakes, rivers,  
4269 reservoirs, streams, creeks and other bodies of water in the  
4270 vicinity of the contemplated operations which may be affected by  
4271 the operations and the types of existing vegetative cover on the  
4272 area affected thereby and on adjoining lands within five hundred  
4273 (500) feet of the exterior limits of the affected area;

4274 (j) A topographical survey map showing the surface  
4275 drainage plan on and away from the permit area;

4276 (k) The surface location and extent of all existing and  
4277 proposed waste and spoil piles, cuts, pits, tailing dumps, ponds,  
4278 borrow pits, evaporation and settling basins, roads, buildings,  
4279 access ways, workings and installations sufficient to provide a  
4280 reasonably clear and accurate portrayal of the existing surface  
4281 conditions and the proposed mining operations;

4282 (l) If the surface and mineral estates, or any part of  
4283 those estates, in land covered by the application, have been  
4284 severed and are owned by separate owners, the applicant shall  
4285 provide a notarized statement subscribed to by each surface owner  
4286 and lessee of those lands, unless the lease or other conveyance to  
4287 the applicant specifically states the material to be mined by the  
4288 operator granting consent for the applicant to initiate and  
4289 conduct surface mining, exploration and reclamation activities on  
4290 the land;

4291 (m) Except for governmental agencies, a certificate of  
4292 insurance certifying that the applicant has in force a public  
4293 liability insurance policy issued by an insurance company  
4294 authorized to conduct business in the State of Mississippi  
4295 covering all operations of the applicant in this state and  
4296 affording bodily injury protection and property damage protection  
4297 in an amount not less than the following:



4298 (i) One Hundred Thousand Dollars (\$100,000.00) for  
4299 all damages because of bodily injury sustained by one (1) person  
4300 as the result of any one (1) occurrence, and Three Hundred  
4301 Thousand Dollars (\$300,000.00) for all damages because of bodily  
4302 injury sustained by two (2) or more persons as the result of any  
4303 one (1) occurrence; \* \* \*

4304 (ii) One Hundred Thousand Dollars (\$100,000.00)  
4305 for all claims arising out of damage to property as the result of  
4306 any one (1) occurrence including completed operations; and

4307 (iii) In any case where the department releases  
4308 any permittee from the obligation of having the insurance or bond  
4309 required by this paragraph (m), the department shall charge the  
4310 permittee One Hundred Dollars (\$100.00). The fees collected by  
4311 authority of this subparagraph (iii) shall be deposited into the  
4312 State General Fund.

4313 The policy shall be maintained in full force and effect  
4314 during the term of the permit, including the length of all  
4315 reclamation operations;

4316 (n) A copy of a proposed initial reclamation plan  
4317 prepared under Section 53-7-31; and

4318 (o) Any other information needed to clarify the  
4319 required parts of the application.

4320 **SECTION 67.** Section 53-7-69, Mississippi Code of 1972, is  
4321 amended as follows:

4322 53-7-69. (1) There is created in the State Treasury a fund  
4323 to be designated as the "Surface Mining and Reclamation Fund,"  
4324 referred to hereinafter as the "fund." There is created in the  
4325 fund an account designated as the "Land Reclamation Account" and  
4326 an account designated as the "Surface Mining Program Operations  
4327 Account."

4328 (2) The fund shall be treated as a special trust fund.  
4329 Interest earned on the principal therein shall be credited by the  
4330 Treasurer to the fund.

4331 (3) The fund may receive monies from any available public or  
4332 private sources, including, but not limited to, collection of  
4333 fees, interest, grants, taxes, public and private donations,  
4334 judicial actions, penalties and forfeited performance bonds. Any  
4335 monies received from penalties, forfeited performance bonds,  
4336 judicial actions and the interest thereon, less enforcement and  
4337 collection costs, shall be credited to the Land Reclamation  
4338 Account. Except as otherwise provided by law, any monies received  
4339 from the collection of fees, grants, taxes, public or private  
4340 donations and the interest thereon shall be credited to the  
4341 Surface Mining Program Operations Account.

4342 (4) The commission shall expend or utilize monies in the  
4343 fund by an annual appropriation by the Legislature as provided  
4344 herein. Monies in the Land Reclamation Account may be used to  
4345 defray any costs of reclamation of land affected by mining  
4346 operations. Monies in the Surface Mining Program Operations  
4347 Account may be used to defray the reasonable direct and indirect  
4348 costs associated with the administration and enforcement of this  
4349 chapter.

4350 (5) Proceeds from the forfeiture of performance bonds or  
4351 deposits and penalties recovered shall be available to be expended  
4352 to reclaim, in accordance with this chapter, lands with respect to  
4353 which the performance bonds or deposits were provided and  
4354 penalties assessed. If the commission expends monies from the  
4355 fund for which the cost of reclamation exceeded the proceeds from  
4356 the forfeiture of performance bonds or deposits, the commission  
4357 may seek to recover any monies expended from the fund from any  
4358 responsible party.

4359 **PART 12 - WILDLIFE, FISHERIES AND PARKS**

4360 **SECTION 68.** Section 49-6-3, Mississippi Code of 1972, is  
4361 amended as follows:

4362 49-6-3. (1) There is \* \* \* created in the State Treasury a  
4363 special fund to be known as the "Wildlife, Fisheries and Parks

4364 Motor Vehicle Fund." \* \* \* All funds derived from the sale of  
4365 used motor vehicles, funds transferred from the "Game and Fish  
4366 Protection Fund" and any other funds which may be needed for the  
4367 purchase of motor vehicles, boats and outboard motors shall be  
4368 deposited into this special fund. Other funds as needed may be  
4369 transferred by the commission from the department's regular  
4370 support appropriation. The commission may transfer funds from the  
4371 motor vehicle fund to the game and fish protection fund as needed  
4372 for the operation of the department. The motor vehicle fund is a  
4373 special trust fund and the interest earned thereon shall be  
4374 credited to the fund.

4375 (2) The commission shall adopt regulations for the  
4376 administration of the fund. The executive director shall  
4377 administer the fund and expenditures may be made from the fund  
4378 upon requisition by the executive director. The department shall  
4379 spend monies in the fund by an annual appropriation approved by  
4380 the Legislature.

4381 **PART 13 - MOTOR VEHICLES**

4382 **SECTION 69.** Section 27-19-44.4, Mississippi Code of 1972, is  
4383 amended as follows:

4384 27-19-44.4. (1) Notwithstanding any other provision of law  
4385 to the contrary, beginning with any registration year commencing  
4386 on or after January 1, 2004, an additional fee of One Dollar  
4387 (\$1.00) is imposed for any distinctive or special license tag or  
4388 plate authorized under this chapter regardless of whether such a  
4389 distinctive or special license tag or plate was authorized before  
4390 or after July 1, 2003. The proceeds collected from the additional  
4391 fee imposed under this subsection shall be deposited into the  
4392 special fund created under Section 27-19-56.69(8).

4393 (2) Notwithstanding any other provision of law to the  
4394 contrary, beginning with any registration year beginning on or  
4395 after July 1, 2004, an additional fee of Five Dollars (\$5.00) is  
4396 imposed for any distinctive or special license tag or plate

4397 authorized under this chapter, including personalized tags issued  
4398 under Section 27-19-48, regardless of whether the license tag or  
4399 plate was authorized before or after July 1, 2004. The proceeds  
4400 collected from the additional fee imposed under this subsection  
4401 shall be deposited into the State General Fund.

4402 (3) The fees imposed under this section shall be in addition  
4403 to any other fees imposed under this chapter for a distinctive,  
4404 special, or personalized license tag or plate.

4405 (4) The provisions of this section shall not apply to  
4406 distinctive or special license tags or plates:

4407 (a) Which are issued under Section 27-19-46, 27-19-51,  
4408 27-19-53, 27-19-54, 27-19-56.5, 27-19-56.12, 27-19-56.13,  
4409 27-19-56.33, 27-19-56.36, 27-19-56.38, 27-19-56.42, 27-19-56.48,  
4410 27-19-56.49, 27-19-56.50, 27-19-56.51, 27-19-56.62, 27-19-56.79,  
4411 27-19-56.85 or 27-19-169; or

4412 (b) For which no additional fee is required to be paid.

4413 **SECTION 70.** Section 63-1-21, Mississippi Code of 1972, is  
4414 brought forward as follows:

4415 63-1-21. (1) Every applicant for a new or original driver's  
4416 or operator's license, except persons holding an out-of-state  
4417 license, shall first obtain a temporary driving permit upon the  
4418 payment of a fee of One Dollar (\$1.00) to the Department of Public  
4419 Safety and upon the successful completion of the examination  
4420 provided for in Section 63-1-33 and the payment of the fee for  
4421 such examination provided for in Section 63-1-43.

4422 (2) A temporary driving permit entitles the holder, provided  
4423 the permit is in his immediate possession, to drive a motor  
4424 vehicle other than a motorcycle on the highways of the State of  
4425 Mississippi only when accompanied by a licensed operator who is at  
4426 least twenty-one (21) years of age and who is actually occupying  
4427 the seat beside the driver. A temporary driving permit may be  
4428 issued to any applicant who is at least fifteen (15) years of age.

4429 A temporary driving permit shall be valid for a period of one (1)  
4430 year from the date of issue.

4431 (3) An intermediate license allows unsupervised driving from  
4432 6:00 a.m. to 10:00 p.m. At all other times the intermediate  
4433 licensee must be supervised by a parent, guardian or other person  
4434 age twenty-one (21) years or older who holds a valid driver's  
4435 license under this article and who is actually occupying the seat  
4436 beside the driver.

4437 (4) The fee for issuance of an intermediate license shall be  
4438 Five Dollars (\$5.00).

4439 Except as otherwise provided by Section 63-1-6, every  
4440 applicant for a restricted motorcycle operator's license or a  
4441 motorcycle endorsement shall first obtain a temporary motorcycle  
4442 driving permit upon the payment of a fee of One Dollar (\$1.00) to  
4443 the Department of Public Safety, and upon the successful  
4444 completion of the examination provided for in Section 63-1-33, and  
4445 payment of the fee for said examination provided for in Section  
4446 63-1-43. All applicants for such temporary permit shall (a) be at  
4447 least fifteen (15) years of age; (b) operate a motorcycle only  
4448 under the direct supervision of a person at least twenty-one (21)  
4449 years of age who possesses either a valid driver's or operator's  
4450 license with a motorcycle endorsement or a valid restricted  
4451 motorcycle operator's license; (c) be prohibited from transporting  
4452 a passenger on a motorcycle; (d) be prohibited from operating a  
4453 motorcycle upon any controlled access highway; and (e) be  
4454 prohibited from operating a motorcycle during the hours of 6:00  
4455 p.m. through 6:00 a.m. Temporary motorcycle driving permits shall  
4456 be valid for the same period of time and may be renewed upon the  
4457 same conditions as temporary driving permits issued for vehicles  
4458 other than motorcycles.

4459 **SECTION 71.** Section 63-1-37, Mississippi Code of 1972, is  
4460 brought forward as follows:

4461           63-1-37. In the event that a license or temporary driving  
4462 permit issued under the provisions of this article is lost or  
4463 destroyed, the licensee shall obtain from the commissioner a  
4464 duplicate copy thereof and shall pay a fee in the amount of Three  
4465 Dollars (\$3.00) plus the applicable photograph fee for the first  
4466 duplicate copy and a fee in the amount of Eight Dollars (\$8.00)  
4467 plus the applicable photograph fee for the second and each  
4468 subsequent duplicate copy. The license or permit shall be marked  
4469 "Duplicate."

4470           All fees collected under this section, except photograph  
4471 fees, shall be deposited into the State General Fund. Photograph  
4472 fees collected under this section shall be deposited pursuant to  
4473 the provisions of Section 63-1-43.

4474           **SECTION 72.** Section 63-1-43, Mississippi Code of 1972, is  
4475 brought forward as follows:

4476           63-1-43. (1) The fee for receiving the application and  
4477 issuing the regular driver's or operator's license and the fee for  
4478 renewing the license shall be:

4479                   (a) Eighteen Dollars (\$18.00) plus the applicable  
4480 photograph fee for each applicant for a four-year license;

4481                   (b) Three Dollars (\$3.00) plus the applicable  
4482 photograph fee for each applicant for a one-year license, except  
4483 as provided in paragraph (c) of this subsection; and

4484                   (c) Eight Dollars (\$8.00) plus the applicable  
4485 photograph fee for a one-year license for each applicant who is  
4486 not a United States citizen and who does not possess a social  
4487 security number issued by the United States government.

4488           All originals and renewals of regular operators' licenses  
4489 shall be in compliance with Section 63-1-47.

4490           (2) The fee for receiving the application and issuing a  
4491 motorcycle endorsement shall be Five Dollars (\$5.00). Motorcycle  
4492 endorsements shall be valid for the same period of time as the  
4493 applicant's operator's license.

4494           (3) The fee for receiving the application and issuing a  
4495 restricted motorcycle operator's license and the fee for renewing  
4496 such license shall be:

4497                   (a) Eleven Dollars (\$11.00) plus the applicable  
4498 photograph fee for a four-year license; and

4499                   (b) Eight Dollars (\$8.00) plus the applicable  
4500 photograph fee for a one (1) year license.

4501           All originals and renewals of restricted motorcycle licenses  
4502 shall be valid for the same period of time that an original  
4503 regular driver's license may be issued to such person in  
4504 compliance with Section 63-1-47.

4505           (4) From and after January 1, 1990, every person who makes  
4506 application for an original license or a renewal license to  
4507 operate a vehicle as a common carrier by motor vehicle, taxicab,  
4508 passenger coach, dray, contract carrier or private commercial  
4509 carrier as such terms are defined in Section 27-19-3, except for  
4510 those vehicles for which a Class A, B or C license is required  
4511 under Article 2 of this chapter, shall, in lieu of the regular  
4512 driver's license above provided for, apply for and obtain a Class  
4513 D commercial driver's license. Except as otherwise provided in  
4514 subsection (5) of this section, the fee for the issuance of a  
4515 Class D commercial driver's license shall be Twenty-three Dollars  
4516 (\$23.00) plus the applicable photograph fee for a period of four  
4517 (4) years; however, except as required under Article 2 of this  
4518 chapter, no driver of a pickup truck shall be required to have a  
4519 commercial license regardless of the purpose for which the pickup  
4520 truck is used.

4521           Except as otherwise provided in subsection (5) of this  
4522 section, all originals and renewals of commercial licenses issued  
4523 under this section shall be valid for a period of four (4) years,  
4524 in compliance with Section 63-1-47. Only persons who operate the  
4525 above-mentioned vehicles in the course of the regular and  
4526 customary business of the owner shall be required to obtain a

4527 Class D commercial operator's license, and persons operating such  
4528 vehicles for private purposes or in emergencies shall not be  
4529 required to obtain such license.

4530 (5) The original and each renewal of a commercial driver's  
4531 license issued under this section to a person who is not a United  
4532 States citizen and who does not possess a social security number  
4533 issued by the United States government shall be issued for a  
4534 period of one (1) year for a fee of Eight Dollars (\$8.00) plus the  
4535 applicable photograph fee and shall expire one (1) year from the  
4536 date of issuance. Such person may renew a commercial license  
4537 issued under this section within thirty (30) days of expiration of  
4538 the license.

4539 (6) The Commissioner of Public Safety, by rule or  
4540 regulation, shall establish a driver's license photograph fee  
4541 which shall be the actual cost of the photograph rounded off to  
4542 the next highest dollar. Monies collected for the photograph fee  
4543 shall be deposited into a special photograph fee account which the  
4544 Department of Public Safety shall use to pay the actual cost of  
4545 producing the photographs. Any monies collected in excess of the  
4546 actual costs of the photography shall be deposited to the General  
4547 Fund of the State of Mississippi.

4548 **SECTION 73.** Section 63-1-46, Mississippi Code of 1972, is  
4549 brought forward as follows:

4550 63-1-46. (1) A fee of Twenty-five Dollars (\$25.00) shall be  
4551 charged for the reinstatement of a license issued pursuant to this  
4552 article to every person whose license has been validly suspended,  
4553 revoked or cancelled. This fee shall be in addition to the fee  
4554 provided for in Section 63-1-43, Mississippi Code of 1972.

4555 (2) The funds received under the provisions of subsection  
4556 (1) of this section shall be deposited into the State General Fund  
4557 in accordance with Section 45-1-23, Mississippi Code of 1972.

4558 (3) In addition to the fee provided for in subsection (1) of  
4559 this section, an additional fee of Seventy-five Dollars (\$75.00)



4560 shall be charged for the reinstatement of a license issued  
4561 pursuant to this article to every person whose license has been  
4562 suspended or revoked under the provisions of the Mississippi  
4563 Implied Consent Law or as a result of a conviction of a violation  
4564 of the Uniform Controlled Substances Law under the provisions of  
4565 Section 63-1-71.

4566 (4) The funds received under the provisions of subsection  
4567 (3) of this section shall be placed in a special fund hereby  
4568 created in the State Treasury. Monies in such special fund may be  
4569 expended solely to contribute to the Disability and Relief Fund  
4570 for members of the Mississippi Highway Safety Patrol such amounts  
4571 as are necessary to make sworn agents of the Mississippi Bureau of  
4572 Narcotics who were employed by such bureau prior to December 1,  
4573 1990, and who were subsequently employed as enforcement troopers  
4574 by the Department of Public Safety, full members of the retirement  
4575 system for the Mississippi Highway Safety Patrol with full credit  
4576 for the time they were employed as sworn agents for the  
4577 Mississippi Bureau of Narcotics. The Board of Trustees of the  
4578 Public Employees' Retirement System shall certify to the State  
4579 Treasurer the amounts necessary for the purposes described above.  
4580 The State Treasurer shall monthly transfer from the special fund  
4581 created pursuant to this subsection the amounts deposited in such  
4582 special fund to the Disability and Relief Fund for members of the  
4583 Mississippi Highway Safety Patrol until such time as the certified  
4584 amount has been transferred. At such time as the certified amount  
4585 has been transferred, the State Treasurer shall transfer any funds  
4586 remaining in the special fund created pursuant to this subsection  
4587 to the State General Fund and shall then dissolve such special  
4588 fund. This subsection (4) shall stand repealed at such time when  
4589 the State Treasurer transfers funds and dissolves the special fund  
4590 account in accordance with the provisions of this subsection.

4591 (5) The procedure for the reinstatement of a license issued  
4592 pursuant to this article that has been suspended for being out of

4593 compliance with an order for support, as defined in Section  
4594 93-11-153, and the payment of any fees for the reinstatement of a  
4595 license suspended for that purpose, shall be governed by Section  
4596 93-11-157 or 93-11-163, as the case may be.

4597         **SECTION 74.** Section 63-1-81, Mississippi Code of 1972, is  
4598 brought forward as follows:

4599             63-1-81. (1) Each application for a commercial driver's  
4600 license or commercial driver instruction permit shall include the  
4601 following:

4602             (a) The full name and the current mailing and  
4603 residential address of the applicant;

4604             (b) A physical description of the applicant, including  
4605 sex, height, weight, eye and hair color;

4606             (c) The applicant's date of birth;

4607             (d) The applicant's social security number unless the  
4608 application is for a nonresident commercial driver's license;

4609             (e) The applicant's signature;

4610             (f) The applicant's color photograph;

4611             (g) All certifications required by applicable federal  
4612 regulations;

4613             (h) Any other information which the Commissioner of  
4614 Public Safety, by rule or regulation, determines necessary and  
4615 essential; and

4616             (i) The consent of the applicant to release driving  
4617 record information.

4618             (2) The fee for accepting and processing an application for  
4619 a commercial driver instruction permit shall be Ten Dollars  
4620 (\$10.00).

4621             (3) The fee for accepting and processing an application for  
4622 a Class A, B or C commercial driver's license shall be Twenty-five  
4623 Dollars (\$25.00).

4624             (4) No person who has been a resident of this state for  
4625 thirty (30) days may drive a commercial motor vehicle under the

4626 authority of a commercial driver's license issued by another  
4627 jurisdiction. Any violation of this subsection shall be  
4628 punishable as provided by Section 63-1-69, Mississippi Code of  
4629 1972.

4630 (5) Any person who knowingly falsifies information or  
4631 certifications required under subsection (1) of this section shall  
4632 be subject to the penalties prescribed in Section 63-1-59,  
4633 Mississippi Code of 1972, and shall be subject to suspension of  
4634 his commercial driver instruction permit or commercial driver's  
4635 license in accordance with Section 63-1-51, Mississippi Code of  
4636 1972.

4637 (6) Each application or filing made under this section shall  
4638 include the social security number(s) of the applicant in  
4639 accordance with Section 93-11-64, Mississippi Code of 1972.

4640 (7) (a) Any male who is at least eighteen (18) years of age  
4641 but less than twenty-six (26) years of age and who applies for a  
4642 commercial license or renewal of a commercial license under this  
4643 article shall be registered in compliance with the requirements of  
4644 Section 3 of the Military Selective Service Act, 50 USCS Appx 451  
4645 et seq., as amended.

4646 (b) The department shall forward in an electronic  
4647 format the necessary personal information of the applicant to the  
4648 Selective Service System. The applicant's submission of the  
4649 application shall serve as an indication that the applicant either  
4650 has already registered with the Selective Service System or that  
4651 he is authorizing the department to forward to the Selective  
4652 Service System the necessary information for registration. The  
4653 commissioner shall notify the applicant on, or as a part of, the  
4654 application that his submission of the application will serve as  
4655 his consent to registration with the Selective Service System, if  
4656 so required. The commissioner also shall notify any male  
4657 applicant under the age of eighteen (18) that he will be

4658 registered upon turning age eighteen (18) as required by federal  
4659 law.

4660         **SECTION 75.** Section 63-1-82, Mississippi Code of 1972, is  
4661 brought forward as follows:

4662             63-1-82. (1) Each commercial driver's license shall be  
4663 marked "Commercial Driver's License" or "CDL," and shall, to the  
4664 maximum extent practicable, be tamper proof. Each such license  
4665 shall include thereon, but not be limited to, the following  
4666 information:

4667             (a) The name and residential address of the licensee;

4668             (b) The licensee's color photograph;

4669             (c) A physical description of the licensee, including  
4670 his sex, height, weight, eye and hair color;

4671             (d) The licensee's date of birth;

4672             (e) Except for a nonresident commercial driver's  
4673 license, the licensee's social security number; and any other  
4674 identifying information which the Commissioner of Public Safety,  
4675 by rule or regulation, determines necessary and essential for the  
4676 purposes of complying with the provisions of this article;

4677             (f) The licensee's signature;

4678             (g) The class or type of commercial motor vehicle or  
4679 vehicles which the licensee is authorized to drive together with  
4680 any endorsements or restrictions;

4681             (h) The name of this state; and

4682             (i) The dates between which the license is valid.

4683             (2) The holder of a valid commercial driver's license may  
4684 drive all vehicles in the class for which that license is issued  
4685 and all lesser classes of vehicles, including any vehicle for  
4686 which an operator's license or commercial driver's license issued  
4687 under Article 1 of this chapter authorizes a person to drive.

4688 However, vehicles which require an endorsement may not be driven  
4689 unless the proper endorsement appears on the license.

4690 (3) Commercial driver's licenses may be issued with the  
4691 following classifications:

4692 (a) Class A. Any combination of vehicles with a gross  
4693 vehicle weight rating of twenty-six thousand one (26,001) pounds  
4694 or more, provided the gross vehicle weight rating of the vehicle  
4695 or vehicles being towed is in excess of ten thousand (10,000)  
4696 pounds;

4697 (b) Class B. Any single vehicle with a gross vehicle  
4698 weight rating of twenty-six thousand one (26,001) pounds or more,  
4699 and any such vehicle towing a vehicle not in excess of ten  
4700 thousand (10,000) pounds;

4701 (c) Class C. Any single vehicle with a gross vehicle  
4702 weight rating of less than twenty-six thousand one (26,001) pounds  
4703 or any such vehicle towing a vehicle with a gross vehicle weight  
4704 rating not in excess of ten thousand (10,000) pounds comprising:

4705 (i) Vehicles designed to transport sixteen (16) or  
4706 more passengers, including the driver; and

4707 (ii) Vehicles used in the transportation of  
4708 hazardous materials which are required to be placarded under the  
4709 Hazardous Materials Transportation Act, 49 USCS Appx., Section  
4710 1801 et seq.; and

4711 (d) Class D. All other vehicles or combination of  
4712 vehicles which are not included in Class A, Class B or Class C and  
4713 for which a commercial license is required to be issued as  
4714 provided by Section 63-1-43, Mississippi Code of 1972.

4715 (4) Commercial driver's licenses may be issued with the  
4716 following endorsements and restrictions:

4717 (a) "H" authorizes the driver to drive a vehicle  
4718 transporting hazardous materials;

4719 (b) "K" restricts the driver to vehicles not equipped  
4720 with air brakes;

4721 (c) "T" authorizes driving double and triple trailers;

4722 (d) "P" authorizes driving vehicles carrying  
4723 passengers;  
4724 (e) "N" authorizes driving tank vehicles; and  
4725 (f) "X" represents a combination of hazardous materials  
4726 and tank vehicle endorsements.

4727 (g) "S" restricts the driver to school buses being  
4728 operated for the purpose of transporting pupils to and from school  
4729 or to school-related functions and/or to all other vehicles not  
4730 requiring a commercial driver's license.

4731 (5) Before issuing a commercial driver's license, the  
4732 Commissioner of Public Safety shall obtain driving record  
4733 information through the Commercial Driver License Information  
4734 System.

4735 (6) Within ten (10) days after issuing a commercial driver's  
4736 license, the Commissioner of Public Safety shall notify the  
4737 Commercial Driver License Information System of that fact,  
4738 providing all information required to ensure identification of the  
4739 person.

4740 (7) The fee charged for the issuance of each original and  
4741 each renewal of a Class A, B or C commercial driver's license  
4742 shall be Thirty-eight Dollars (\$38.00) plus the applicable  
4743 photograph fee. In addition, a fee of Five Dollars (\$5.00) shall  
4744 be charged for each endorsement or restriction entered on a  
4745 commercial driver's license under subsection (4) of this section.  
4746 However, the fee charged for each original and renewal of a  
4747 commercial driver's license with an "S" restriction shall be the  
4748 same as the fee for a Class D commercial driver's license in  
4749 addition to all application fees.

4750 (8) If a commercial driver instruction permit or commercial  
4751 driver's license is lost or destroyed, or if the holder of a  
4752 commercial driver's license changes his name, mailing address or  
4753 residence, an application for a duplicate permit or license shall  
4754 be made as provided by Section 63-1-37, Mississippi Code of 1972.

4755 (9) All commercial driver's licenses issued under the  
4756 provisions of this article shall be issued for a period of not  
4757 more than four (4) years and shall expire at midnight on the last  
4758 day of the licensee's month of birth.

4759 (10) Every person applying for renewal of a commercial  
4760 driver's license shall complete the application form required by  
4761 Section 63-1-81, Mississippi Code of 1972, providing updated  
4762 information and required certifications and paying the appropriate  
4763 fees. If the applicant wishes to retain a hazardous materials  
4764 endorsement, the written test for a hazardous materials  
4765 endorsement must be taken and passed.

4766 (11) The Commissioner of Public Safety, by rule or  
4767 regulation, shall establish a driver's license photograph fee  
4768 which shall be the actual cost of the photograph rounded off to  
4769 the next highest dollar. Monies collected for the photograph fee  
4770 shall be deposited into a special photograph fee account which the  
4771 Department of Public Safety shall use to pay the actual cost of  
4772 producing the photographs. Any monies collected in excess of the  
4773 actual costs of the photography shall be deposited to the General  
4774 Fund of the State of Mississippi.

4775 **SECTION 76.** Section 63-21-63, Mississippi Code of 1972, is  
4776 amended as follows:

4777 63-21-63. There shall be paid to the State Tax Commission  
4778 for issuing and processing documents required by this chapter,  
4779 fees according to the following schedule:

- |      |   |                |
|------|---|----------------|
| 4780 | (1) Each application for certificate of title...    | <u>\$14.00</u> |
| 4781 | (2) Each application for replacement or corrected   |                |
| 4782 | certificate of title.....                           | <u>14.00</u>   |
| 4783 | (3) Each suspension or revocation of certificate of |                |
| 4784 | title.....  | <u>14.00</u>   |
| 4785 | (4) Each notice of security interest.....           | <u>14.00</u>   |
| 4786 | (5) Each release of security interest.....          | <u>14.00</u>   |
| 4787 | (6) Each assignment by lienholder.....              | <u>14.00</u>   |

4788 (7) Each application for information as to the status  
4789 of the title of a vehicle..... 14.00

4790 The designated agent may add the sum of One Dollar (\$1.00) to  
4791 each document processed for which a fee is charged to be retained  
4792 as his commission for services rendered. All other fees collected  
4793 shall be remitted to the State Tax Commission.

4794 If more than one (1) transaction be involved in any  
4795 application on a single vehicle and if supported by all required  
4796 documents, the fee charged by the State Tax Commission and by the  
4797 designated agent for processing and issuing shall be considered as  
4798 only one (1) transaction.

4799 **PART 14 - UNIFORM COMMERCIAL CODE**

4800 **SECTION 77.** Section 75-9-525, Mississippi Code of 1972, is  
4801 amended as follows:

4802 **[Until December 31, 2007, this section shall read as**  
4803 **follows:]**

4804 75-9-525. (a) Except as otherwise provided in subsection  
4805 (e), the fee for filing and indexing a record under this part,  
4806 other than an initial financing statement of the kind described in  
4807 subsection (b) is the amount specified in subsection (c), if  
4808 applicable, plus:

4809 (1) Ten Dollars (\$10.00) if the record is communicated  
4810 in writing and is in the standard form prescribed by the Secretary  
4811 of State;

4812 (2) Thirteen Dollars (\$13.00) if the record is  
4813 communicated in writing and is not in the standard form prescribed  
4814 by the Secretary of State; and

4815 (3) Eight Dollars (\$8.00) if the record is communicated  
4816 by another medium authorized by filing-office rule.

4817 In addition to the fees levied in paragraphs (1), (2) and (3)  
4818 of this subsection (a), a fee of Five Dollars (\$5.00) shall be  
4819 levied on all transactions described in paragraphs (1), (2) and  
4820 (3) of this subsection (a). The additional fees collected under



4821 authority of this paragraph shall be deposited into the State  
4822 General Fund.

4823 (b) Except as otherwise provided in subsection (e), the fee  
4824 for filing and indexing an initial financing statement of the  
4825 following kind is the amount specified in subsection (c), if  
4826 applicable, plus:

4827 (1) Thirteen Dollars (\$13.00) if the financing  
4828 statement indicates that it is filed in connection with a  
4829 public-finance transaction;

4830 (2) Ten Dollars (\$10.00) if the financing statement  
4831 indicates that it is filed in connection with a manufactured-home  
4832 transaction.

4833 In addition to the fees levied in paragraphs (1) and (2) of  
4834 this subsection (b), a fee of Five Dollars (\$5.00) shall be levied  
4835 on all transactions described in paragraphs (1) and (2) of this  
4836 subsection (b). The additional fees collected under authority of  
4837 this paragraph shall be deposited into the State General Fund.

4838 (c) Except as otherwise provided in subsection (e), if a  
4839 record is communicated in writing, the fee for each additional  
4840 debtor name more than one (1) required to be indexed is Four  
4841 Dollars (\$4.00).

4842 (d) The fee for responding to a request for information from  
4843 the filing office, including for issuing a certificate showing  
4844 whether there is on file any financing statement naming a  
4845 particular debtor, is:

4846 (1) Five Dollars (\$5.00) if the request is communicated  
4847 in writing on the standard form prescribed by the Secretary of  
4848 State;

4849 (2) Ten Dollars (\$10.00) if the request is communicated  
4850 in writing and is not in the standard form prescribed by the  
4851 Secretary of State;

4852           (3) Three Dollars (\$3.00) if the request is  
4853 communicated by another medium authorized by filing-office rule;  
4854 and

4855           (4) An additional fee of Two Dollars (\$2.00) shall be  
4856 paid by the requesting party for each financing statement listed  
4857 on the filing officer's certificate, the aggregate of which shall  
4858 be billed to the requesting party at the time the filing officer's  
4859 certificate is issued.

4860           (e) This section does not require a fee to the chancery  
4861 clerk with respect to a record of a mortgage which is effective as  
4862 a financing statement filed as a fixture filing or as a financing  
4863 statement covering as-extracted collateral or timber to be cut  
4864 under Section 75-9-502(c). However, the recording and  
4865 satisfaction fees to the chancery clerk that otherwise would be  
4866 applicable under Section 25-7-9 to the record of the mortgage  
4867 apply.

4868           **[From and after December 31, 2007, this section shall read as**  
4869 **follows:]**

4870           75-9-525. (a) Except as otherwise provided in subsection  
4871 (e), the fee for filing and indexing a record under this part,  
4872 other than an initial financing statement of the kind described in  
4873 subsection (b) is the amount specified in subsection (c), if  
4874 applicable, plus:

4875           (1) Five Dollars (\$5.00) if the record is communicated  
4876 in writing and is in the standard form prescribed by the Secretary  
4877 of State;

4878           (2) Eight Dollars (\$8.00) if the record is communicated  
4879 in writing and is not in the standard form prescribed by the  
4880 Secretary of State; and

4881           (3) Three Dollars (\$3.00) if the record is communicated  
4882 by another medium authorized by filing-office rule.

4883           In addition to the fees levied in paragraphs (1), (2) and (3)  
4884 of this subsection (a), a fee of Five Dollars (\$5.00) shall be

4885 levied on all transactions described in paragraphs (1), (2) and  
4886 (3) of this subsection (a). The additional fees collected under  
4887 authority of this paragraph shall be deposited into the State  
4888 General Fund.

4889 (b) Except as otherwise provided in subsection (e), the fee  
4890 for filing and indexing an initial financing statement of the  
4891 following kind is the amount specified in subsection (c), if  
4892 applicable, plus:

4893 (1) Eight Dollars (\$8.00) if the financing statement  
4894 indicates that it is filed in connection with a public-finance  
4895 transaction;

4896 (2) Five Dollars (\$5.00) if the financing statement  
4897 indicates that it is filed in connection with a manufactured-home  
4898 transaction.

4899 In addition to the fees levied in paragraphs (1) and (2) of  
4900 this subsection (b), a fee of Five Dollars (\$5.00) shall be levied  
4901 on all transactions described in paragraphs (1) and (2) of this  
4902 subsection (b). The additional fees collected under authority of  
4903 this paragraph shall be deposited into the State General Fund.

4904 (c) Except as otherwise provided in subsection (e), if a  
4905 record is communicated in writing, the fee for each additional  
4906 debtor name more than one (1) required to be indexed is Four  
4907 Dollars (\$4.00).

4908 (d) The fee for responding to a request for information from  
4909 the filing office, including for issuing a certificate showing  
4910 whether there is on file any financing statement naming a  
4911 particular debtor, is:

4912 (1) Five Dollars (\$5.00) if the request is communicated  
4913 in writing on the standard form prescribed by the Secretary of  
4914 State;

4915 (2) Ten Dollars (\$10.00) if the request is communicated  
4916 in writing and is not in the standard form prescribed by the  
4917 Secretary of State;

4918 (3) Three Dollars (\$3.00) if the request is  
4919 communicated by another medium authorized by filing-office rule;  
4920 and

4921 (4) An additional fee of Two Dollars (\$2.00) shall be  
4922 paid by the requesting party for each financing statement listed  
4923 on the filing officer's certificate, the aggregate of which shall  
4924 be billed to the requesting party at the time the filing officer's  
4925 certificate is issued.

4926 (e) This section does not require a fee to the chancery  
4927 clerk with respect to a record of a mortgage which is effective as  
4928 a financing statement filed as a fixture filing or as a financing  
4929 statement covering as-extracted collateral or timber to be cut  
4930 under Section 75-9-502(c). However, the recording and  
4931 satisfaction fees to the chancery clerk that otherwise would be  
4932 applicable under Section 25-7-9 to the record of the mortgage  
4933 apply.

4934 **PART 15 - MEDICAID**

4935 **SECTION 78.** Section 43-13-115, Mississippi Code of 1972, is  
4936 amended as follows:

4937 43-13-115. Recipients of Medicaid shall be the following  
4938 persons only:

4939 (1) Who are qualified for public assistance grants  
4940 under provisions of Title IV-A and E of the federal Social  
4941 Security Act, as amended, as determined by the State Department of  
4942 Human Services, including those statutorily deemed to be IV-A and  
4943 low-income families and children under Section 1931 of the Social  
4944 Security Act as determined by the State Department of Human  
4945 Services and certified to the Division of Medicaid, but not  
4946 optional groups except as specifically covered in this section.  
4947 For the purposes of this paragraph (1) and paragraphs (8), (17)  
4948 and (18) of this section, any reference to Title IV-A or to Part A  
4949 of Title IV of the federal Social Security Act, as amended, or the  
4950 state plan under Title IV-A or Part A of Title IV, shall be

4951 considered as a reference to Title IV-A of the federal Social  
4952 Security Act, as amended, and the state plan under Title IV-A,  
4953 including the income and resource standards and methodologies  
4954 under Title IV-A and the state plan, as they existed on July 16,  
4955 1996.

4956 (2) Those qualified for Supplemental Security Income  
4957 (SSI) benefits under Title XVI of the federal Social Security Act,  
4958 as amended, and those who are deemed SSI eligible as contained in  
4959 federal statute. The eligibility of individuals covered in this  
4960 paragraph shall be determined by the Social Security  
4961 Administration and certified to the Division of Medicaid.

4962 (3) Qualified pregnant women who would be eligible for  
4963 Medicaid as a low income family member under Section 1931 of the  
4964 federal Social Security Act if her child were born.

4965 (4) [Deleted]

4966 (5) A child born on or after October 1, 1984, to a  
4967 woman eligible for and receiving Medicaid under the state plan on  
4968 the date of the child's birth shall be deemed to have applied for  
4969 Medicaid and to have been found eligible for Medicaid under the  
4970 plan on the date of that birth, and will remain eligible for  
4971 Medicaid for a period of one (1) year so long as the child is a  
4972 member of the woman's household and the woman remains eligible for  
4973 Medicaid or would be eligible for Medicaid if pregnant. The  
4974 eligibility of individuals covered in this paragraph shall be  
4975 determined by the State Department of Human Services and certified  
4976 to the Division of Medicaid.

4977 (6) Children certified by the State Department of Human  
4978 Services to the Division of Medicaid of whom the state and county  
4979 departments of human services have custody and financial  
4980 responsibility, and children who are in adoptions subsidized in  
4981 full or part by the Department of Human Services, including  
4982 special needs children in non-Title IV-E adoption assistance, who  
4983 are approvable under Title XIX of the Medicaid program.

4984                   (7) (a) Persons certified by the Division of Medicaid  
4985 who are patients in a medical facility (nursing home, hospital,  
4986 tuberculosis sanatorium or institution for treatment of mental  
4987 diseases), and who, except for the fact that they are patients in  
4988 that medical facility, would qualify for grants under Title IV,  
4989 Supplementary Security Income (SSI) benefits under Title XVI or  
4990 state supplements, and those aged, blind and disabled persons who  
4991 would not be eligible for Supplemental Security Income (SSI)  
4992 benefits under Title XVI or state supplements if they were not  
4993 institutionalized in a medical facility but whose income is below  
4994 the maximum standard set by the Division of Medicaid, which  
4995 standard shall not exceed that prescribed by federal regulation;

4996                   (b) Individuals who have elected to receive  
4997 hospice care benefits and who are eligible using the same criteria  
4998 and special income limits as those in institutions as described in  
4999 subparagraph (a) of this paragraph (7).

5000                   (8) Children under eighteen (18) years of age and  
5001 pregnant women (including those in intact families) who meet the  
5002 financial standards of the state plan approved under Title IV-A of  
5003 the federal Social Security Act, as amended. The eligibility of  
5004 children covered under this paragraph shall be determined by the  
5005 State Department of Human Services and certified to the Division  
5006 of Medicaid.

5007                   (9) Individuals who are:

5008                   (a) Children born after September 30, 1983, who  
5009 have not attained the age of nineteen (19), with family income  
5010 that does not exceed one hundred percent (100%) of the nonfarm  
5011 official poverty level;

5012                   (b) Pregnant women, infants and children who have  
5013 not attained the age of six (6), with family income that does not  
5014 exceed one hundred thirty-three percent (133%) of the federal  
5015 poverty level; and

5016 (c) Pregnant women and infants who have not  
5017 attained the age of one (1), with family income that does not  
5018 exceed one hundred eighty-five percent (185%) of the federal  
5019 poverty level.

5020 The eligibility of individuals covered in (a), (b) and (c) of  
5021 this paragraph shall be determined by the Department of Human  
5022 Services.

5023 (10) Certain disabled children age eighteen (18) or  
5024 under who are living at home, who would be eligible, if in a  
5025 medical institution, for SSI or a state supplemental payment under  
5026 Title XVI of the federal Social Security Act, as amended, and  
5027 therefore for Medicaid under the plan, and for whom the state has  
5028 made a determination as required under Section 1902(e)(3)(b) of  
5029 the federal Social Security Act, as amended. The eligibility of  
5030 individuals under this paragraph shall be determined by the  
5031 Division of Medicaid; \* \* \* however, \* \* \* the division may apply  
5032 to the Centers for Medicare and Medicaid Services (CMS) for a  
5033 waiver that will allow flexibility in the benefit design for the  
5034 Disabled Children Living at Home eligibility category authorized  
5035 in this paragraph (10), and the division may establish an  
5036 expenditure/enrollment cap for this category. Nothing contained  
5037 in this paragraph (10) shall entitle an individual for benefits.

5038 (11) Individuals who are sixty-five (65) years of age  
5039 or older or are disabled as determined under Section 1614(a)(3) of  
5040 the federal Social Security Act, as amended, and whose income does  
5041 not exceed one hundred thirty-five percent (135%) of the nonfarm  
5042 official poverty level as defined by the Office of Management and  
5043 Budget and revised annually, and whose resources do not exceed  
5044 those established by the Division of Medicaid.

5045 The eligibility of individuals covered under this paragraph  
5046 shall be determined by the Division of Medicaid; \* \* \*  
5047 however, \* \* \* the division may apply to the Centers for Medicare  
5048 and Medicaid Services (CMS) for a waiver that will allow

5049 flexibility in the benefit design and buy-in options for the  
5050 Poverty Level Aged and Disabled (PLAD) eligibility category  
5051 authorized in this paragraph (11), and the division may establish  
5052 an expenditure/enrollment cap for this category. Nothing  
5053 contained in this paragraph (11) shall entitle an individual for  
5054 benefits.

5055 (12) Individuals who are qualified Medicare  
5056 beneficiaries (QMB) entitled to Part A Medicare as defined under  
5057 Section 301, Public Law 100-360, known as the Medicare  
5058 Catastrophic Coverage Act of 1988, and whose income does not  
5059 exceed one hundred percent (100%) of the nonfarm official poverty  
5060 level as defined by the Office of Management and Budget and  
5061 revised annually.

5062 The eligibility of individuals covered under this paragraph  
5063 shall be determined by the Division of Medicaid, and those  
5064 individuals determined eligible shall receive Medicare  
5065 cost-sharing expenses only as more fully defined by the Medicare  
5066 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of  
5067 1997.

5068 (13) (a) Individuals who are entitled to Medicare Part  
5069 A as defined in Section 4501 of the Omnibus Budget Reconciliation  
5070 Act of 1990, and whose income does not exceed one hundred twenty  
5071 percent (120%) of the nonfarm official poverty level as defined by  
5072 the Office of Management and Budget and revised annually.

5073 Eligibility for Medicaid benefits is limited to full payment of  
5074 Medicare Part B premiums.

5075 (b) Individuals entitled to Part A of Medicare, with  
5076 income above one hundred twenty percent (120%), but less than one  
5077 hundred thirty-five percent (135%) of the federal poverty level,  
5078 and not otherwise eligible for Medicaid Eligibility for Medicaid  
5079 benefits is limited to full payment of Medicare Part B premiums.  
5080 The number of eligible individuals is limited by the availability  
5081 of the federal capped allocation at one hundred percent (100%) of



5082 federal matching funds, as more fully defined in the Balanced  
5083 Budget Act of 1997.

5084 The eligibility of individuals covered under this paragraph  
5085 shall be determined by the Division of Medicaid.

5086 (14) [Deleted]

5087 (15) Disabled workers who are eligible to enroll in  
5088 Part A Medicare as required by Public Law 101-239, known as the  
5089 Omnibus Budget Reconciliation Act of 1989, and whose income does  
5090 not exceed two hundred percent (200%) of the federal poverty level  
5091 as determined in accordance with the Supplemental Security Income  
5092 (SSI) program. The eligibility of individuals covered under this  
5093 paragraph shall be determined by the Division of Medicaid, and  
5094 those individuals shall be entitled to buy-in coverage of Medicare  
5095 Part A premiums only under the provisions of this paragraph (15).

5096 (16) In accordance with the terms and conditions of  
5097 approved Title XIX waiver from the United States Department of  
5098 Health and Human Services, persons provided home- and  
5099 community-based services who are physically disabled and certified  
5100 by the Division of Medicaid as eligible due to applying the income  
5101 and deeming requirements as if they were institutionalized.

5102 (17) In accordance with the terms of the federal  
5103 Personal Responsibility and Work Opportunity Reconciliation Act of  
5104 1996 (Public Law 104-193), persons who become ineligible for  
5105 assistance under Title IV-A of the federal Social Security Act, as  
5106 amended, because of increased income from or hours of employment  
5107 of the caretaker relative or because of the expiration of the  
5108 applicable earned income disregards, who were eligible for  
5109 Medicaid for at least three (3) of the six (6) months preceding  
5110 the month in which the ineligibility begins, shall be eligible for  
5111 Medicaid \* \* \* for up to twelve (12) months.

5112 (18) Persons who become ineligible for assistance under  
5113 Title IV-A of the federal Social Security Act, as amended, as a  
5114 result, in whole or in part, of the collection or increased

5115 collection of child or spousal support under Title IV-D of the  
5116 federal Social Security Act, as amended, who were eligible for  
5117 Medicaid for at least three (3) of the six (6) months immediately  
5118 preceding the month in which the ineligibility begins, shall be  
5119 eligible for Medicaid for an additional four (4) months beginning  
5120 with the month in which the ineligibility begins.

5121 (19) Disabled workers, whose incomes are above the  
5122 Medicaid eligibility limits, but below two hundred fifty percent  
5123 (250%) of the federal poverty level, shall be allowed to purchase  
5124 Medicaid coverage on a sliding fee scale developed by the Division  
5125 of Medicaid.

5126 (20) Medicaid eligible children under age eighteen (18)  
5127 shall remain eligible for Medicaid benefits until the end of a  
5128 period of twelve (12) months following an eligibility  
5129 determination, or until such time that the individual exceeds age  
5130 eighteen (18).

5131 (21) Women of childbearing age whose family income does  
5132 not exceed one hundred eighty-five percent (185%) of the federal  
5133 poverty level. The eligibility of individuals covered under this  
5134 paragraph (21) shall be determined by the Division of Medicaid,  
5135 and those individuals determined eligible shall only receive  
5136 family planning services covered under Section 43-13-117(13) and  
5137 not any other services covered under Medicaid. However, any  
5138 individual eligible under this paragraph (21) who is also eligible  
5139 under any other provision of this section shall receive the  
5140 benefits to which he or she is entitled under that other  
5141 provision, in addition to family planning services covered under  
5142 Section 43-13-117(13).

5143 The Division of Medicaid shall apply to the United States  
5144 Secretary of Health and Human Services for a federal waiver of the  
5145 applicable provisions of Title XIX of the federal Social Security  
5146 Act, as amended, and any other applicable provisions of federal  
5147 law as necessary to allow for the implementation of this paragraph

5148 (21). The provisions of this paragraph (21) shall be implemented  
5149 from and after the date that the Division of Medicaid receives the  
5150 federal waiver.

5151 (22) Persons who are workers with a potentially severe  
5152 disability, as determined by the division, shall be allowed to  
5153 purchase Medicaid coverage. The term "worker with a potentially  
5154 severe disability" means a person who is at least sixteen (16)  
5155 years of age but under sixty-five (65) years of age, who has a  
5156 physical or mental impairment that is reasonably expected to cause  
5157 the person to become blind or disabled as defined under Section  
5158 1614(a) of the federal Social Security Act, as amended, if the  
5159 person does not receive items and services provided under  
5160 Medicaid.

5161 The eligibility of persons under this paragraph (22) shall be  
5162 conducted as a demonstration project that is consistent with  
5163 Section 204 of the Ticket to Work and Work Incentives Improvement  
5164 Act of 1999, Public Law 106-170, for a certain number of persons  
5165 as specified by the division. The eligibility of individuals  
5166 covered under this paragraph (22) shall be determined by the  
5167 Division of Medicaid.

5168 (23) Children certified by the Mississippi Department  
5169 of Human Services for whom the state and county departments of  
5170 human services have custody and financial responsibility who are  
5171 in foster care on their eighteenth birthday as reported by the  
5172 Mississippi Department of Human Services shall be certified  
5173 Medicaid eligible by the Division of Medicaid until their  
5174 twenty-first birthday.

5175 (24) Individuals who have not attained age sixty-five  
5176 (65), are not otherwise covered by creditable coverage as defined  
5177 in the Public Health Services Act, and have been screened for  
5178 breast and cervical cancer under the Centers for Disease Control  
5179 and Prevention Breast and Cervical Cancer Early Detection Program  
5180 established under Title XV of the Public Health Service Act in

5181 accordance with the requirements of that act and who need  
5182 treatment for breast or cervical cancer. Eligibility of  
5183 individuals under this paragraph (24) shall be determined by the  
5184 Division of Medicaid.

5185         **SECTION 79.** This act shall take effect and be in force from  
5186 and after July 1, 2004, except for Sections 18, 23, 47, 57, 58, 59  
5187 and 60, which shall take effect and be in force from and after the  
5188 passage of this act.