

By: Representative Watson

To: Ways and Means

HOUSE BILL NO. 1375

1 AN ACT TO PROVIDE FOR THE HEARING OF APPEALS FROM ASSESSMENTS
 2 OF CERTAIN TAXES, DENIALS OF REFUND CLAIMS AND DENIALS OF WAIVERS
 3 OF TAG PENALTIES BY THE STATE TAX COMMISSION; TO PROVIDE FOR THE
 4 HEARING OF APPEALS FROM THE SUSPENSION, SURRENDER, SEIZURE OR
 5 REVOCATION OF CERTAIN PERMITS, TAGS OR TITLES ISSUED BY THE STATE
 6 TAX COMMISSION; TO PROVIDE FOR THE HEARING OF APPEALS FROM DENIALS
 7 OF REQUESTS FOR CERTAIN PERMITS, TAGS OR TITLES ISSUED OR APPROVED
 8 BY THE STATE TAX COMMISSION; TO PROVIDE FOR THE APPOINTMENT OF
 9 HEARING OFFICERS AND THE CREATION OF A BOARD OF REVIEW TO HEAR
 10 APPEALS; TO PROVIDE OPERATING PROCEDURES FOR HEARING OFFICERS AND
 11 THE BOARD OF REVIEW; TO PROVIDE THE TIME WITHIN WHICH APPEALS MUST
 12 BE MADE; TO PROVIDE THE MANNER IN WHICH SUCH APPEALS MUST BE MADE;
 13 TO PROVIDE FOR APPEALS FROM DECISIONS OF HEARING OFFICERS AND THE
 14 BOARD OF REVIEW TO THE STATE TAX COMMISSION; TO PROVIDE FOR
 15 APPEALS FROM DECISIONS OF THE STATE TAX COMMISSION; TO PROVIDE THE
 16 STANDARDS OF REVIEW OF SUCH APPEALS; TO PROHIBIT THE DISCLOSURE OF
 17 INFORMATION IN THE POSSESSION OF THE COMMISSION AND TO PROVIDE
 18 EXCEPTIONS TO SUCH PROHIBITION; TO EXEMPT CERTAIN RECORDS IN THE
 19 FILES OF THE STATE TAX COMMISSION FROM THE MISSISSIPPI PUBLIC
 20 RECORDS ACT OF 1983; TO EXEMPT CERTAIN MEETINGS AND DELIBERATIONS
 21 OF THE STATE TAX COMMISSION AND HEARING OFFICERS AND THE BOARD OF
 22 REVIEW OF THE STATE TAX COMMISSION FROM THE OPEN MEETINGS LAW; TO
 23 EXCLUDE FROM THE PROVISIONS OF THIS ACT FUNCTIONS OF THE STATE TAX
 24 COMMISSION THAT RELATE TO AD VALOREM TAXATION, THE LOCAL OPTION
 25 ALCOHOLIC BEVERAGE LAW AND THE MISSISSIPPI NATIVE WINE LAW OF
 26 1976; TO AMEND SECTIONS 25-41-3, 27-7-51, 27-7-53, 27-7-55,
 27 27-7-79, 27-7-315, 27-7-317, 27-9-49, 27-13-23, 27-13-25,
 28 27-13-29, 27-13-65, 27-19-48, 27-19-73, 27-55-535, 27-57-19,
 29 27-65-27, 27-65-57, 27-69-9, 27-73-1, 27-73-5, 67-3-29, 67-3-59
 30 AND 75-23-25, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO
 31 REPEAL SECTIONS 27-3-29, 27-7-71, 27-7-73, 27-9-47, 27-13-43,
 32 27-13-45, 27-19-337, 27-55-41, 27-55-549, 27-57-29, 27-59-43,
 33 27-59-317, 27-61-35, 27-65-45, 27-65-47, 27-65-49, 27-67-23,
 34 27-67-25, 27-67-27, 27-69-43 AND 63-21-61, MISSISSIPPI CODE OF
 35 1972, WHICH PROVIDE FOR APPEALS FROM CERTAIN ACTIONS OF THE STATE
 36 TAX COMMISSION; AND FOR RELATED PURPOSES.

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

38 **SECTION 1.** As used in Sections 1 through 10 of this act:

39 (a) "Agency" means the commissioner acting directly or
 40 through his duly authorized officers, agents, representatives and
 41 employees, to perform duties and powers prescribed by the laws of
 42 this state to be performed by the Chairman of the State Tax
 43 Commission, the Commissioner of Revenue or the State Tax
 44 Commission, except as provided in Section 27-3-31 for those

45 matters with respect to which the chairman and associate
46 commissioners of the State Tax Commission act collectively as a
47 commission.

48 (b) "Board of review" means the board of review of the
49 State Tax Commission as appointed by the commissioner under
50 Section 2 of this act, and also means a panel of the board of
51 review when an appeal is considered by a panel of the board of
52 review instead of the board of review en banc.

53 (c) "Commissioner" means the Chairman of the State Tax
54 Commission.

55 (d) "Commission" means the State Tax Commission as
56 created under Section 27-3-1 when the members thereof sit
57 collectively to hear appeals from a hearing officer or from the
58 board of review as provided in this Sections 1 through 10 of this
59 act.

60 (e) "Denial" means the final decision of the staff of
61 the agency to deny the claim, request for waiver or application
62 being considered. In this context, staff of the agency does not
63 include the board of review or the commission. "Denial" does not
64 mean the act of returning or refusing to consider a claim, request
65 for waiver or application for permit, title or tag by the staff of
66 the agency due to a lack of information and/or documentation
67 unless the return or refusal is in response to a representation by
68 the person who filed the claim, request for waiver or application
69 in issue that information and/or documentation indicated by the
70 staff of the agency to be lacking can not or will not be provided.

71 (f) "Designated representative" means an individual who
72 represents a person in an administrative appeal before a hearing
73 officer of the agency, before the board of review or before the
74 commission.

75 (g) "Last known address" when referring to the mailing
76 of a notice of intent to suspend, revoke or to order the surrender
77 and/or seizure of the permit, tag or title or to the mailing of a

78 denial of permit, tag or title, means the last mailing address of
79 the person being sent the notice as it appears on the record of
80 the agency in regard to the permit, tag or title in issue. All
81 other references to "last known address" in Sections 1 through 10
82 of this act mean the official mailing address that the hearing
83 officer, the board of review or the commission secretary has for
84 the addressee in their file on the administrative appeal in which
85 the document or item is being mailed to the addressee. The
86 addressee is presumed to have received any document or item mailed
87 to his official mailing address. The commissioner by regulation
88 shall prescribe the procedure for establishing an official mailing
89 address in the administrative appeal process and the procedure for
90 changing the official mailing address. It is the responsibility
91 of the addressee to make sure that his official mailing address is
92 correct.

93 (h) "Mail", "mailed" or "mailing" means placing the
94 document or item referred to in First Class United States Mail,
95 postage prepaid, addressed to the person to whom the document or
96 item is to be sent at the last known address of that person.
97 Where a person is represented in an administrative appeal before a
98 hearing officer, the board of review or the commission by a
99 designated representative, the terms "mail", "mailed" or "mailing"
100 when referring to sending a document or item to that person shall
101 also mean placing the document or item referred to in First Class
102 United States Mail, postage prepaid, to the last known address of
103 that person's designated representative. Mailing to the
104 designated representative of a taxpayer, permittee, tag holder or
105 title interest holder shall constitute mailing and notice to the
106 taxpayer, permittee, tag holder or title interest holder.

107 (i) "Permit" means a type of license or permit that the
108 agency is authorized to issue, suspend or revoke, such as a sales
109 tax permit, a beer permit, a tobacco permit, a dealer license, or
110 designated agent status, but does not include any type of permit

111 issued under the Local Option Alcoholic Beverage Control Law,
112 Section 67-1-1, et seq. or under the Mississippi Native Wine Law
113 of 1976, Section 67-5-1, et seq.

114 (j) "Permittee" means a person holding a permit,
115 applying for a permit or renewing a permit.

116 (k) "Person" means a natural person, partnership,
117 limited partnership, corporation, limited liability company,
118 estate, trust, association, joint venture, other legal entity or
119 other group or combination acting as a unit, and includes the
120 plural as well as the singular in number. "Person" includes the
121 state, county, municipal, other political subdivision and any
122 agency, institution or instrumentality thereof, but only when used
123 in the context of a taxpayer, permittee, tag holder, or title
124 interest holder.

125 (l) "Refund Claim" means a claim made in writing by a
126 taxpayer and received by the agency wherein the taxpayer indicates
127 that he overpaid taxes to the agency and requests a refund of the
128 overpayment and/or a credit against current or future taxes for
129 the overpayment.

130 (m) "Resident" when used to describe a taxpayer or
131 petitioner, means a natural person whose residence and place of
132 abode is within the State of Mississippi.

133 (n) "Tag" means a type of license tag or plate for a
134 motor vehicle or trailer that the agency is authorized under
135 Mississippi Motor Vehicle Privilege Tax Law, Sections 27-19-1, et
136 seq., or under the Motor Vehicle Dealer Tag Permit Law, Sections
137 27-19-301, et seq., to issue or approve before issuance, but does
138 not include other types of license tags or plates issued by the
139 county tax collectors except for personalized license tags and
140 only to the extent that the agency determines under Section
141 27-19-48 that a personalized license tag applied for is considered
142 obscene, slandering, insulting or vulgar in ordinary usage or

143 demands the surrender or orders the seizure of the tag where
144 issued in error.

145 (o) "Tag holder" means the person in whose name a tag
146 is registered or the person applying for a tag.

147 (p) "Tag penalty" means the penalties imposed under
148 Sections 27-19-63 and 27-51-43 for any delinquency in the payment
149 of motor vehicle privilege tax and ad valorem tax on a motor
150 vehicle which can be waived by the agency for good reason shown.
151 Pursuant to Section 27-51-103, imposition of this ad valorem tag
152 penalty at the maximum rate of twenty-five percent (25%) also
153 results in ineligibility for the credit against motor vehicle ad
154 valorem taxes provided by that statute. Waiver of the twenty-five
155 percent (25%) delinquency penalty by the agency under Section
156 27-51-43 shall reinstate credit eligibility.

157 (q) "Tax" means a tax, fee, penalty and/or interest
158 which the agency is required by either general law or by local and
159 private law to administer, assess and collect.

160 (r) "Taxpayer" means a person who is liable for or paid
161 any tax to the agency.

162 (s) "Title" means a title to a motor vehicle or
163 manufactured housing issued by the agency under the Mississippi
164 Motor Vehicle Title Law, Section 63-21-1 et seq.

165 (t) "Title interest holder" shall mean the owner or
166 lienholder in a motor vehicle or manufactured housing as indicated
167 on a title issued by the agency or as indicated on an application
168 to the agency for the issuance of a title.

169 **SECTION 2.** (1) There is hereby created a board of review
170 within the agency to conduct the duties assigned to it in Sections
171 1 through 10 of this act and any other responsibility as assigned
172 by the commissioner. The board of review shall be composed of
173 qualified employees of the agency appointed to the board by the
174 commissioner. The commissioner shall determine the number of
175 members on the board of review and may increase or decrease this

176 number as needed. The commissioner is authorized to remove and/or
177 replace a member of the board of review with or without cause.

178 (2) The board of review may perform its duties and
179 responsibilities en banc or in panels of not less than three (3)
180 members. When an appeal or other matter is considered by a panel,
181 only the members on that panel may deliberate and vote on the
182 appeal or matter being considered. The decision of a panel shall
183 be deemed the final decision of the board of review. Nothing in
184 this section shall prevent a member of the board of review from
185 attending and/or participating in a hearing on an appeal being
186 conducted before a panel on which he is not a member.

187 (3) No business shall be transacted by either the board of
188 review en banc or by a panel of the board of review without the
189 presence of a quorum. Three (3) members shall constitute a quorum
190 for both the board of review and a panel of the board of review.

191 (4) The commissioner shall designate one (1) member of the
192 board of review to be the chairman of the board of review. The
193 chairman of the board of review shall preside at any meeting or
194 hearing of the board of review en banc and at any meeting or
195 hearing of a panel of the board of review where he is a member of
196 that panel. In case of the absence of the chairman of the board
197 of review at a meeting or hearing of the board of review en banc
198 or in the case of a meeting or hearings of a panel of which he is
199 not a member, the chairman of the board of review shall designate
200 another member of the board of review to preside at the meeting or
201 hearing. If circumstances do not permit such designation prior to
202 the meeting or hearing being convened, the member of the board of
203 review with the most tenure on the board of review shall preside.
204 The presiding officer of a meeting or hearing of the board of
205 review en banc or of a panel of the board of review, shall be
206 responsible for the taking of minutes of such meeting or hearing.

207 **SECTION 3.** (1) Any taxpayer aggrieved by an assessment of
208 tax by the agency, by the agency's denial of a refund claim, or by

209 the denial of a waiver of tag penalty, and who wishes to contest
210 the action of the agency shall, within thirty (30) days from the
211 date of the action, file an appeal in writing with the board of
212 review requesting a hearing and correction of the contested action
213 specifying in detail the relief requested and any other
214 information that might be required by regulation. Failure to
215 timely file a complete and written appeal with the board of review
216 within this thirty-day period shall make the agency's tax
217 assessment, refund claim denial or denial of waiver of tag penalty
218 final and not subject to further review by the board of review,
219 the commission or a court except as to the issue of whether a
220 complete and written appeal to the board of review was timely
221 filed.

222 (2) Upon receipt of a timely written appeal from a tax
223 assessment, refund claim denial or denial of waiver of a tag
224 penalty, a hearing shall be scheduled before the board of review
225 unless it is determined that the relief requested in the written
226 appeal should be granted without a hearing. A notice of the
227 hearing shall be mailed to the taxpayer advising the taxpayer of
228 the date, time and location of the hearing. The taxpayer or his
229 designated representative shall attend the hearing unless a
230 request is made to, and granted by, the board of review to allow
231 the taxpayer to submit his position in writing or by electronic
232 transmission in lieu of attendance. Failure of the taxpayer or
233 his designated representative to attend a hearing or to submit his
234 position in writing or by electronic transmission by the date
235 specified by the board of review or by the hearing date, if no
236 date was specified, shall constitute a withdrawal of the appeal.

237 (3) At a hearing before the board of review on a tax
238 assessment, denial of refund claim, or denial of waiver of a tag
239 penalty, the board of review shall try the issues presented,
240 according to law and the facts and within the guidelines
241 established by regulation. The hearing before the board of review

242 shall be informal and no official transcript will be made of the
243 hearing. At the earliest practical date after the hearing, the
244 members of the board of review that heard the appeal shall make a
245 determination on the matter presented and notify the taxpayer of
246 its findings by mailing a copy of its order to the taxpayer. If
247 the order involves the appeal of a denial of a waiver of tag
248 penalty, a copy of the order shall also be mailed to the tax
249 collector that imposed the penalty. If in the order, the board of
250 review orders the taxpayer to pay a tax assessment, the taxpayer
251 shall, within thirty (30) days from the date of the order, pay the
252 amount ordered to be paid or appeal the order of the board of
253 review to the commission. After the thirty-day period, if the tax
254 determined by the board of review to be due is not paid and an
255 appeal from the order of the board of review is not made to the
256 commission, the agency shall proceed to collect the tax assessment
257 as determined by the board of review.

258 (4) Any taxpayer aggrieved by an order of the board of
259 review affirming a tax assessment, the denial of a refund claim,
260 or the denial of a waiver of tag penalty, and who wishes to
261 contest the order shall, within thirty (30) days from the date of
262 the order of the board of review being contested, file an appeal
263 to the commission. The appeal shall be in writing and shall
264 request a hearing and reversal or modification of the order of the
265 board of review, specify in detail the relief requested and
266 contain any other information that might be required by
267 regulation, and be filed with the commission secretary. Failure
268 to timely file a complete and written appeal with the commission
269 secretary within the thirty-day period shall make the order of the
270 board of review final and not subject to further review by the
271 commission or a court, other than as to the issue of whether a
272 complete and written appeal from the order of the board of review
273 was timely filed with the commission secretary.

274 (5) Upon receipt of a written appeal from an order of the
275 board of review affirming a tax assessment, refund claim denial or
276 denial of waiver of a tag penalty, the commission secretary shall
277 schedule a hearing before the commission on the appeal. A notice
278 of this hearing shall be mailed to the taxpayer advising the
279 taxpayer of the date, time and location of hearing. The taxpayer
280 or his designated representative shall attend the hearing unless a
281 request is made to and granted by the commission to allow the
282 taxpayer to submit his position in writing or by electronic
283 transmission in lieu of attendance. Failure of the taxpayer or
284 his designated representative to attend a hearing or to submit his
285 position in writing or by electronic transmission by the date
286 specified by the commission or by the hearing date, if no date was
287 specified, shall constitute a withdrawal of the appeal.

288 (6) At any hearing before the commission on an appeal of an
289 order of the board of review affirming a tax assessment, refund
290 claim denial or denial of waiver of a tag penalty, two (2) members
291 of the commission shall constitute a quorum. At the hearing, the
292 commission shall try the issues presented, according to the law
293 and the facts and pursuant to any guidelines established by
294 regulation. The rules of evidence shall be relaxed at the
295 hearing. Any appeal to chancery court from an order of the
296 commission resulting from this type of hearing shall include a
297 full evidentiary judicial hearing on the issues presented. No
298 official transcript shall be made of this hearing before the
299 commission. After reaching a decision on the issues presented,
300 the commission shall enter its order setting forth its findings
301 and decision on the appeal. A copy of the order of the commission
302 shall be mailed to the taxpayer. If the order involves an appeal
303 of a denial of a waiver of tag penalty, a copy of the order shall
304 also be mailed to the tax collector that imposed the penalty.

305 (7) If in its order the commission orders a taxpayer to pay
306 a tax assessment, the taxpayer shall, within thirty (30) days from

307 the date of the order, pay the amount ordered to be paid or
308 properly appeal said order of the commission to chancery court as
309 provided in Section 4 of this act. After the thirty-day period,
310 if the tax determined by the commission to be due is not paid and
311 an appeal from the commission order has not been properly filed,
312 the agency shall proceed to collect the tax assessment as affirmed
313 by the commission. If in its order, the Commission determines
314 that the taxpayer has overpaid his taxes, the agency shall refund
315 or credit to the taxpayer, as provided by law, the amount of
316 overpayment as determined and set out in the order.

317 (8) At any time after the filing of an appeal to the board
318 of review or from the board of review to the commission under this
319 section, an appeal can be withdrawn. Such a withdrawal of an
320 appeal may be made voluntarily by the taxpayer or may occur
321 involuntarily as a result the taxpayer failing to appear at a
322 scheduled hearing, failing to make a written submission or
323 electronic transmission in lieu of attendance at a hearing by the
324 date specified or by the hearing date, if no date was specified,
325 or by any other act or failure that the board of review or the
326 commission determines represents a failure on the part of the
327 taxpayer to prosecute his appeal. Any voluntary withdrawal shall
328 be in writing or by electronic transmission and sent by the
329 taxpayer or his designated representative to the chairman of the
330 board of review, if the appeal being withdrawn is to the board of
331 review, or to the commission secretary, if the appeal being
332 withdrawn is to the commission. If the withdrawal of appeal is
333 involuntary, the administrative appeal body from whom the appeal
334 is being withdrawn shall note on its minutes the involuntary
335 withdrawal of the appeal and the basis for the withdrawal. Once
336 an appeal is withdrawn, whether voluntary or involuntary, the
337 action from which the appeal was taken, whether a tax assessment,
338 a denial of refund claim, a denial of waiver of tax penalty, or an
339 order of the board of review, shall become final and not subject

340 to further review by the board of review, the commission or a
341 court. The agency shall then proceed in accordance with law based
342 on such final action.

343 **SECTION 4.** (1) The findings and order of the commission
344 entered under Section 3 of this act shall be final unless the
345 taxpayer shall, within thirty (30) days from the date of the
346 order, file a petition in the chancery court appealing the order
347 and paying the tax and/or post the bond as required in Sections 1
348 through 10 of this act. The petition shall be filed against the
349 State Tax Commission and shall contain a concise statement of the
350 facts as contended by the taxpayer, identify the order from which
351 the appeal is being taken and set out the type of relief sought.
352 If in the action, the taxpayer is seeking a refund or credit for
353 an alleged overpayment of tax or for taxes paid in protest under
354 subsection (3) of this section, the taxpayer shall allege in the
355 petition that he alone bore the burden of the tax sought to be
356 refunded or credited and did not directly or indirectly collect
357 the tax from anyone else.

358 (2) A petition under subsection (1) of this section shall be
359 filed in the chancery court of the county or judicial district in
360 which the taxpayer has a place of business or in the First
361 Judicial District of Hinds County, Mississippi; however, a
362 resident taxpayer may file the petition in the chancery court of
363 the county or judicial district in which he is a resident.

364 (3) A petition filed under subsection (1) of this section
365 that appeals an order of the commission affirming a tax
366 assessment, shall be accompanied by a surety bond approved by the
367 clerk of the court in a sum double the amount in controversy,
368 conditioned to pay the judgment of the court. The clerk shall not
369 approve a bond unless the bond is issued by a surety company
370 qualified to write surety bonds in this State. As an alternative
371 to the posting of bond, a taxpayer appealing an order of the
372 commission affirming a tax assessment may, prior to the filing of

373 the petition, pay to the agency, under protest, the amount ordered
374 by the commission to be paid and seek a refund of such taxes, plus
375 interest thereon, and post with the clerk a bond for court costs
376 in an amount of not less than Five Hundred Dollars (\$500.00).

377 (4) A petition filed under subsection (1) of this section
378 that appeals an order of the commission affirming the denial of a
379 refund claim or the denial of a waiver of tag penalty, shall be
380 accompanied by a bond for court costs approved by the clerk of the
381 court in an amount of not less than Five Hundred Dollars
382 (\$500.00).

383 (5) Upon the filing of the petition under subsection (1) of
384 this section, the clerk of the court shall issue a summons to the
385 State Tax Commission requiring the commission to answer or
386 otherwise respond to the petition within thirty (30) days of
387 service. The summons shall be served on the State Tax Commission
388 by personal service on the commissioner as the chief executive
389 officer of the State Tax Commission. The chancery court in which
390 a petition under subsection (1) of this section is properly filed
391 shall have jurisdiction to hear and determine said cause or issues
392 joined as in other cases. In any petition in which the taxpayer
393 is seeking a refund or credit for an alleged overpayment of tax or
394 for taxes paid under protest under subsection (3) of this section,
395 the taxpayer shall prove by a preponderance of the evidence that
396 he alone bore the burden of the tax sought to be refunded or
397 credited and did not directly or indirectly collect the tax from
398 anyone else. At trial, the chancery court shall give deference to
399 the decision and interpretation of the commission as it does with
400 the decisions and interpretation of any administrative agency, but
401 it shall try the case de novo and conduct a full evidentiary
402 judicial hearing on the issues raised. Based on the evidence
403 presented at the hearing, the chancery court shall determine
404 whether the taxpayer has proven by a preponderance of the
405 evidence, or by a higher standard if required by the issues

406 raised, that he is entitled to any or all of the relief he has
407 requested. The chancery court shall decide all questions
408 presented, including those as to legality and the amount of tax or
409 refund due, and if it finds that the tax assessment or denial of
410 refund claim in issue is incorrect or invalid, in whole or in
411 part, it shall determine the amount of tax or refund due,
412 including interest and, if applicable, penalty to date, and enter
413 such order or judgment as it deems proper. Interest and penalty
414 included in this determination shall be computed by the court
415 based on the methods for computing penalty and interest as
416 specified by law for the type of tax in issue. Either the State
417 Tax Commission or the taxpayer, or both, shall have the right to
418 appeal from the order of the chancery court to the Supreme Court
419 as in other cases. If an appeal is taken from the order of the
420 chancery court, the bonds provided for in subsections (3) and (4)
421 of this section shall continue to remain in place until a final
422 decision is rendered in the case.

423 **SECTION 5.** (1) If the agency determines that there is a
424 basis for suspension, surrender, seizure or revocation of a
425 permit, tag or title issued or approved by the agency, the agency
426 shall give the permittee, tag holder, title interest holder in the
427 permit, tag or title, written notice of its intent to suspend,
428 revoke or to order the surrender and/or seizure of the permit, tag
429 or title. The notice of intent shall be mailed or hand delivered
430 to the permittee, tag holder or title interest holder involved,
431 shall set forth the facts and conduct that provide the basis for
432 the intended action and shall advise the permittee, tag holder or
433 title interest holder involved of the date, time and location of a
434 show cause hearing that is at a minimum of thirty (30) days from
435 the date of the notice. At the hearing, the permittee, tag holder
436 or title interest holder shall show cause why the permit, tag or
437 title in issue should not be suspended, surrendered, seized or
438 revoked. The show cause hearing shall be informal and the rules

439 of evidence shall be relaxed. The hearing shall be conducted by
440 the board of review or by a single hearing officer as designated
441 by the commissioner. As soon as practical after the show cause
442 hearing, the hearing officer or the members of the board of review
443 that conducted the hearing shall make a determination as to
444 whether the intended action or any other action should be taken in
445 regard to the permit, tag or title in issue. The hearing officer
446 or board of review shall enter an order based on this
447 determination and a copy of this order shall be mailed to the
448 permittee, tag holder or title interest holder involved notifying
449 same of the decision and the action taken.

450 (2) The order of the hearing officer or the board of review
451 in regard to a show cause hearing shall be final unless, within
452 thirty (30) days from the date of said order, the permittee, tag
453 holder or title interest holder appeals the order to the
454 commission. The appeal shall be in writing and request a hearing
455 and reversal or modification of the order of the hearing officer
456 or board of review, specify in detail the relief requested,
457 contain any other information that might be required by regulation
458 and be filed with the commission secretary. Failure to timely
459 file a complete and written appeal with the commission secretary
460 within the thirty-day period shall make the order of the hearing
461 officer or the board of review being appealed final and not
462 subject to further review by the commission or a court other than
463 as to the issue of whether a complete and written appeal from the
464 order of the hearing officer or board of review was timely filed
465 with the commission secretary.

466 (3) Upon receipt of a written appeal from an order of a
467 hearing officer or the board of review regarding a show cause
468 hearing on a permit, tag or title, the commission secretary shall
469 schedule a hearing before the commission on this appeal. A notice
470 of the hearing shall be mailed to the person who filed the appeal
471 to advise him of the date, time and location of hearing. In the

472 case of an appeal from a show cause hearing on a title, the notice
473 of hearing shall also be mailed to any other title interest
474 holders in the motor vehicle or manufactured housing in issue.
475 The person who filed the appeal or his designated representative
476 shall attend the hearing. Failure of this person or his
477 designated representative to attend a hearing shall constitute a
478 withdrawal of the appeal.

479 (4) At any hearing before the commission on an appeal of an
480 order regarding a show cause hearing on a permit, tag or title,
481 two (2) members of the commission shall constitute a quorum. At
482 the hearing the commission shall try the issues presented
483 according to law and the facts and pursuant to any guidelines
484 established by regulation. The rules of evidence shall be relaxed
485 at the hearing and the hearing shall be taken down by a court
486 reporter. After reaching a decision on the issues presented, the
487 commission shall enter an order setting forth its findings and
488 decision on the appeal. A copy of the order of the commission
489 shall be mailed to the person who filed the appeal to notify him
490 of the findings and decision of the commission. In the case of an
491 appeal involving a title, a copy of the order of the commission
492 shall also be mailed to any other title interest holder in the
493 motor vehicle or manufactured housing in issue.

494 (5) At any time after the filing of an appeal with the
495 commission under this section, an appeal may be withdrawn. A
496 withdrawal of an appeal can be made voluntarily by the person
497 appealing or may occur involuntarily as the result of his failure
498 to appear at a scheduled hearing, or by any other act or failure
499 that the commission determines represents a failure on the part of
500 that person to prosecute his appeal. A voluntary withdrawal shall
501 be in writing or by electronic transmission and sent from the
502 person appealing or his designated representative to the
503 commission secretary. If the withdrawal of appeal is involuntary,
504 the commission shall note on its minutes the involuntary

505 withdrawal of the appeal and the basis for the withdrawal. Once
506 an appeal is withdrawn, whether voluntary or involuntary, the
507 order from the show cause hearing from which the appeal was taken
508 shall become final and not subject to further review by the
509 commission or a court. The agency shall then proceed in
510 accordance with law based on such final action.

511 **SECTION 6.** (1) If the agency determines that an application
512 or request for a permit, tag or title issued or approved by the
513 agency should be denied, the agency shall give the applicant for
514 the permit, tag or title written notice of the denial by mailing
515 or hand delivering the notice to the applicant. In regard to the
516 denial of an application for title, the designated agent who took
517 the application and any other alleged title interest holders as
518 appearing on the application shall also be mailed or hand
519 delivered a copy of the agency's denial of the title application.
520 If the applicant, or in the case of the denial of a title
521 application, any title interest holder appearing on the title
522 application, is aggrieved by the denial and wishes to contest the
523 denial, he shall, within thirty (30) days from the date of the
524 written notice of the denial, file an appeal in writing with the
525 board of review requesting a hearing on the denial that specified
526 in detail the relief requested and contains any other information
527 required by regulation. Failure to timely file a complete and
528 written appeal with the board of review within this thirty-day
529 period shall make final the agency's denial of the permit, tag or
530 title in issue and not subject to further review by the board of
531 review, the commission or a court except as to the issue of
532 whether a complete and written appeal to the board of review was
533 timely filed.

534 (2) Upon receipt of a written appeal from a denial of a
535 permit, tag or title, a hearing shall be scheduled before the
536 board of review unless it is determined that the relief requested
537 in the written appeal should be granted without a hearing. A

538 notice of the hearing shall be mailed to the person appealing
539 advising him of the date, time and location of hearing. If the
540 appeal involves the denial of a title, the notice of hearing shall
541 also be mailed to all other title interest holders in the motor
542 vehicle or manufactured housing in issue, including both those
543 that appear on a current title and those that appear on the
544 application that was denied. The notice may contain a statement
545 as to the basis for the denial of the permit, tag or title. The
546 person appealing, or his designated representative, shall attend
547 the hearing unless a request is made to and granted by the board
548 of review to allow him to submit his position in writing or by
549 electronic transmission in lieu of attendance. Failure of the
550 person appealing, or his designated representative, to attend a
551 hearing or to submit his position in writing or by electronic
552 transmission in lieu of attendance by the date specified by the
553 board of review or by the hearing date, if no date is specified,
554 shall constitute a withdrawal of the appeal.

555 (3) At a hearing before the board of review on a denial of a
556 permit, tag or title, the board of review shall try the issues
557 presented, according to law and the facts and within the
558 guidelines established by regulation. The hearing before the
559 board of review shall be informal and no official transcript shall
560 be made of the hearing. At the earliest practical date after the
561 hearing, the members of the board of review that heard the appeal
562 shall make a determination on the matter presented and notify the
563 person appealing of its findings by mailing a copy of its order to
564 that person. In the case of a hearing involving the denial of a
565 title, the order shall also be mailed to all other title interest
566 holders in the motor vehicle or manufactured housing in issue,
567 including those that appear on a current title and those that
568 appear on the application that was denied.

569 (4) The order of the board of review involving the denial of
570 a permit, tag or title shall be final unless within thirty (30)

571 days from the date of the order, the applicant appeals the order
572 to the commission. In the case of an order of the board of review
573 involving a review of the denial of a title, any title interest
574 holder in the motor vehicle or manufactured housing in issue may
575 appeal the order to the commission. The appeal shall be in
576 writing, request a hearing and reversal or modification of the
577 order of the board of review, specify in detail the relief
578 requested, contain any other information that is required by
579 regulation and be filed with the commission secretary. Failure to
580 timely file a complete and written appeal with the commission
581 secretary within the thirty-day period will make the order of the
582 board of review being appealed final and not subject to further
583 review by the commission or a court other than as to the issue of
584 whether a complete and written appeal from the order of the board
585 of review was timely filed with the commission secretary.

586 (5) Upon receipt of a written appeal from an order of the
587 board of review involving the denial of a permit, tag or title,
588 the commission secretary shall schedule a hearing before the
589 commission on the appeal. A notice of the hearing shall be mailed
590 to the person who filed the appeal to advise him of the date, time
591 and location of hearing. In the case of an appeal from an order
592 of the board of review involving the denial of a title, the notice
593 of hearing shall also be mailed to all title interest holders in
594 the motor vehicle or manufactured housing in issue. The person
595 who filed the appeal or his designated representative shall attend
596 the hearing. Failure of this person or his designated
597 representative to attend a hearing shall constitute a withdrawal
598 of the appeal.

599 (6) At any hearing before the commission on an appeal of an
600 order from the board of review involving the denial of a permit,
601 tag or title, two (2) members of the commission shall constitute a
602 quorum. At the hearing, the commission shall try the issues
603 presented according to law and the facts and pursuant to any

604 guidelines established by regulation. The rules of evidence shall
605 be relaxed at the hearing and the hearing shall be taken down by a
606 court reporter. After reaching a decision on the issues
607 presented, the commission shall enter its order setting forth its
608 findings and decision on the appeal. A copy of the order of the
609 commission shall be mailed to the person who filed the appeal with
610 the commission to notify him of the findings and decision of the
611 commission. In the case of an appeal involving a title, a copy of
612 the order of the commission shall also be mailed to all title
613 interest holders in the motor vehicle or manufactured housing in
614 issue.

615 (7) At any time after the filing of an appeal with the board
616 of review, or from the board of review to the commission under
617 Sections 1 through 10 of this act, an appeal can be withdrawn. A
618 withdrawal of an appeal may be made voluntarily by the person who
619 filed the appeal or may occur involuntarily by the person failing
620 to appear at a scheduled hearing, by failing to make a written
621 submission or electronic transmission to the board of review in
622 lieu of attendance by the date specified by the board or by the
623 hearing date, if no date was specified, or by any other act or
624 failure that the board of review or the commission determines
625 represents a failure on the part of this person to prosecute his
626 appeal. Any voluntary withdrawal shall be in writing or by
627 electronic transmission and sent by the person appealing or his
628 designated representative to the chairman of the board of review,
629 if the appeal being withdrawn is to the board of review, or to the
630 commission secretary, if the appeal being withdrawn is to the
631 commission. If the withdrawal of appeal is involuntary, the
632 administrative appeal body from whom the appeal is being withdrawn
633 shall note on its minutes the involuntary withdrawal of the appeal
634 and the basis for the withdrawal. Once an appeal is withdrawn,
635 whether voluntary or involuntary, the action from which the appeal
636 was taken, whether the original denial or the order of the board

637 of review, shall become final and not subject to further review by
638 the board of review, the commission or a court. The agency shall
639 then proceed in accordance with law based on such final action.

640 **SECTION 7.** (1) The order of the commission entered in
641 accordance with Sections 5 or 6 of this act shall be final unless
642 the permittee, tag holder, or title interest holder of the permit,
643 tag or title in regard to which action was taken in the order
644 shall, within thirty (30) days from the date of the order, file a
645 petition in the chancery court seeking a review of the order. The
646 petition shall be filed against the State Tax Commission and shall
647 contain a concise statement of the facts as contended by the
648 petitioner, identify the order from which the appeal is being
649 taken and the type of relief sought. The petition shall also
650 contain a certificate that the petitioner has paid to the
651 commission secretary the estimated cost of the preparation of the
652 entire record of the commission on the matter for which a review
653 is sought.

654 (2) A petition under subsection (1) of this section shall be
655 filed in the chancery court of the county or judicial district in
656 which the petitioner has a place of business or in the First
657 Judicial District of Hinds County, Mississippi; however, a
658 resident petitioner may file a petition in the chancery court of
659 the county or judicial district in which he is a resident.

660 (3) A petition filed under subsection (1) of this section
661 shall be accompanied by a bond for court costs approved by the
662 clerk of the court in an amount of at not less than Five Hundred
663 Dollars (\$500.00).

664 (4) The review by the chancery court of the order of the
665 commission on a petition filed under subsection (1) of this
666 section shall be based on the record made before the commission.
667 Before filing a petition under subsection (1) of this section, the
668 petitioner shall obtain from the commission secretary an estimate
669 of the cost to prepare the entire record of the commission and

670 shall pay to the commission secretary the amount of the estimate.
671 If, upon the preparation of the record, it is determined that the
672 estimate paid was insufficient to pay the actual cost of the
673 preparation of the record, the commission secretary shall mail to
674 the petitioner a written notice of the deficiency. The petitioner
675 shall pay the deficiency to the commissioner secretary within
676 thirty (30) days from the date of this written notice. If upon
677 the preparation of the record, it is determined that the estimate
678 paid by the petitioner exceeds the actual cost of the preparation
679 of the record, the commission secretary shall remit to the
680 petitioner the amount by which the estimate paid exceeds the
681 actual cost. The chancery court shall dismiss with prejudice any
682 petition filed where it is shown that the petitioner failed to pay
683 prior to filing the petition the estimated cost for preparation of
684 the record of the commission or failed to pay any deficiency in
685 the estimate within thirty (30) days of a notice of deficiency.

686 (5) Upon the filing of the petition under subsection (1) of
687 this section, the clerk of the court in the which the petition is
688 filed shall issue a summons to the State Tax Commission requiring
689 the commission to answer or otherwise respond to the petition
690 within thirty (30) days of service. The summons shall be served
691 on the State Tax Commission by personal service on the
692 commissioner as the chief executive officer of the State Tax
693 Commission.

694 (6) Upon the filing of an answer and/or response by the
695 State Tax Commission to the petition filed under subsection (1) of
696 this section, and upon the filing of the record made before the
697 commission with the clerk of the court, the chancery court shall,
698 upon the motion of either party, established a schedule for the
699 filing of briefs in the action. The scope of review of the
700 chancery court in an action filed under subsection (1) of this
701 section shall be limited to a review of the record made before the

702 commission to determine if the action of the commission is
703 unlawful for the reason that it was:

- 704 (a) Not supported by substantial evidence;
- 705 (b) Arbitrary or capricious;
- 706 (c) Beyond the power of the commission to make; or
- 707 (d) In violation of some statutory or constitutional
708 right of the petitioner.

709 (7) No relief shall be granted based upon the chancery
710 court's finding of harmless error by the commission in complying
711 with any procedural requirement; however, in the event that there
712 is a finding of prejudicial error in the proceedings, the cause
713 shall be remanded to the commission for a rehearing consistent
714 with the findings of the court.

715 (8) The State Tax Commission, the petitioner, or both, shall
716 have the right to appeal from the order of the chancery court to
717 the Supreme Court as in other cases. If an appeal is taken from
718 the order of the chancery court, the bond provided for in
719 subsection (3) of this section shall continue to remain in place
720 until a final decision is rendered in the case.

721 **SECTION 8.** (1) Except as otherwise provided in this
722 section, it shall be unlawful for the commission, the
723 commissioner, the commission secretary, the agency, or an officer,
724 agent or employee of the agency, to divulge or make known in any
725 manner the information contained in the files, records and orders
726 of the agency, a hearing officer of the agency, the board of
727 review or the commission in regard to an appeal to a hearing
728 officer, the board of review or the commission under Sections 1
729 through 10 of this act.

730 (2) For purposes of this section, the term "appellant" means
731 the taxpayer, permittee, tag holder or title interest holder who
732 filed the appeal to the board of review or the commission under
733 Sections 1 through 10 of this act which resulted in the files,
734 records and orders of that appeal. For purposes of this section,

735 when applied to the files, records and orders regarding a matter
736 brought before a hearing officer of the agency or before the board
737 of review for a show cause hearing, the term "appellant" shall
738 mean the permittee, tag holder or title interest holder in the
739 permit, tag or title that was the subject of the show cause
740 hearing.

741 (3) The commission, the commissioner, the commission
742 secretary, the agency, hearing officer or an agent or employee of
743 the agency is permitted to divulge and make known information
744 otherwise prohibited from disclosure under subsection (1) of this
745 section in any of the following circumstances:

746 (a) Where the information is being disclosed as a
747 result of complying with the provisions of Sections 1 through 10
748 of this act and/or with regulations promulgated to enforce the
749 provisions of Sections 1 through 10 of this act.

750 (b) Where the information is being provided to the
751 appellant or his designated representative.

752 (c) Where the information is being provided or
753 disclosed pursuant to a written authorization executed by the
754 appellant as prescribed by regulation.

755 (d) Where the information is being provided or
756 disclosed in the course of a court action in which the agency, the
757 commission, an agency officer or an agency employee and the
758 appellant are parties, including, but not limited to, an action
759 brought under Sections 1 through 10 of this act or in the course
760 of the bankruptcy case of the appellant.

761 (e) Where the information is being provided to the
762 Internal Revenue Service or a taxing authority of another state
763 under an information exchange agreement where similar information
764 can be obtained by the agency from the Internal Revenue Service or
765 state taxing authority receiving the information.

766 (f) Where the information is being provided pursuant to
767 the International Registration Plan (IRP) or the International

768 Fuel Tax Agreement (IFTA) or any regulations, rules or procedures
769 adopted under such plan or agreement.

770 (g) Where the disclosure of information is authorized
771 under Section 27-55-49, 27-55-557, 27-57-39, 27-59-53 or 27-61-20.

772 (h) Where the information is being provided to the
773 State Auditor or his employees in the course of his audit of the
774 agency; however, the prohibitions against disclosure which apply
775 to the agency shall also apply to the State Auditor and his
776 employees or former employees.

777 (i) Where the information is being provided to the
778 Attorney General or any other attorney representing the state or
779 the agency in an action brought by the appellant to set aside the
780 tax, in an action brought by the state or agency to recover the
781 tax imposed, or in an action where the appellant is being
782 prosecuted for a crime under the tax laws of this State.

783 (j) Where the information is being provided by the
784 commissioner to a contractor of collection services pursuant to
785 the authority granted the commissioner in Section 27-75-16.

786 (k) Where the information is being provided in
787 accordance with a proper judicial order. The term "proper
788 judicial order" as used in this paragraph shall not include
789 subpoenas or subpoenas duces tecum, but shall include only those
790 orders entered by a court of record in this state after furnishing
791 notice and a hearing to the appellant and the State Tax
792 Commission. The court shall not authorize the furnishing of such
793 information unless it is satisfied that the information is needed
794 to pursue pending litigation in which the information itself is in
795 issue, or the judge is satisfied that the need for furnishing the
796 information outweighs the rights of the appellant to have such
797 information secreted.

798 (3) Nothing in subsection (1) of this section shall prohibit
799 the inspection or disclosure of the minutes of the commission
800 except to the extent that such minutes reflect the specific amount

801 of a tax assessment or refund claim or the specific amount of tax
802 or refund claim determined by the commission to be due.

803 (4) Information that is prohibited from being disclosed in
804 subsection (1) of this section shall be exempt from the provisions
805 of the Mississippi Public Records Act of 1983.

806 (5) Due to the need to discuss confidential tax information,
807 the hearings before a hearing officer, the board of review and the
808 commission under Sections 1 through 10 of this act, and the
809 meetings in which the board of review and the commission
810 deliberate and vote on the issues raised at such hearings shall be
811 exempt from the provisions of Section 25-41-1 et seq.

812 **SECTION 9.** Except as to the determination of whether a tag
813 penalty should be waived under Section 27-51-43, the provisions of
814 Sections 1 through 10 of this act shall not apply to any action
815 taken by the agency, commissioner or commission in regard to ad
816 valorem taxes, including, but not limited to, the determination
817 under Section 27-31-107 as to whether property is entitled to a
818 new or expanded enterprise exemption, the duties and actions
819 performed under the Homestead Exemption Law of 1946, being Section
820 27-33-1 et seq., the actions taken as the result of the
821 examination of the recapitulation of the assessment rolls of the
822 counties under Section 27-35-113, the actions relating to the
823 examination of the assessment rolls under Section 27-35-127, and
824 the ad valorem assessment of railroads, public service
825 corporations, nuclear generating plants, railcar companies,
826 airline companies, motor vehicles, manufactured homes and mobile
827 homes. The provisions of Sections 1 through 10 of this act shall
828 not apply to any action of the agency, commissioner or commission
829 under the Local Option Alcoholic Beverage Control Law, being
830 Section 67-1-1 et seq. or any action under the Mississippi Native
831 Wine Law of 1976, being Section 67-5-1 et seq.

832 **SECTION 10.** (1) The commissioner may from time to time make
833 such rules and regulations, not inconsistent with Sections 1

834 through 10 of this act, as he may deem necessary to enforce its
835 provisions.

836 (2) By issuance of a subpoena under his signature and seal,
837 the commissioner may require any person to attend a hearing before
838 a hearing officer, the board of review or the commission and to
839 give testimony and/or produce documents or other things at that
840 hearing. If any person subpoenaed by the commissioner fails to
841 attend the hearing, refuses to testify or answer any material
842 question at the hearing or refuses to produce at the hearing any
843 document or thing subpoenaed, the commissioner is authorized to
844 institute proceedings in the circuit court of the county where
845 such person resides or is found to compel compliance with the
846 subpoena.

847 **SECTION 11.** Section 25-41-3, Mississippi Code of 1972, is
848 amended as follows:

849 25-41-3. For purposes of this chapter, the following words
850 shall have the meaning ascribed herein, to wit:

851 (a) "Public body" means: (i) any executive or
852 administrative board, commission, authority, council, department,
853 agency, bureau or any other policy making entity, or committee
854 thereof, of the State of Mississippi, or any political subdivision
855 or municipal corporation of the state, whether such entity be
856 created by statute or executive order, which is supported wholly
857 or in part by public funds or expends public funds, and (ii) any
858 standing, interim or special committee of the Mississippi
859 Legislature. There shall be exempted from the provisions of this
860 chapter:

861 1. The judiciary, including all jury
862 deliberations;

863 2. Public and private hospital staffs, public
864 and private hospital boards and committees thereof;

865 3. Law enforcement officials;

866 4. The military;

867 5. The State Probation and Parole Board;
868 6. The Workers' Compensation Commission;
869 7. Legislative subcommittees and legislative
870 conference committees;
871 (viii) The arbitration council established in
872 Section 69-3-19; * * *
873 (ix) License revocation, suspension and
874 disciplinary proceedings held by the Mississippi State Board of
875 Dental Examiners; and
876 (x) Hearings and meetings of the State Tax
877 Commission and the hearing officers and the board of review of the
878 State Tax Commission as provided in Section 8, House Bill No. _____,
879 2005 Regular Session.

880 (b) "Meeting" means an assemblage of members of a
881 public body at which official acts may be taken upon a matter over
882 which the public body has supervision, control, jurisdiction or
883 advisory power; "meeting" also means any such assemblage through
884 the use of video or teleconference devices.

885 **SECTION 12.** Section 27-7-51, Mississippi Code of 1972, is
886 amended as follows:

887 27-7-51. (1) If, upon examination of a return made under
888 the provisions of this article, it appears that the correct amount
889 of tax is greater or less than that shown in the return, the tax
890 shall be recomputed. Any overpayment of tax so determined shall
891 be credited or refunded to the taxpayer. If the correct amount of
892 tax is greater than that shown in the return of the taxpayer, the
893 commissioner shall make his assessment of additional tax due by
894 certified mail or by personal delivery of the assessment to the
895 taxpayer, which assessment shall constitute notice and demand for
896 payment. The taxpayer shall be given a period of thirty (30) days
897 after receipt of notice in which to pay the additional tax due,
898 including penalty and interest as hereinafter provided, and if the
899 sum is not paid within the period of thirty (30) days, the

900 commissioner shall proceed to collect it under the provisions of
901 Sections 27-7-55 through 27-7-67, provided that within the period
902 of thirty (30) days the taxpayer may appeal to the board of review
903 as provided by law.

904 (2) In the case of an overpayment of tax, interest shall be
905 computed under the provisions of Section 27-7-315. In the case of
906 an underpayment of tax, interest at the rate of one percent (1%)
907 per month from the due date of the return may be added or assessed
908 in addition to the additional tax due as hereinabove provided in
909 subsection (1) of this section.

910 (3) In case of failure to pay any additional taxes as
911 assessed under this section, unless it is shown that the failure
912 is due to reasonable cause and not due to willful neglect, there
913 may be added to the additional amount assessed a penalty of
914 one-half of one percent (1/2 of 1%) of the amount of the
915 additional tax if the failure is for not more than one (1) month,
916 with an additional one-half of one percent (1/2 of 1%) for each
917 additional month or fraction thereof during which the failure
918 continues, not to exceed twenty-five percent (25%) in the
919 aggregate.

920 (4) Where the reported net income of a taxpayer is increased
921 by the Internal Revenue Service, a taxpayer who, without action by
922 the commissioner, amends a return filed under this article on the
923 basis of a change in taxable income made by the Internal Revenue
924 Service, and pays the additional tax due * * * within thirty (30)
925 days after agreeing to the federal change (and has received
926 statement of the federal changes to which agreement has been made
927 or payment thereof), shall add interest to the additional tax at
928 the rate of one percent (1%) per month from due date of the
929 original return. If the additional tax, based on changes in
930 taxable income by the Internal Revenue Service, is assessed by the
931 commissioner under subsection (1) of this section, in addition to
932 the interest there may be added a penalty of one-half of one

933 percent (1/2 of 1%) of the additional tax due if the failure is
934 for not more than one (1) month, with an additional one-half of
935 one percent (1/2 of 1%) for each additional month or fraction
936 thereof during which the failure to pay continues, not to exceed
937 twenty-five percent (25%) in the aggregate, unless it is shown
938 that the failure is due to reasonable cause and not due to willful
939 neglect.

940 (5) In the case of a taxpayer who files a bond when
941 appealing the decision of the full State Tax Commission instead of
942 paying the amount of the additional tax found to be due by the
943 State Tax Commission, and the tax assessment or a part of the
944 assessment is upheld by the chancery court and/or the Supreme
945 Court, the assessment shall bear interest at the rate of one
946 percent (1%) per month from the due date until paid.

947 (6) (a) Nothing in this section shall be construed as
948 authorizing a refund of taxes for claims pursuant to the United
949 States Supreme Court decision of Davis v. Michigan Department of
950 Treasury, 109 S.Ct. 1500 (1989). These taxes were not incorrectly
951 and/or erroneously collected as contemplated by this chapter.

952 (b) In the event a court of final jurisdiction
953 determines the above provision to be void for any reason, it is
954 hereby declared the intent of the Legislature that affected
955 taxpayers shall be allowed a credit against future income tax
956 liability as opposed to a tax refund.

957 **SECTION 13.** Section 27-7-53, Mississippi Code of 1972, is
958 amended as follows:

959 27-7-53. (1) If a return is timely filed by the taxpayer
960 but the tax due is not paid, the commissioner shall make his
961 assessment of tax due by mail or by personal delivery of the
962 assessment to the taxpayer, which assessment shall constitute
963 notice and demand for payment. The taxpayer shall be given a
964 period of thirty (30) days from the date of the notice in which to
965 pay the tax due, including penalty and interest as hereinafter

966 provided, and if the sum is not paid within the period of thirty
967 (30) days, the commissioner shall proceed to collect it under the
968 provisions of Sections 27-7-55 through 27-7-67 of this article;
969 provided that within the period of thirty (30) days the taxpayer
970 may appeal to the board of review as provided by law.

971 (2) If no return is made by a taxpayer required by this
972 chapter to make a return, the commissioner shall determine the
973 taxpayer's liability from the best information available, which
974 determination shall be prima facie correct for the purpose of this
975 article, and the commissioner shall forthwith make an assessment
976 of the tax so determined to be due by mail or by personal delivery
977 of the assessment to the taxpayer, which assessment shall
978 constitute notice and demand for payment. The taxpayer shall be
979 given a period of thirty (30) days from the date of the notice in
980 which to pay the tax due, including penalty and interest as
981 hereinafter provided, and if the sum is not paid within the period
982 of thirty (30) days, the commissioner shall proceed to collect it
983 under the provisions of Sections 27-7-55 through 27-7-67 of this
984 article; provided that within said period of thirty (30) days the
985 taxpayer may appeal to the board of review as provided by law.

986 (3) Interest at the rate of one percent (1%) per month from
987 the due date of the return may be added or assessed in addition to
988 the tax due as * * * provided in subsections (1) and (2) of this
989 section.

990 (4) In case of failure to file a return as required by this
991 chapter, unless it can be shown that the failure is due to
992 reasonable cause and not due to willful neglect, there may be
993 added to the amount required to be shown as tax on the return a
994 penalty of five percent (5%) of the amount of the tax if the
995 failure is for not more than one (1) month, with an additional
996 five percent (5%) for each additional month or fraction thereof
997 during which the failure continues, not to exceed twenty-five

998 percent (25%) in the aggregate. The failure to file a return
999 penalty shall not be less than One Hundred Dollars (\$100.00).

1000 (5) In case of failure to pay the amount shown as tax on any
1001 return specified in subsections (1) and (2) of this section on or
1002 before the date prescribed for payment of the tax, determined with
1003 regard to any extension of time for payment, unless it is shown
1004 that the failure is due to reasonable cause and not due to willful
1005 neglect, there may be added to the amount shown as tax on the
1006 return one-half of one percent (1/2 of 1%) of the amount of the
1007 tax if the failure is for not more than one (1) month, with an
1008 additional one-half of one percent (1/2 of 1%) for each additional
1009 month or fraction thereof during which the failure continues, not
1010 to exceed twenty-five percent (25%) in the aggregate.

1011 **SECTION 14.** Section 27-7-55, Mississippi Code of 1972, is
1012 amended as follows:

1013 27-7-55. If any taxpayer, liable for the payment of income
1014 taxes, penalties or interest, fails or refuses to pay them after
1015 receiving the notice and demands as provided in Sections 27-7-49,
1016 27-7-51 and 27-7-53, and if the taxpayer has not filed a timely
1017 appeal to the board of review as provided by law, the commissioner
1018 shall file a notice of tax lien for the income taxes, penalties
1019 and interest with the circuit clerk of the county in which the
1020 taxpayer resides or owns property, which shall be enrolled on the
1021 judgment roll. Immediately upon receipt of the notice of tax lien
1022 for income taxes, penalties and interest, the circuit clerk shall
1023 enter upon the judgment roll, in the appropriate columns, the name
1024 of the taxpayer as judgment debtor, the name of the commissioner
1025 or State Tax Commission as judgment creditor, the amount of the
1026 taxes, penalties and interest, and the date and time of
1027 enrollment. The judgment shall be valid as against mortgagees,
1028 pledgees, entrusters, purchasers, judgment creditors, and other
1029 persons from the time of filing with the clerk. The amount of the
1030 judgment shall be a debt due the State of Mississippi and remain a

1031 lien upon all property and rights to property belonging to the
1032 taxpayer, both real and personal, including choses in action, with
1033 the same force and like effect as any enrolled judgment of a court
1034 of record, and shall continue until satisfied; * * * however, the
1035 judgment shall not be a lien upon the property of the taxpayer for
1036 a longer period than seven (7) years from the date of the filing
1037 of the notice of tax lien for income taxes, penalties and interest
1038 unless an action is brought on the lien before the expiration of
1039 such time or unless the commissioner refiles the notice of tax
1040 lien before the expiration of such time. The judgment shall be a
1041 lien upon the property of the taxpayer for a period of seven (7)
1042 years from the date of refileing such notice of tax lien unless an
1043 action is brought on the lien before the expiration of such time
1044 or unless the commissioner refiles such notice of tax lien before
1045 the expiration of such time. There shall be no limit upon the
1046 number of times that the commissioner may refile notices of tax
1047 liens. The judgment shall serve as authority for the issuance of
1048 writs of execution, writs of attachment, writs of garnishment or
1049 other remedial writs. The commissioner may issue warrants for
1050 collection of income taxes from such judgments in lieu of the
1051 issuance of any remedial writ by the circuit clerk.

1052 Upon failure to pay the taxes imposed under this article by
1053 any taxpayer who has executed any bond, the commissioner shall
1054 give notice of the failure to the sureties of the bond and demand
1055 payment of the tax, penalties and interest within ten (10) days.
1056 If the sureties of the taxpayer's bond shall fail or refuse to pay
1057 the penal sum demanded within the ten (10) days allowed, the
1058 commissioner shall file a notice of tax lien with the circuit
1059 clerk of the county in which the sureties reside or own property,
1060 which shall be enrolled upon the judgment roll, and the
1061 commissioner may proceed to collect from the sureties as in this
1062 section provided in this section for collecting from any judgment
1063 debtor.

1064 The commissioner is hereby authorized to pay the clerk's fee
1065 for enrolling certificates of indebtedness and any court costs
1066 that may be adjudged against the commission or commissioner out of
1067 funds appropriated by the Legislature to defray expenses of the
1068 State Tax Commission.

1069 **SECTION 15.** Section 27-7-79, Mississippi Code of 1972, is
1070 amended as follows:

1071 27-7-79. (1) The commissioner shall have exclusive
1072 jurisdiction and be charged with the administration and
1073 enforcement of the provisions of this article, except as otherwise
1074 provided.

1075 (2) The commissioner, for the purpose of ascertaining the
1076 correctness of any return, or for the purpose of making a return
1077 where none has been made, is hereby authorized, by any agent
1078 designated by the commissioner for that purpose, to examine any
1079 books, papers, records or memoranda, bearing upon the matter
1080 required to be included in the return, and may require the
1081 attendance of persons rendering a return or of any officer or
1082 employee of such person, or of any person having knowledge in the
1083 premises, and may take his testimony with reference to the matter
1084 required by law to be included in the return, with power to
1085 administer oaths to such person or persons.

1086 * * *

1087 (3) If any person summoned to appear under this article to
1088 testify, or produce books, papers or other data, shall refuse to
1089 do so, the chancery court for the district in which the person
1090 resides shall have jurisdiction by appropriate process to compel
1091 such attendance, testimony or production of books, papers or other
1092 data.

1093 (4) The commissioner, with the approval of the Governor, may
1094 appoint and remove such officers, agents, deputies, clerks and
1095 employees as he may deem necessary, such persons to have such
1096 duties and powers as the commissioner may, from time to time,

1097 prescribe. The salaries of all officers, agents and employees
1098 employed by the commissioner shall be such as he may prescribe,
1099 with the approval of the Governor, not to exceed such amounts as
1100 may be appropriated by the Legislature, and the members of the
1101 commission and such officers, agents and employees shall be
1102 allowed such reasonable and necessary traveling and other expenses
1103 as may be incurred in the performance of their duties, not to
1104 exceed the amount appropriated therefor by the Legislature.

1105 (5) The commissioner shall designate certain special agents
1106 appointed under this section and evidenced by a written
1107 certificate of appointment under the seal of the commission, of
1108 which judicial notice shall be taken by all courts of this state.
1109 Such agents, when in possession of a warrant issued under
1110 authority of this article, shall have all the powers and duties of
1111 the sheriff in enforcing the provisions of the article relating to
1112 the warrant thus issued, and in making arrests of persons
1113 obstructing or seeking to obstruct the execution of the warrant,
1114 or in serving any writ, notice or order connected with the
1115 enrolled judgment for which the warrant is issued by whatever
1116 officer or authority of court issued.

1117 (6) The commissioner may require such of the officers,
1118 agents, and employees, as he may designate, to give bond for the
1119 faithful performance of their duties, in such form and with such
1120 securities as he may determine, and all premiums on such bonds
1121 shall be paid by the commissioner out of the monies appropriated
1122 for the purposes of this article.

1123 (7) All officers empowered by law to administer oaths and
1124 the members of the commission, and such officers as it may
1125 designate, shall have power to administer an oath to any person or
1126 to take the acknowledgment of any person in respect to any return
1127 or report required by this article or the rules and regulations of
1128 the commissioner.

1129 (8) All agents of the commissioner shall have, for
1130 identification purposes, proper credentials signed by the chairman
1131 of the commission.

1132 (9) The commissioner shall prepare and publish annually
1133 statistics reasonably available with respect to the operation of
1134 this law, including classification of taxpayers and of the income,
1135 the amounts allowed as deductions, exemptions and credits, and
1136 also a statement of the cost of administering this article and any
1137 other facts deemed pertinent and valuable.

1138 **SECTION 16.** Section 27-7-315, Mississippi Code of 1972, is
1139 amended as follows:

1140 27-7-315. * * * If any overpayment of tax as reflected on a
1141 return or amended return filed, and verified by the commissioner
1142 or determined to be due by the commissioner or commission when no
1143 overpayment is shown on a return or amended return, is not
1144 refunded within ninety (90) days after the prescribed due date of
1145 the return, the date the return is filed, or the date the
1146 commissioner or commission determines a refund as being due when
1147 no overpayment is shown on a return or amended return, whichever
1148 is later, interest at the rate of one percent (1%) per month shall
1149 be allowed on the overpayment computed for the period after
1150 expiration of the ninety-day period provided in this section to
1151 the date of payment.

1152 **SECTION 17.** Section 27-7-317, Mississippi Code of 1972, is
1153 amended as follows:

1154 27-7-317. (1) Any employer who makes an overpayment of the
1155 tax required to be remitted to the commissioner by Section
1156 27-7-309 may file application with the commissioner, on a form
1157 prescribed by the commissioner, to have the amount of the
1158 overpayment refunded to him or to have the amount credited against
1159 the payment which he is required to make for a subsequent
1160 quarterly period, but the refund or credit shall be allowed only

1161 to the extent that the amount of the overpayment was not withheld
1162 under Section 27-7-305 by the employer.

1163 (2) If the commissioner shall determine that the employer is
1164 not entitled to the refund or credit as applied for, he shall so
1165 notify the employer of the denial of the refund claim.

1166 (3) Unless written application for refund or credit is
1167 received by the commissioner from the employer within three (3)
1168 years from the date the overpayment was made, no refund or credit
1169 shall be allowed.

1170 **SECTION 18.** Section 27-9-49, Mississippi Code of 1972, is
1171 amended as follows:

1172 27-9-49. If, upon examination of any return made under this
1173 chapter, it appears that an amount of estate tax, interest or
1174 penalties has been paid in excess of that properly due, then the
1175 amount in excess shall be immediately refunded to the executor at
1176 such time as the commissioner has completed his investigation and
1177 has determined the correct estate tax liability of the estate.

1178 If the liability of an estate for estate taxes is contested
1179 with the federal government and, as a result of that contest, the
1180 commissioner determines that the Mississippi estate tax, interest
1181 or penalties have been overpaid, then the overpayment shall be
1182 promptly refunded to the executor upon receipt of the federal
1183 closing letter or the decision of the tax court in lieu of the
1184 federal closing letter.

1185 A refund of estate tax, interest or penalties made pursuant
1186 to this chapter shall bear interest at the rate of one-half of one
1187 percent (1/2 of 1%) per month, or major fraction thereof, for the
1188 period which is the later of the due date of the estate tax return
1189 inclusive of all approved extensions, or the final payment of the
1190 estate tax, interest or penalty and continuing until the date the
1191 commission has completed its investigation and has determined that
1192 a refund is due.

1193 If any claim for overpayment of estate tax, interest or
1194 penalty is denied, the executor may appeal such decision to the
1195 board of review as provided by law.

1196 **SECTION 19.** Section 27-13-23, Mississippi Code of 1972, is
1197 amended as follows:

1198 27-13-23. (1) If a return is timely filed by the taxpayer
1199 but the tax is not paid, the commissioner shall make his
1200 assessment of tax due by mail or by personal delivery of the
1201 assessment to the taxpayer, which assessment shall constitute
1202 notice and demand for payment. The taxpayer shall be given a
1203 period of thirty (30) days from the date of the notice in which to
1204 pay the tax due, including penalty and interest as * * * provided
1205 in this section, and if the sum is not paid within the thirty-day
1206 period, the commissioner shall proceed to collect it under the
1207 provisions of Sections 27-13-29 through 27-13-41 of this chapter;
1208 provided that within said thirty-day period the taxpayer may
1209 appeal to the board of review as provided by law.

1210 (2) If no return is made by a taxpayer required by this
1211 chapter to make a return, the commissioner shall determine the
1212 taxpayer's liability from the best information available, which
1213 determination shall be prima facie correct for the purpose of this
1214 chapter, and the commissioner shall forthwith make an assessment
1215 of the tax so determined to be due by mail or by personal delivery
1216 of the assessment to the taxpayer, which assessment shall
1217 constitute notice and demand for payment. The taxpayer shall be
1218 given a period of thirty (30) days from the date of the notice in
1219 which to pay the tax due, including penalty and interest as * * *
1220 provided in this section, and if the sum is not paid within the
1221 thirty-day period, the commissioner shall proceed to collect it
1222 under the provisions of Sections 27-13-29 through 27-13-41 of this
1223 chapter; provided that within the thirty-day period the taxpayer
1224 may appeal to the board of review as provided by law.

1225 (3) Interest at the rate of one percent (1%) per month from
1226 the due date of the return shall be added or assessed in addition
1227 to the tax due as * * * provided in subsections (1) and (2) of
1228 this section.

1229 (4) In case of failure to file a return as required by this
1230 chapter, unless it can be shown that the failure is due to
1231 reasonable cause and not due to willful neglect, there shall be
1232 added to the amount required to be shown as tax on the return a
1233 penalty of five percent (5%) of the amount of the tax if the
1234 failure is for not more than one (1) month, with an additional
1235 five percent (5%) for each additional month or fraction thereof
1236 during which the failure continues, not to exceed twenty-five
1237 percent (25%) in the aggregate.

1238 (5) In case of failure to pay the amount shown as tax on any
1239 return specified in subsections (1) and (2) of this section on or
1240 before the date prescribed for payment of the tax, determined with
1241 regard to any extension of time for payment, unless it is shown
1242 that the failure is due to reasonable cause and not due to willful
1243 neglect, there shall be added to the amount shown as tax on the
1244 return one-half of one percent (1/2 of 1%) of the amount of the
1245 tax if the failure is for not more than one (1) month, with an
1246 additional one-half of one percent (1/2 of 1%) for each additional
1247 month or fraction thereof during which the failure continues, not
1248 to exceed twenty-five percent (25%) in the aggregate.

1249 **SECTION 20.** Section 27-13-25, Mississippi Code of 1972, is
1250 amended as follows:

1251 27-13-25. (1) If, upon examination of a return made under
1252 the provisions of this chapter, it appears that the correct amount
1253 of tax is greater or less than that shown in the return, the tax
1254 shall be recomputed. Any overpayment of tax so determined shall
1255 be credited or refunded to the taxpayer. If the correct amount of
1256 tax is greater than that shown in the return of the taxpayer, the
1257 commissioner shall make his assessment of additional tax due by

1258 certified mail or by personal delivery of the assessment to the
1259 taxpayer, which assessment shall constitute notice and demand for
1260 payment. The taxpayer shall be given a period of thirty (30) days
1261 after receipt of notice in which to pay the additional tax due,
1262 including penalty and interest as * * * provided in this section,
1263 and if the sum is not paid within the thirty-day period, the
1264 commissioner shall proceed to collect it under the provisions of
1265 Sections 27-13-29 through 27-13-41, provided that within the
1266 thirty-day period the taxpayer may appeal to the board of review
1267 as provided by law.

1268 (2) In the case of an overpayment of tax, interest shall be
1269 computed under the provisions of Section 27-7-315. In the case of
1270 an underpayment of tax, interest at the rate of one percent (1%)
1271 per month from the due date of the return shall be added or
1272 assessed in addition to the additional tax due as * * * provided
1273 in subsection (1) of this section.

1274 (3) In case of failure to pay any additional taxes as
1275 assessed under this section, unless it is shown that the failure
1276 is due to reasonable cause and not due to willful neglect, there
1277 shall be added to the additional amount assessed a penalty of
1278 one-half of one percent (1/2 of 1%) of the amount of the
1279 additional tax if the failure is for not more than one (1) month,
1280 with an additional one-half of one percent (1/2 of 1%) for each
1281 additional month or fraction thereof during which the failure
1282 continues, not to exceed twenty-five percent (25%) in the
1283 aggregate.

1284 **SECTION 21.** Section 27-13-29, Mississippi Code of 1972, is
1285 amended as follows:

1286 27-13-29. If any taxpayer, liable for the payment of
1287 franchise taxes, penalties or interest, fails or refuses to pay
1288 them after receiving the notice and demands as provided in Section
1289 27-13-23 or 27-13-25, and if such taxpayer has not filed a timely
1290 appeal to the board of review as provided by law, the commissioner

1291 shall file a notice of tax lien for the franchise taxes,
1292 penalties, and interest with the circuit clerk of the county in
1293 which the taxpayer resides or owns property, which, shall be
1294 enrolled on the judgment roll. Immediately upon receipt of the
1295 notice of tax lien for franchise taxes, penalties and interest,
1296 the circuit clerk shall enter upon the judgment roll, in the
1297 appropriate columns, the name of the taxpayer as judgment debtor,
1298 the name of the commissioner or State Tax Commission as judgment
1299 creditor, the amount of the taxes, penalties and interest, and the
1300 date and time of enrollment. The judgment shall be valid as
1301 against mortgagees, pledgees, entrusters, purchasers, judgment
1302 creditors, and other persons from the time of filing with the
1303 clerk. The amount of the judgment shall be a debt due the State
1304 of Mississippi and remain a lien upon all property and rights to
1305 property belonging to the taxpayer, both real and personal,
1306 including choses in action, with the same force and like effect as
1307 any enrolled judgment of a court of record, and shall continue
1308 until satisfied. Such judgment shall serve as authority for the
1309 issuance of writs of execution, writs of attachments, writs of
1310 garnishment or other remedial writs. The commissioner may issue
1311 warrants for collection of franchise taxes from such judgments in
1312 lieu of the issuance of any remedial writ by the circuit clerk.

1313 Upon failure to pay the taxes imposed under this chapter by
1314 any taxpayer who has executed any bond, the commissioner shall
1315 give notice of the failure to the sureties of such bond and demand
1316 payment of the tax, penalties and interest within ten (10) days.
1317 If the sureties of the taxpayer's bond shall fail or refuse to pay
1318 the penal sum demanded within the ten (10) days allowed, the
1319 commissioner shall file a notice of tax lien with the circuit
1320 clerk of the county in which the sureties reside or own property,
1321 which shall be enrolled upon the judgment roll, and the
1322 commissioner may proceed to collect from the sureties as * * *
1323 provided in this section for collecting from any judgment debtor.

1324 The commissioner is hereby authorized to pay the clerk's fee
1325 for enrolling certificates of indebtedness and any court costs
1326 that may be adjudged against the commission or commissioner out of
1327 funds appropriated by the Legislature to defray expenses of the
1328 State Tax Commission.

1329 **SECTION 22.** Section 27-13-65, Mississippi Code of 1972, is
1330 amended as follows:

1331 27-13-65. (1) **Jurisdiction.** The commissioner shall have
1332 exclusive jurisdiction and be charged with the administration and
1333 enforcement of the provisions of this chapter, except as otherwise
1334 provided.

1335 (2) **Examine books.** The commissioner, for the purpose of
1336 ascertaining the correctness of any return, or for the purpose of
1337 making a return where none has been made, is hereby authorized, by
1338 any agent designated by the commissioner, for that purpose, to
1339 examine any books, papers, records or memoranda, bearing upon the
1340 matter required to be included in the return, and may require the
1341 attendance of persons rendering a return or of any officer or
1342 employee of such person, or of any person having knowledge in the
1343 premises, and may take his testimony with reference to the matter
1344 required by law to be included in such return, with power to
1345 administer oaths to such person or persons.

1346 (3) **Summons.** If any person summoned to appear under this
1347 chapter to testify, or produce books, papers or other data, shall
1348 refuse to do so, the chancery court for the district in which such
1349 person resides shall have jurisdiction by appropriate process to
1350 compel * * * attendance, testimony or production of books, papers
1351 or other data.

1352 (4) **Employees.** The commissioner, with the approval of the
1353 Governor, may appoint and remove such officers, agents, deputies,
1354 clerks and employees as he may deem necessary, such persons to
1355 have such duties and powers as the commissioner may, from time to
1356 time, prescribe. The salaries of all officers, agents and

1357 employees employed by the commissioner shall be such as he may
1358 prescribe, with the approval of the Governor, not to exceed such
1359 amounts as may be appropriated by the Legislature, and the members
1360 of the commission and such officers, agents and employees shall be
1361 allowed such reasonable and necessary traveling and other expenses
1362 as may be incurred in the performance of their duties not to
1363 exceed the amount appropriated therefor by the Legislature.

1364 (5) **Special agents.** The commissioner shall designate
1365 certain special agents appointed under this section and evidenced
1366 by a written certificate of appointment under the seal of the
1367 commission, of which judicial notice shall be taken by all courts
1368 of this state. Such agents, when in possession of a warrant
1369 issued under authority of this chapter, shall have all the powers
1370 and duties of the sheriff in enforcing the provisions of the
1371 chapter relating to the warrant thus issued, and in making arrests
1372 of persons obstructing or seeking to obstruct the execution of
1373 such warrant, or in serving any writ, notice or order connected
1374 with the enrolled judgment for which the warrant is issued by
1375 whatever officer or authority of court issued.

1376 (6) **Employees bond.** The commissioner may require such of
1377 the officers, agents and employees, as he may designate, to give
1378 bond for the faithful performance of their duties, in such form
1379 and with such securities as he may determine, and all premiums on
1380 such bonds shall be paid by the commissioner out of the monies
1381 appropriated for the purposes of this chapter.

1382 (7) **Administer oath.** All officers empowered by law to
1383 administer oaths and the members of the commission, and such
1384 officers as it may designate, shall have power to administer an
1385 oath to any person or to take the acknowledgment of any person in
1386 respect to any return or report required by this chapter or the
1387 rules and regulations of the commissioner.

1388 (8) **Credentials.** All agents of the commissioner shall have,
1389 for identification purposes, proper credentials signed by the
1390 chairman of the commission.

1391 (9) **Statistics.** The commissioner shall prepare and publish
1392 annually statistics reasonably available with respect to the
1393 operation of this law, as he may deem pertinent and valuable.

1394 * * *

1395 **SECTION 23.** Section 27-19-48, Mississippi Code of 1972, is
1396 amended as follows:

1397 27-19-48. (1) Owners of motor vehicles who are residents of
1398 this state, upon complying with the motor vehicle laws relating to
1399 registration and licensing of motor vehicles, and upon payment of
1400 the road and bridge privilege taxes, ad valorem taxes and
1401 registration fees as prescribed by law for private carriers of
1402 passengers, pickup trucks and other noncommercial motor vehicles,
1403 and upon payment of an additional fee in the amount provided in
1404 subsection (4)(a) of this section, shall be issued a personalized
1405 license tag of the same color as regular license tags to consist
1406 of the name of the county and not more than seven (7) letters of
1407 the alphabet or seven (7) numbers in lieu of the license tag
1408 numbering system prescribed by law. The purchaser of the
1409 personalized license tag may choose the combination of such
1410 letters or numbers, but no two (2) motor vehicles shall have the
1411 same combination of letters or numbers. In the event that the
1412 same combination of letters has been chosen by two (2) or more
1413 purchasers, the State Tax Commission shall assign a different
1414 number to each such purchaser which shall appear on the license
1415 tag following the combination of letters; * * * however, this
1416 combination shall not exceed seven (7) letters and/or numbers.
1417 The combination of letters and/or numbers written across the
1418 license tag shall be sufficiently large to be easily read but
1419 shall not be less than three (3) inches in height. No combination
1420 of letters or numbers which comprise words or expressions that are

1421 considered obscene, slandering, insulting or vulgar in ordinary
1422 usage shall be permitted, with the Chairman of the State Tax
1423 Commission having the responsibility of making this determination.
1424 If, however, such license plate is issued in error or otherwise
1425 and is determined by the chairman to be obscene, slanderous,
1426 insulting, vulgar or offensive, the chairman shall notify the
1427 owner that the license plate must be surrendered and that another
1428 personalized license plate may be selected by him and issued at no
1429 cost. Should the vehicle owner not desire another personalized
1430 license plate, the fee for such plate shall be refunded. In the
1431 event the owner fails to surrender the license plate after
1432 receiving proper notification, the chairman shall issue an order
1433 directing that the license plate be seized by agents of the State
1434 Tax Commission or any other duly authorized law enforcement
1435 personnel. * * *

1436 (2) For the purposes of this section the terms "motor
1437 vehicle" and "vehicle" include motorcycles.

1438 (3) Application for the personalized license tags shall be
1439 made to the county tax collector on forms prescribed by the State
1440 Tax Commission. The application form shall contain space for the
1441 applicant to make five (5) different choices for the combination
1442 of the letters and numbers in the order in which said combination
1443 is desired by the applicant. The application and the additional
1444 fee, less five percent (5%) thereof to be retained by the tax
1445 collector, shall be remitted to the State Tax Commission within
1446 seven (7) days of the date the application is made. The portion
1447 of the additional fee retained by the tax collector shall be
1448 deposited into the county general fund.

1449 (4) (a) Beginning with any registration year commencing on
1450 or after November 1, 1986, any person applying for a personalized
1451 license tag shall pay an additional fee which shall be in addition
1452 to all other taxes and fees. The additional fee paid shall be for
1453 a period of time to run concurrent with the vehicle's established

1454 license tag year. The additional fee of Thirty Dollars (\$30.00)
1455 is due and payable at the time the original application is made
1456 for a personalized tag and thereafter annually at the time of
1457 renewal registration as long as the owner retains the personalized
1458 tag. If the owner does not wish to retain the personalized tag,
1459 he must surrender it to the local county tax collector. The
1460 additional fee due at the time of renewal registration shall be
1461 collected by the county tax collector and remitted to the State
1462 Tax Commission on a monthly basis as prescribed by the commission.

1463 (b) The State Tax Commission shall deposit all taxes
1464 and fees into the State Treasury on the day collected. At the end
1465 of each month, the State Tax Commission shall certify the total
1466 fees collected under this section to the State Treasurer who shall
1467 distribute to the credit of the State General Fund Sixteen Dollars
1468 and Twenty-five Cents (\$16.25) of each additional fee and the
1469 remainder of each such additional fee shall be deposited to the
1470 credit of the State Highway Fund to be expended solely for the
1471 repair, maintenance, construction or reconstruction of highways.

1472 (5) A regular license tag must be properly displayed as
1473 required by law until replaced by a personalized license tag; and
1474 the regular license tag must be surrendered to the tax collector
1475 upon issuance of the personalized license tag. The tax collector
1476 shall issue up to two (2) license decals for the personalized
1477 license tag, which will expire the same month and year as the
1478 original license tag.

1479 (6) The applicant shall receive a refund of the fee paid for
1480 a personalized license tag if the personalized license tag is not
1481 issued to him because the combination of letters and numbers
1482 requested to be placed thereon is not available for any reason.

1483 (7) In the case of loss or theft of a personalized license
1484 tag, the owner may make application and affidavit for a
1485 replacement license tag as provided by Section 27-19-37. The fee
1486 for a replacement personalized license tag shall be Ten Dollars

1487 (\$10.00). The tax collector receiving such application and
1488 affidavit shall be entitled to retain and deposit into the county
1489 general fund five percent (5%) of the fee for such replacement
1490 license tag and the remainder shall be distributed in the same
1491 manner as funds from the sale of regular license tags.

1492 (8) The owner of a personalized license tag may make
1493 application for a duplicate of such tag. The fee for such
1494 duplicate personalized license tag shall be Ten Dollars (\$10.00).
1495 The tax collector receiving the application shall be entitled to
1496 retain and deposit into the county general fund five percent (5%)
1497 of the fee for such duplicate personalized license tag and the
1498 remainder shall be distributed in the same manner as funds from
1499 the sale of regular license tags. A duplicate personalized
1500 license tag may not be fastened to the rear of a vehicle and may
1501 not be utilized as a replacement for any personalized license tag
1502 issued pursuant to this section. Month decals and year decals
1503 shall not be issued for duplicate personalized license tags and
1504 month decals and year decals shall not be attached to duplicate
1505 personalized license tags.

1506 **SECTION 24.** Section 27-19-73, Mississippi Code of 1972, is
1507 amended as follows:

1508 27-19-73. The tax collector or the commission, as the case
1509 may be, is authorized and empowered to refund to any individual,
1510 firm or corporation any motor vehicle privilege license tax,
1511 permit or tag fee which has been paid or collected through error
1512 or otherwise when the person, individual, firm or corporation was
1513 not liable for such tax or fee or when the individual, firm or
1514 corporation has paid any such privilege tax or fee in excess of
1515 the sum properly due, whether such payments were made under
1516 protest or compulsion or not. Taxes erroneously paid within the
1517 meaning of this section shall include, but shall not be limited
1518 to, overpayments, double payments upon the same vehicle, payments

1519 upon vehicles not located within the State of Mississippi, and all
1520 other erroneous or illegal payments.

1521 All claims for refunds under this section shall be made
1522 within twelve (12) months from the date of the erroneous payment
1523 of * * * taxes or fees and the refunds, approved by the tax
1524 collector or commission, shall be made out of any monies collected
1525 by the tax collector or commission from the same source of
1526 revenue. If such source of revenue no longer exists, the refund
1527 shall come from the general fund collections. If such refund is
1528 approved by the tax collector, he shall issue a warrant to the
1529 claimant and deduct the proper amounts from his next settlement.
1530 If a claim for refund is disapproved, the claimant shall be
1531 notified of the disapproval and the reasons therefor. * * *

1532 **SECTION 25.** Section 27-55-535, Mississippi Code of 1972, is
1533 amended as follows:

1534 27-55-535. When special fuel is lost or destroyed in
1535 quantities of seven hundred fifty (750) gallons or more through
1536 explosion, fire, collision, storage tank wreckage, wreckage of
1537 loading or unloading facilities, such as pumps and lines, or acts
1538 of Providence while in storage in this state or while being
1539 transported in this state, the owner of the special fuel shall be
1540 entitled to tax credit or refund of the tax paid thereon.

1541 The commission shall be notified by the owner of the lost or
1542 destroyed special fuel within five (5) days after the loss or
1543 destruction is discovered. The commission shall make an
1544 investigation of the facts and circumstances surrounding the loss
1545 or destruction as may be reasonably necessary for the effective
1546 administration of this article.

1547 The claim shall be made in the name of the owner of the lost
1548 or destroyed special fuel and shall be signed by the owner or his
1549 authorized agent and filed within three (3) years after the date
1550 of loss. All * * * claims must be accompanied by proof
1551 satisfactory to the commission that the special fuel for which

1552 credit is claimed was destroyed by or through one of the means set
1553 forth in the first paragraph of this section, and in all cases
1554 where the special fuel alleged to have been destroyed was covered
1555 by insurance, the commission shall not approve such claims unless
1556 and until the insurer has acknowledged and actually paid the loss.

1557 Upon receipt of the claim the commission shall determine the
1558 amount of refund or tax credit due the claimant and in the case of
1559 refund the amount shall be refunded to the claimant as provided in
1560 Section 27-55-19.

1561 If the commission determines that any refund claim shall not
1562 be paid, it shall notify the claimant stating the reason or
1563 reasons why the claim is disallowed.

1564 A claimant may, within thirty (30) days after receipt of
1565 written notice of the disallowance of his claim, appeal to the
1566 board of review as provided by law.

1567 **SECTION 26.** Section 27-57-19, Mississippi Code of 1972, is
1568 amended as follows:

1569 27-57-19. When lubricating oil is lost or destroyed in
1570 quantities of two hundred fifty (250) gallons or more through
1571 explosion, fire, collision, storage tank wreckage, wreckage of
1572 loading or unloading facilities or other acts of Providence, only
1573 while in storage in this state or while being transported in this
1574 state, the owner of the lubricating oil shall be entitled to a
1575 refund of the tax paid thereon.

1576 The commission shall be notified by the owner of lubricating
1577 oil lost or destroyed within five (5) days after the loss or
1578 destruction is discovered. The commission shall make an
1579 investigation of the facts and circumstances surrounding the loss
1580 or destruction as may be reasonably necessary for the effective
1581 administration of this section.

1582 The claim shall be made in the name of the owner of the
1583 lubricating oil lost or destroyed, and shall be signed by the
1584 owner or his authorized agent and filed within three (3) years

1585 after the date of the loss. All * * * claims must be accompanied
1586 by proof satisfactory to the commission that the lubricating oil
1587 for which credit is claimed was destroyed as herein provided. In
1588 all cases where lubricating oil alleged to have been destroyed was
1589 covered by insurance, the commission shall not approve such claim
1590 unless and until the insurer has acknowledged and actually paid
1591 the loss.

1592 Upon the receipt of the claim, the commission shall determine
1593 the amount of refund or tax credit due to the claimant and in the
1594 case of refund the amount shall be refunded to the claimant as
1595 provided in Section 27-55-19. The refund shall be paid from
1596 current lubricating oil tax collections.

1597 If the commission determines that any refund claim shall not
1598 be paid or any tax credit allowed, it shall notify the claimant at
1599 the earliest possible date after it determines the claim cannot be
1600 allowed stating the reason or reasons why the claim is rejected.

1601 A claimant may, within thirty (30) days after the rejection
1602 of his claim, appeal to the board of review as provided by law.

1603 **SECTION 27.** Section 27-65-27, Mississippi Code of 1972, is
1604 amended as follows:

1605 27-65-27. (1) Any person who engages, or who intends to
1606 engage, in any business or activity which will subject such person
1607 to a privilege tax imposed by this chapter, shall apply to the
1608 commissioner for a permit to engage in and to conduct any business
1609 or activity upon the condition that he shall pay the tax accruing
1610 to the State of Mississippi under the provisions of this chapter,
1611 and shall keep adequate records of such business or activity as
1612 required by this chapter. By making an application for a permit
1613 issued pursuant to this section, a person agrees, regardless of
1614 his presence in this state, to:

1615 (a) Be subject to the jurisdiction of this state for
1616 purposes of taxation;

1617 (b) Collect and remit all taxes levied under this
1618 chapter on the type of business or activity to be conducted by the
1619 applicant;

1620 (c) Be subject to all the provisions of this chapter.

1621 (2) Upon receipt of the permit, the applicant shall be duly
1622 licensed under this chapter to engage in and conduct the business
1623 or activity. The permit shall continue in force so long as the
1624 person to whom it is issued shall continue in the same business at
1625 the same location, unless revoked by the commissioner for cause.

1626 (3) The commissioner shall require of every person desiring
1627 to engage in business within this state who maintains no permanent
1628 place of business within this state, of every person desiring to
1629 engage in the business of making sales of mobile homes, a cash
1630 bond or an approved surety bond in an amount sufficient to cover
1631 twice the estimated tax liability for a period of three (3)
1632 months. * * * However, * * * the bond shall in no case be less
1633 than One Hundred Dollars (\$100.00) and * * * the tax may be
1634 prepaid in lieu of filing bond if the amount is approved by the
1635 commissioner. This bond shall be filed with the commissioner
1636 prior to the issuance of a permit to do business and before any
1637 such person may engage in business within this state. Failure to
1638 comply with the provision will subject such person to the
1639 penalties provided by this chapter.

1640 (4) The commissioner is * * * authorized to deny the
1641 application for a permit or revoke the permit of any person who
1642 has failed or is failing to comply with any of the provisions of
1643 this chapter. * * * Revocation of such permit, or engaging or
1644 continuing in business after such permit is revoked or engaging in
1645 business without a permit, shall subject the person to all the
1646 penalties imposed by this chapter.

1647 (5) Any person liable for the tax who fails to obtain a
1648 permit from the commissioner, or who continues in business after
1649 such permit has been revoked, or who fails to make his returns for

1650 taxation as provided, or who fails to keep adequate records and
1651 invoices provided by this chapter, or who fails or refuses to
1652 permit inspection of such records, or who fails to pay any taxes
1653 due hereunder, shall forfeit his rights to do business in this
1654 state until he complies with all the provisions of this chapter
1655 and until he enters into a bond, with sureties, to be approved by
1656 the commissioner, in an amount not to exceed twice the amount of
1657 all taxes estimated to become due under this chapter by the person
1658 for any period of three (3) months, conditioned to comply with the
1659 provisions of this chapter, and pay all taxes legally due by him.

1660 (6) If any person is engaged in or continuing in this state
1661 in any business or activity without obtaining a permit, or after
1662 the permit has been revoked, or without filing a required bond, or
1663 without keeping and allowing inspection of all records required by
1664 this chapter, or without making a return, or returns, and without
1665 paying all taxes due by him hereunder, it shall be the duty of the
1666 commissioner to proceed by injunction to prevent the continuance
1667 of the business. Any temporary injunction enjoining the
1668 continuance of the business shall be granted without notice by a
1669 judge or chancellor now authorized to grant injunctions.

1670 **SECTION 28.** Section 27-65-57, Mississippi Code of 1972, is
1671 amended as follows:

1672 27-65-57. If any person liable for the payment of sales
1673 taxes, damages or interest fails or refuses to pay them after
1674 receiving the notice and demand as provided in Sections 27-65-35
1675 and 27-65-37, and if such person has not filed a timely appeal to
1676 the board of review as provided by law, the commissioner may file
1677 a notice of a tax lien for the sales taxes, damages and interest
1678 with the circuit clerk of the county in which the taxpayer resides
1679 or owns property which shall be enrolled as a judgment on the
1680 judgment roll.

1681 Immediately upon receipt of the notice of the tax lien for
1682 sales taxes, damages and interest, the circuit clerk shall enter

1683 the notice of a tax lien as a judgment upon the judgment roll and
1684 show in the appropriate columns the name of the taxpayer as
1685 judgment debtor, the name of the commissioner or State Tax
1686 Commission as judgment creditor, the amount of the taxes, damages
1687 and interest, and the date and time of enrollment. The judgment
1688 shall be valid as against mortgagees, pledgees, entrusters,
1689 purchasers, judgment creditors, and other persons from the time of
1690 filing with the clerk. The amount of the judgment shall be a debt
1691 due the State of Mississippi and remain a lien upon all property
1692 and rights to property belonging to the taxpayer, both real and
1693 personal, including choses in action, with the same force and like
1694 effect as any enrolled judgment of a court of record, and shall
1695 continue until satisfied. The judgment shall be the equivalent of
1696 any enrolled judgment of a court of record and shall serve as
1697 authority for the issuance of writs of execution, writs of
1698 attachment, writs of garnishment or other remedial writs. The
1699 commissioner may issue warrants for collection of sales taxes from
1700 such judgments, in lieu of the issuance of any remedial writ by
1701 the circuit clerk, as provided in Sections 27-65-59 and 27-65-61
1702 hereof; * * * however, * * * such judgment shall not be a lien
1703 upon the property of the taxpayer for a longer period than seven
1704 (7) years from the date of the filing of the notice of tax lien
1705 for sales taxes, damages and interest unless action be brought
1706 thereon before the expiration of such time or unless the
1707 commissioner refiles the notice of tax lien before the expiration
1708 of such time. The judgment shall be a lien upon the property of
1709 the taxpayer for a period of seven (7) years from the date of
1710 refiling the notice of tax lien unless action be brought thereon
1711 before the expiration of such time or unless the commissioner
1712 refiles the notice of tax lien before the expiration of such time.
1713 There shall be no limit upon the number of times that the
1714 commissioner may refile notices of tax liens.

1715 Upon failure to pay the taxes imposed under this chapter by
1716 any taxpayer who has executed any bond under provisions of this
1717 chapter, the commissioner shall give notice of the failure to the
1718 sureties of the bond and demand payment of the tax, damages and
1719 interest within ten (10) days. If the sureties on the taxpayer's
1720 bond shall fail or refuse to pay the penal sum demanded within the
1721 ten (10) days allowed, the commissioner shall file a notice of tax
1722 lien with the circuit clerk of the county in which the sureties
1723 reside or own property which shall be enrolled upon the judgment
1724 roll, and the commissioner may proceed to collect from the
1725 sureties as hereinafter provided for collecting from any judgment
1726 debtor.

1727 The commissioner is hereby authorized to pay the clerk's fee
1728 for enrolling the notice of tax lien out of funds appropriated by
1729 the Legislature to defray expenses of the State Tax Commission.

1730 **SECTION 29.** Section 27-69-9, Mississippi Code of 1972, is
1731 amended as follows:

1732 27-69-9. In addition to the penalties imposed in this
1733 chapter, after the second offense for any violation, the
1734 commissioner may revoke any permit which may have been issued to
1735 any person, or persons, violating any provisions of this chapter,
1736 or any rules or regulations promulgated by the commissioner under
1737 authority of this chapter * * *.

1738 The commissioner, in the event a permit is revoked, is
1739 required to notify by letter, all manufacturers, wholesalers and
1740 distributors having a permit required by this chapter, that the
1741 permit has been revoked, and such manufacturer, wholesaler and
1742 distributor is henceforth prohibited from selling taxable tobacco
1743 to such dealer or retailer.

1744 **SECTION 30.** Section 27-73-1, Mississippi Code of 1972, is
1745 amended as follows:

1746 27-73-1. (1) If any person, firm or corporation has paid,
1747 or shall hereafter pay to the Auditor of Public Accounts * * * or

1748 the Commissioner of Insurance, through error or otherwise, whether
1749 paid under protest or not, any ad valorem, privilege or excise tax
1750 for which the person, firm or corporation was not liable, or if
1751 any such taxpayer has paid any tax in excess of the sum properly
1752 due and such erroneous payment or overpayment has been paid into
1753 the proper treasury, the taxpayer shall be entitled to a refund of
1754 the taxes so erroneously paid. Taxes erroneously paid within the
1755 meaning of this section shall include double payment, or
1756 overpayment, or payment on state, United States, vacant and exempt
1757 land, and the purchase price paid for the redemption of lands
1758 erroneously sold for taxes.

1759 Claims for refund under the provisions of this section shall
1760 be filed with the Auditor of Public Accounts and shall be
1761 supported by proper documents showing the overpayment or erroneous
1762 payment for which claim is made. The * * * auditor is hereby
1763 authorized and required to make a careful investigation and audit
1764 of all such claims and if he shall find that the taxes or monies
1765 covered by the * * * claim have been erroneously paid into the
1766 treasury of the state, county, drainage or levee districts, he
1767 shall distribute the claim against each separate fund in
1768 proportion to the amount paid over to such fund in each case, and
1769 submit the audited claim with the voucher and evidence upon which
1770 the claim is based, to the Attorney General for his approval. The
1771 Attorney General shall have plenary power to require the claimant
1772 or the officer who collected the tax to furnish any * * *
1773 additional documents or information as may in his opinion be
1774 necessary or proper to enable him to determine the merits of the
1775 claim.

1776 If the Attorney General shall be of the opinion that the
1777 claim is in proper form and complies with the requirements of this
1778 section, he shall approve the claim and return it to the Auditor
1779 of Public Accounts, who shall thereupon file in his office the
1780 audited claim, together with the Attorney General's approval and

1781 all other documents relating to the claim, as a voucher, and issue
1782 his warrant on the State Treasurer in favor of the claimant for
1783 the amount of purchase money or taxes erroneously paid into the
1784 State Treasury. The auditor shall then certify to the clerk of
1785 the board of supervisors, the secretary of the drainage district
1786 board, or the secretary of the levee board, as the case may be,
1787 the amount, if any, found to be due to the claimant by the county,
1788 drainage district or levee district. Upon receipt of the
1789 certificate, the board of supervisors, or the commissioners of the
1790 drainage district or of the levee district, shall cause a warrant
1791 to be issued on the treasurer of the county or drainage or levee
1792 district, as the case may be, in favor of the claimant for the
1793 amount erroneously paid into their respective treasuries.

1794 If the Attorney General shall disapprove the claim, he shall
1795 return it to the Auditor of Public Accounts accompanied by his
1796 opinion which shall show the reason for his disapproval, whereupon
1797 the auditor shall promptly notify the claimant of the disapproval.
1798 A claimant taxpayer being aggrieved at the disapproval may, within
1799 six (6) months from the date thereof, file in the chancery court
1800 his petition for appeal and review. All * * * petitions for
1801 appeal and review shall be filed in the chancery court of the
1802 county in which the money for which refund is claimed was
1803 originally paid, and shall be accompanied by a bond in the sum of
1804 Five Hundred Dollars (\$500.00) conditioned to pay all costs which
1805 may accrue in the case, which bond shall be approved by the clerk
1806 of the * * * court. Upon the approval of the bond, the chancery
1807 clerk shall give the Attorney General and the Auditor of Public
1808 Accounts notice, as required by law, of the filing of the
1809 petition. It shall be the duty of the * * * auditor to promptly
1810 transmit to the court in which the appeal is pending a certified
1811 copy of the entire record of the claim as shown by the files in
1812 his office, which record shall be docketed by the clerk in the
1813 cause, and the controversy shall be tried by the court on such

1814 record. It shall be the duty of the Attorney General to defend on
1815 behalf of the state, and he may request the district attorney,
1816 county attorney or attorney for the drainage or levee district, as
1817 the case may be, to defend on behalf of the county, drainage or
1818 levee district. If the claimant taxpayer shall prevail, judgment
1819 shall be entered requiring the payment of the claim in like manner
1820 as if it had been duly approved by the Attorney General. If,
1821 however, the action of the Attorney General in disapproving the
1822 claim shall be affirmed by the court, judgment shall be entered
1823 against the appealing taxpayer for the costs of the proceedings.

1824 Nothing in this section shall be so construed as to authorize
1825 the recovery or repayment of any tax heretofore levied and
1826 collected by any special road district, drainage district, or
1827 separate school district, on account of, or upon the ground that
1828 the law authorizing such tax was unconstitutional, whether the
1829 unconstitutionality of such tax be based upon the creation or mode
1830 of operation of any special road district, drainage district or
1831 separate school district. Provided further, that nothing in this
1832 section shall be construed as authorizing the refunding of state
1833 taxes paid into the State Treasury through error, or otherwise, or
1834 satisfying a judgment or decree against the state except through
1835 an appropriation therefor by the Legislature.

1836 (2) This section shall not be construed as repealing or
1837 modifying Section 27-73-7, or any other law providing for the
1838 application for or the certification of a claim for refund, but
1839 shall be taken and construed as an additional and supplemental
1840 method of refunding taxes erroneously paid.

1841 **SECTION 31.** Section 27-73-5, Mississippi Code of 1972, is
1842 amended as follows:

1843 27-73-5. All suits by any taxpayer for the recovery of any
1844 privilege * * * or other excise tax, except taxes paid to the
1845 State Tax Commission, and all applications or proceedings for any
1846 refund or credit of such taxes shall be filed or made within three

1847 (3) years next after the return was filed, or from the date the
1848 assessment of the tax was made, or from the date the tax was paid,
1849 as the case may be, whichever is the earlier, and no recovery of
1850 taxes under any such suit shall be had and no refund of taxes
1851 shall be made unless the suit or application was filed within the
1852 period of limitation.

1853 * * * However, as to income taxes the three-year statute of
1854 limitations shall be extended to six (6) years in cases where the
1855 reported net income of a taxpayer has been reduced by the bureau
1856 of internal revenue for any taxable period.

1857 **SECTION 32.** Section 67-3-29, Mississippi Code of 1972, is
1858 amended as follows:

1859 67-3-29. (1) The commissioner, or a hearing officer or the
1860 board of review, as designated by the commissioner, after a show
1861 cause hearing, shall revoke or suspend any permit granted by
1862 authority of this chapter to any person who shall violate any of
1863 the provisions of this chapter or the revenue laws of this state
1864 relating to engaging in transporting, storing, selling,
1865 distributing, possessing, receiving or manufacturing of wines or
1866 beers, or any person who shall hereafter be convicted of the
1867 unlawful sale of intoxicating liquor, or any person who shall
1868 allow or permit any form of illegal gambling or immorality on the
1869 premises described in such permit. The commissioner shall not
1870 revoke or suspend a permit of a retailer for the sale of light
1871 wine or beer to a person under the age of twenty-one (21) years
1872 until there has been a conviction of the permit holder or an
1873 employee of the permit holder for such violation.

1874 (2) If any person exercising any privilege taxable under the
1875 provisions of Chapter 71 of Title 27, Mississippi Code of 1972,
1876 shall willfully neglect or refuse to comply with the provisions of
1877 such chapter, or any rules or regulations promulgated by the
1878 commissioner under authority of such chapter, or the provisions of
1879 this chapter, including maintaining the qualifications of an

1880 applicant under Section 67-3-19, during the permit period, the
1881 commissioner shall be authorized to revoke or suspend the permit
1882 theretofore issued to the person * * *. Any person whose permit
1883 shall have been revoked by the commissioner shall be thereafter
1884 prohibited from exercising any privilege under the provisions of
1885 Chapter 71 of Title 27, Mississippi Code of 1972, for a period of
1886 two (2) years from the date of the revocation. The commissioner
1887 may, however, for good cause shown, grant a new permit upon such
1888 conditions as the commissioner may prescribe. Any person whose
1889 permit shall have been suspended by the commissioner shall be
1890 prohibited from exercising any privilege under the provisions of
1891 Chapter 71 of Title 27, Mississippi Code of 1972, during the
1892 period of the suspension. Failure of the person to comply with
1893 the terms of the suspension shall be cause for revocation of his
1894 permit, in addition to the other penalties provided by law.

1895 (3) In addition to the reasons specified in this section and
1896 other provisions of this chapter, the commissioner shall be
1897 authorized to suspend the permit of any permit holder for being
1898 out of compliance with an order for support, as defined in Section
1899 93-11-153. The procedure for suspension of a permit for being out
1900 of compliance with an order for support, and the procedure for the
1901 reissuance or reinstatement of a permit suspended for that
1902 purpose, and the payment of any fees for the reissuance or
1903 reinstatement of a permit suspended for that purpose, shall be
1904 governed by Section 93-11-157 or Section 93-11-163, as the case
1905 may be. If there is any conflict between any provision of Section
1906 93-11-157 or Section 93-11-163 and any provision of this chapter,
1907 the provisions of Section 93-11-157 or 93-11-163, as the case may
1908 be, shall control.

1909 **SECTION 33.** Section 67-3-59, Mississippi Code of 1972, is
1910 amended as follows:

1911 67-3-59. (1) Except as * * * provided in this subsection,
1912 sales by wholesalers, distributors or manufacturers to persons who

1913 do not hold valid permits are unlawful; and any wholesaler,
1914 distributor or manufacturer making such sales, or who sells any
1915 beer or light wine on which the tax provided by law has not been
1916 paid, shall, in addition to any other fines, penalties and
1917 forfeitures, be subject to a penalty of Twenty-five Dollars
1918 (\$25.00) for each * * * sale. If all other applicable taxes are
1919 paid, this penalty will not apply to the following: sales to
1920 employees of the wholesaler; sales to nonprofit charitable and
1921 civic organizations for special fund raising events provided that
1922 the beer or light wine is not resold; sales to affiliated member
1923 associations.

1924 (2) The commissioner may assess the penalty by giving notice
1925 by * * * mail, demanding payment within thirty (30) days from date
1926 of delivery of the notice. * * *

1927 The proceeds of all penalties shall be deposited by the
1928 commissioner with the other monies collected by him and shall be
1929 disposed of as provided by law.

1930 **SECTION 34.** Section 75-23-25, Mississippi Code of 1972, is
1931 amended as follows:

1932 75-23-25. The State Tax Commission shall prescribe, adopt
1933 and enforce rules and regulations relating to the administration
1934 and enforcement of the Unfair Cigarette Sales Law.

1935 The commission is hereby empowered to and may from time to
1936 time undertake and make or cause to be made one or more cost
1937 surveys for the state or such trading area or areas as it shall
1938 define and when a cost survey shall have been made by or approved
1939 by it, it shall be permissible to use the cost survey as provided
1940 in * * * Section 75-23-19(b) * * *. The commission may revoke or
1941 suspend the license issued under the provisions of this law or the
1942 tobacco tax law of this state, of any person who refuses or
1943 neglects to comply with any provisions of this article or any rule
1944 or regulation of the commission prescribed under this article.

1945 Whenever any person fails to comply with any provision of the
1946 Unfair Cigarette Sales Law or any rule or regulation of the
1947 commission promulgated thereunder, the commission * * *, or a
1948 hearing officer or the board of review, as designated by the
1949 commissioner, after a show cause hearing, may revoke or suspend
1950 the license held by the person.

1951 Any ruling, order or decision of the commission shall be
1952 subject to review, as provided by law, in any court of competent
1953 jurisdiction in the county in which the person affected resides.

1954 **SECTION 35.** Sections 27-3-29, 27-7-71, 27-7-73, 27-9-47,
1955 27-13-43, 27-13-45, 27-19-337, 27-55-41, 27-55-549, 27-57-29,
1956 27-59-43, 27-59-317, 27-61-35, 27-65-45, 27-65-47, 27-65-49,
1957 27-67-23, 27-67-25, 27-67-27, 27-69-43 and 63-21-61, Mississippi
1958 Code of 1972, which provide for hearings and appeals from certain
1959 actions of the State Tax Commission, are repealed.

1960 **SECTION 36.** Nothing in this act shall affect or defeat any
1961 assessment, refund claim, request for waiver of a tax penalty or
1962 the suspension, revocation, surrender, seizure or denial of
1963 permit, tag or title or the administrative appeal or judicial
1964 appeal thereof where the initial date of said assessment, refund
1965 claim, tag penalty, denial, notice of the intent to suspend,
1966 notice of the intent to revoke, request for surrender or order for
1967 seizure is before the date on which this act becomes effective.
1968 The provisions of the laws relating to the administrative appeal
1969 or judicial review of such actions which were in effect prior to
1970 the effective date of this act are expressly continued in full
1971 force, effect and operation for the purpose of providing an
1972 administrative appeal and/or judicial review of any assessment,
1973 refund claim, request for waiver of a tag penalty or the
1974 suspension, revocation, surrender, seizure or denial of a permit,
1975 tag or title where the initial date of said assessment, refund
1976 claim, tag penalty, denial, notice of the intent to suspend,

1977 notice of the intent to revoke, request for surrender or order for
1978 seizure is before the date on which this act becomes effective.

1979 **SECTION 37.** Sections 1 through 10 of this act shall be
1980 codified as a separate chapter in Title 27, Mississippi Code of
1981 1972.

1982 **SECTION 38.** This act shall take effect and be in force from
1983 and after July 1, 2005.