

By: Representative Stringer

To: Ways and Means

## HOUSE BILL NO. 1409

1 AN ACT TO PROHIBIT ANY STATE AGENCY FROM PURCHASING  
2 EQUIPMENT, HIRING NEW EMPLOYEES, OR PROMOTING, RECLASSIFYING,  
3 REALLOCATING OR REALIGNING PAY GRADES WITH REGARD TO ANY OF ITS  
4 EMPLOYEES OR JOB POSITIONS DURING THE CURRENT FISCAL YEAR; TO  
5 ESTABLISH AN APPEAL PROCEDURE TO THE STATE FISCAL OFFICER FOR  
6 AGENCIES SEEKING TO TAKE ANY ACTION THAT OTHERWISE WOULD BE  
7 PROHIBITED BY THIS ACT; TO SET FORTH THE DEMONSTRATION OF THE  
8 EMERGENCY THAT MUST BE MADE BY THE AGENCY IN ITS APPEAL; TO  
9 PROVIDE THAT THE JOINT LEGISLATIVE BUDGET COMMITTEE SHALL BE  
10 NOTIFIED OF SUCH AN APPEAL AND THAT COMMITTEE MEMBERS MAY ATTEND  
11 THE HEARING ON SUCH AN APPEAL; TO ALLOW THE STATE FISCAL OFFICER,  
12 IN HIS DISCRETION, TO AUTHORIZE THE ACTION SOUGHT IN THE APPEAL;  
13 TO AMEND SECTION 25-9-116, MISSISSIPPI CODE OF 1972, IN CONFORMITY  
14 TO THE PRECEDING PROVISIONS; TO PROVIDE THAT DURING FISCAL YEAR  
15 2006, STATE AGENCIES ARE NOT AUTHORIZED TO EXPEND FUNDS TO DO  
16 CERTAIN THINGS UNLESS SPECIFICALLY AUTHORIZED IN THE AGENCY'S  
17 APPROPRIATION BILL; TO AMEND SECTIONS 7-7-211 AND 7-7-213,  
18 MISSISSIPPI CODE OF 1972, TO INCREASE THE FEE CHARGED BY THE  
19 DEPARTMENT OF AUDIT FOR CONDUCTING A POSTAUDIT, PREAUDIT OR  
20 INVESTIGATION OF THE FINANCIAL AFFAIRS OF CERTAIN GOVERNMENTAL  
21 ENTITIES; TO BRING FORWARD SECTION 27-15-83, MISSISSIPPI CODE OF  
22 1972, WHICH PROVIDES FOR CERTAIN PRIVILEGE TAXES TO BE LEVIED ON  
23 INSURANCE COMPANIES; TO BRING FORWARD SECTION 27-15-85,  
24 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR PRIVILEGE TAXES TO BE  
25 LEVIED ON CERTAIN INCORPORATED INSURANCE AGENCIES AND INCORPORATED  
26 GENERAL AGENTS AND INCORPORATED SUPERVISING GENERAL AGENTS; TO  
27 BRING FORWARD SECTION 27-15-87, MISSISSIPPI CODE OF 1972, WHICH  
28 PROVIDES FOR PRIVILEGE TAXES TO BE LEVIED ON CERTAIN FIRE,  
29 CASUALTY, LIABILITY, FIDELITY, SURETY, GUARANTY AND INLAND MARINE  
30 INSURANCE AGENTS AND INSURANCE SOLICITORS; TO BRING FORWARD  
31 SECTION 27-15-93, MISSISSIPPI CODE OF 1972, WHICH PROVIDES CERTAIN  
32 PRIVILEGE TAXES TO BE LEVIED ON INCORPORATED LIFE, HEALTH OR  
33 ACCIDENT INSURANCE AGENCIES, SUPERVISING GENERAL AGENTS AND LIFE  
34 INSURANCE AGENTS; TO BRING FORWARD SECTION 27-15-95, MISSISSIPPI  
35 CODE OF 1972, WHICH PROVIDES FOR A PRIVILEGE TAX TO BE LEVIED ON  
36 CERTAIN PERSONS, OTHER THAN AN INCORPORATED INSURANCE AGENCY,  
37 WRITING HEALTH AND ACCIDENT OR INDUSTRIAL LIFE INSURANCE; TO BRING  
38 FORWARD SECTION 83-49-47, MISSISSIPPI CODE OF 1972, WHICH PROVIDES  
39 FOR CERTAIN LICENSE FEES ON PERSONS ACTING AS AGENTS OR  
40 REPRESENTATIVES OF INSURERS WHO ESTABLISH PREPAID LEGAL SERVICES;  
41 TO BRING FORWARD SECTION 83-11-237, MISSISSIPPI CODE OF 1972,  
42 WHICH REQUIRES CERTAIN REGISTRATION FEES FOR AGENTS OF AUTOMOBILE  
43 CLUBS OPERATING IN THE STATE OF MISSISSIPPI; TO AMEND SECTION  
44 27-19-44.4, MISSISSIPPI CODE OF 1972, TO IMPOSE AN ADDITIONAL FEE  
45 ON THE ISSUANCE OF PERSONALIZED MOTOR VEHICLE LICENSE TAGS AND  
46 CERTAIN DISTINCTIVE OR SPECIAL MOTOR VEHICLE LICENSE TAGS; TO  
47 BRING FORWARD SECTION 27-19-89, MISSISSIPPI CODE OF 1972, WHICH  
48 PROVIDES FOR FINES FOR OVERWEIGHT VEHICLES UPON THE PUBLIC  
49 HIGHWAYS; TO BRING FORWARD SECTION 27-65-27, MISSISSIPPI CODE OF  
50 1972, WHICH PROVIDES FOR THE ISSUANCE OF PERMITS TO ENGAGE IN  
51 BUSINESS; TO AMEND SECTION 27-65-33, MISSISSIPPI CODE OF 1972, TO  
52 PROVIDE THAT THE COMPENSATION OR DISCOUNT ALLOWED TO TAXPAYERS FOR

53 COLLECTING SALES AND USE TAXES AND FILING NECESSARY RETURNS WITH  
54 THE STATE TAX COMMISSION SHALL NOT BE ALLOWED FOR MORE THAN ONE  
55 BUSINESS LOCATION; TO BRING FORWARD SECTIONS 27-69-5 AND 27-69-7,  
56 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR PERMITS AND PRIVILEGE  
57 TAXES FOR TOBACCO SELLERS; TO AMEND SECTION 27-69-13, MISSISSIPPI  
58 CODE OF 1972, AND TO AMEND SECTION 27-69-31, MISSISSIPPI CODE OF  
59 1972, TO ELIMINATE THE DISCOUNT OR COMPENSATION PROVIDED TO  
60 DEALERS AS COMPENSATION FOR THEIR SERVICES IN AFFIXING TOBACCO TAX  
61 STAMPS REQUIRED UNDER THE STATE TOBACCO TAX LAW; TO AMEND SECTION  
62 27-69-75, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING  
63 PROVISIONS; TO BRING FORWARD SECTION 75-23-27, MISSISSIPPI CODE OF  
64 1972, WHICH PROVIDES FOR A LICENSE FOR SELLERS OF CIGARETTES; TO  
65 AMEND SECTION 27-71-11, MISSISSIPPI CODE OF 1972, TO INCREASE THE  
66 MARKUP ON THE COST OF ALCOHOLIC BEVERAGES; TO AMEND SECTION  
67 27-71-303, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A LICENSE  
68 TAX ON SELLERS OF BEER AND LIGHT WINES; TO AMEND SECTION 39-5-5,  
69 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DEPARTMENT OF ARCHIVES  
70 AND HISTORY TO CHARGE FEES TO PERSONS WHO USE THE FACILITIES OF  
71 THE DEPARTMENT TO CONDUCT RESEARCH AND CHARGE FEES FOR THE  
72 DEPARTMENT TO PERFORM RESEARCH ON BEHALF OF PERSONS OR ENTITIES;  
73 TO AMEND SECTION 41-3-18, MISSISSIPPI CODE OF 1972, TO PROVIDE  
74 THAT THE STATE BOARD OF HEALTH SHALL CHARGE AN ADDITIONAL FEE FOR  
75 FOOD ESTABLISHMENT PERMITS AND PRIVATE WATER SUPPLY APPROVALS; TO  
76 AMEND SECTION 41-4-7, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE  
77 STATE BOARD OF MENTAL HEALTH TO CHARGE COUNTIES FOR SERVICES  
78 PROVIDED TO PATIENTS IN MENTAL HEALTH CRISIS INTERVENTION CENTERS;  
79 TO BRING FORWARD SECTION 41-7-71, 41-71-73 AND 41-71-79, WHICH  
80 PROVIDE FOR CHARGING THE COSTS OF PROVIDING CARE AND TREATMENT TO  
81 PERSONS AT STATE MENTAL INSTITUTIONS; TO BRING FORWARD SECTION  
82 45-1-29, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE FUNDS OF  
83 THE MISSISSIPPI CRIME LABORATORY; TO BRING FORWARD SECTION  
84 49-17-30, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE  
85 ISSUANCE OF AN AIR OPERATING PERMIT UNDER THE FEDERAL CLEAN AIR  
86 ACT BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY; TO AMEND SECTION  
87 49-17-421, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE  
88 DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL CHARGE AN ADDITIONAL FEE  
89 FOR UNDERGROUND STORAGE TANKS; TO PROVIDE THAT WHERE A FEE IS NOT  
90 SET BY LAW, THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL CHARGE  
91 FEES FOR GENERAL PERMITS, OTHER PERMITS AND MONITORING ACTIVITIES;  
92 TO AMEND SECTIONS 51-3-31, 53-7-7, 53-7-21, 53-7-25, 53-7-27 AND  
93 53-7-69, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE DEPARTMENT  
94 OF ENVIRONMENTAL QUALITY SHALL CHARGE FEES FOR CERTAIN ACTIVITIES  
95 UNDER ITS JURISDICTION; TO AMEND SECTION 49-19-217, MISSISSIPPI  
96 CODE OF 1972, TO PROVIDE THAT THE FORESTRY COMMISSION SHALL CHARGE  
97 FEES FOR DISTRIBUTING SEEDLINGS TO PERSONS; TO AMEND SECTION  
98 55-3-33, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE DEPARTMENT  
99 OF WILDLIFE, FISHERIES AND PARKS SHALL CHARGE AN ADDITIONAL  
100 ADMISSION FEE UPON EACH VEHICLE ENTERING ANY PARK OPERATED BY THE  
101 DEPARTMENT; TO AMEND SECTION 45-35-7, MISSISSIPPI CODE OF 1972, TO  
102 INCREASE THE FEE FOR IDENTIFICATION CARDS ISSUED BY THE DEPARTMENT  
103 OF PUBLIC SAFETY; TO BRING FORWARD SECTION 45-35-9, MISSISSIPPI  
104 CODE OF 1972, WHICH PROVIDES FOR THE ISSUANCE OF DUPLICATE  
105 IDENTIFICATION CARDS BY THE DEPARTMENT; TO AMEND SECTION 63-1-43,  
106 MISSISSIPPI CODE OF 1972, TO INCREASE THE FEES FOR REGULAR  
107 DRIVER'S LICENSES AND CLASS D COMMERCIAL DRIVER'S LICENSES; TO  
108 BRING FORWARD SECTIONS 63-1-21, 63-1-37, 63-1-46, 63-1-81 AND  
109 63-1-82, MISSISSIPPI CODE OF 1972, WHICH ESTABLISH REQUIREMENTS  
110 AND FEES FOR THE ISSUANCE OF TEMPORARY DRIVING PERMITS,  
111 INTERMEDIATE DRIVER'S LICENSES, DUPLICATE COPIES OF DRIVERS'  
112 LICENSES OR TEMPORARY DRIVING PERMITS, MOTORCYCLE ENDORSEMENTS,  
113 RESTRICTED MOTORCYCLE OPERATORS' LICENSES, CLASS D COMMERCIAL  
114 DRIVERS' LICENSES, REINSTATEMENT OF SUSPENDED DRIVERS' LICENSES,  
115 AND CLASS A, CLASS B AND CLASS C COMMERCIAL DRIVERS' LICENSES; TO  
116 AMEND SECTION 63-15-4, MISSISSIPPI CODE OF 1972, TO IMPOSE A STATE  
117 ASSESSMENT ON MOTOR VEHICLE OWNERS OR OPERATORS WHO FAIL TO HAVE  
118 THE REQUIRED INSURANCE CARD IN THE MOTOR VEHICLE; TO AMEND SECTION

119 63-21-63, MISSISSIPPI CODE OF 1972, TO INCREASE THE FEES FOR  
120 ISSUING AND PROCESSING MOTOR VEHICLE CERTIFICATES OF TITLE AND  
121 RELATED DOCUMENTS; TO CODIFY NEW SECTION 7-3-30, MISSISSIPPI CODE  
122 OF 1972, TO PROVIDE THAT THE SECRETARY OF STATE SHALL PROVIDE FOR  
123 THE ANNUAL PUBLICATION OF A JUDICIARY DIRECTORY AND COURT  
124 CALENDAR, WHICH SHALL BE MADE AVAILABLE FOR SALE FOR NOT LESS THAN  
125 A SPECIFIED PRICE PER COPY; TO AMEND SECTION 25-7-81, MISSISSIPPI  
126 CODE OF 1972, TO PROVIDE THAT THE SECRETARY OF STATE SHALL CHARGE  
127 AN ADDITIONAL FEE FOR THE COMMISSIONING OF NOTARIES PUBLIC; TO  
128 AMEND SECTION 75-4-1.22, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
129 THE SECRETARY OF STATE SHALL CHARGE ADDITIONAL FEES FOR FILING  
130 CERTAIN DOCUMENTS; TO AMEND SECTION 75-9-525, MISSISSIPPI CODE OF  
131 1972, TO PROVIDE THAT THE SECRETARY OF STATE SHALL CHARGE  
132 ADDITIONAL FILING FEES FOR SECURED TRANSACTIONS UNDER THE UNIFORM  
133 COMMERCIAL CODE; TO AMEND SECTION 75-63-65, MISSISSIPPI CODE OF  
134 1972, TO PROVIDE THAT THE SECRETARY OF STATE SHALL CHARGE FEES FOR  
135 CERTAIN ACTIONS RELATING TO SALES OF PRE-NEED CONTRACTS; TO AMEND  
136 SECTION 75-71-409, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE  
137 SECRETARY OF STATE SHALL CHARGE FEES FOR CERTAIN ACTIONS RELATING  
138 TO SECURITIES; TO AMEND SECTION 79-11-109, MISSISSIPPI CODE OF  
139 1972, TO PROVIDE THAT THE SECRETARY OF STATE SHALL CHARGE  
140 ADDITIONAL FEES FOR FILING CERTAIN DOCUMENTS; TO AMEND SECTION  
141 79-11-504, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE SECRETARY  
142 OF STATE SHALL CHARGE ADDITIONAL FEES FOR CERTAIN ACTIONS RELATING  
143 TO CHARITABLE SOLICITATIONS; TO AMEND SECTION 79-29-1203,  
144 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE SECRETARY OF STATE  
145 SHALL CHARGE ADDITIONAL FEES FOR CERTAIN ACTIONS RELATING TO  
146 LIMITED LIABILITY COMPANIES; TO AMEND SECTION 75-55-23,  
147 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE COMMISSIONER OF  
148 AGRICULTURE AND COMMERCE SHALL CHARGE A FEE FOR PERFORMING ANNUAL  
149 INSPECTIONS OF THE PUMPS AND DISPENSING EQUIPMENT OF MOTOR FUELS  
150 AT RETAIL; TO AMEND SECTION 75-76-131, MISSISSIPPI CODE OF 1972,  
151 TO PROVIDE THAT THE GAMING COMMISSION SHALL CHARGE AN ADDITIONAL  
152 FEE TO APPLICANTS FOR WORK PERMITS; TO REPEAL SECTION 69-29-1,  
153 MISSISSIPPI CODE OF 1972, WHICH CREATES THE MISSISSIPPI  
154 AGRICULTURAL AND LIVESTOCK THEFT BUREAU, PROVIDES FOR THE  
155 APPOINTMENT OF THE BUREAU DIRECTOR, AND SETS FORTH THE DUTIES OF  
156 THE DIRECTOR; TO AMEND SECTIONS 25-1-87, 69-29-2, 69-29-11,  
157 69-29-101 AND 69-29-103, MISSISSIPPI CODE OF 1972, TO CONFORM TO  
158 THE PRECEDING PROVISION; AND FOR RELATED PURPOSES.

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

160 **SECTION 1.** (1) Except as otherwise provided in this  
161 section, due to the severe budget concerns during the current  
162 fiscal year, the following provisions shall apply through June 30,  
163 2005:

164 (a) No state agency is authorized to purchase any  
165 equipment as defined in Section 31-7-1.

166 (b) No state agency is authorized to hire any new  
167 employees, or promote, reclassify, reallocate or realign a pay  
168 grade with regard to any of its employees or job positions. The  
169 State Personnel Board shall immediately suspend all hirings,  
170 promotions, reclassifications, reallocations and pay grade  
171 realignments of employees or job positions.

172           (2) If a state agency determines that it is necessary to  
173 take any action that otherwise would be prohibited under  
174 subsection (1) of this section before July 1, 2005, the agency may  
175 appeal to the State Fiscal Officer. The State Fiscal Officer  
176 shall immediately notify the Joint Legislative Budget Committee of  
177 the state agency's appeal and the date upon which the State Fiscal  
178 Officer will hold a hearing on the appeal. The State Fiscal  
179 Officer shall grant a hearing to the state agency on its appeal  
180 within fifteen (15) days after notice of the appeal is given to  
181 the State Fiscal Officer; however, if the Department of Mental  
182 Health is seeking to hire new professional or paraprofessional  
183 employees who work directly with patients or clients involved with  
184 department facilities and programs as replacements for  
185 professional or paraprofessional employees who leave employment  
186 with the department, then the State Fiscal Officer shall grant a  
187 hearing to the department on its appeal within three (3) days  
188 after notice of the appeal is given to the State Fiscal Officer.  
189 The hearing shall not be a public meeting; however, any member of  
190 the Joint Legislative Budget Committee may attend the hearing. At  
191 the hearing, the state agency must demonstrate to the satisfaction  
192 of the State Fiscal Officer that a serious emergency exists of  
193 such magnitude that the essential mission of the agency cannot be  
194 carried out without taking an action that otherwise would be  
195 prohibited under subsection (1) of this section. In making his  
196 decision, the State Fiscal Officer may consider the source of  
197 funds to be used by the state agency in taking that action. If  
198 the state agency makes the demonstration required by this  
199 subsection, the State Fiscal Officer, in his discretion, may  
200 authorize the agency to take the action sought by the agency that  
201 otherwise would be prohibited under subsection (1) of this  
202 section.

203           (3) A state agency may take any action that otherwise would  
204 be prohibited under subsection (1)(b) of this section if all of  
205 the funds to be expended to fund that action are federal funds.

206           (4) For purposes of this section, the term "state agency"  
207 means any agency, board, commission or department of the State of  
208 Mississippi.

209           **SECTION 2.** Section 25-9-116, Mississippi Code of 1972, is  
210 amended as follows:

211           **[Through June 30, 2005, this section will read as follows:]**

212           25-9-116.   \* \* \* The State Personnel Board shall institute  
213 an immediate suspension of all hirings, promotions,  
214 reclassifications, reallocations and pay grade realignments, as  
215 provided in Section 1 of this act.

216           **[From and after July 1, 2005, this section will read as**  
217 **follows:]**

218           25-9-116. Upon recommendation of the State Fiscal Officer,  
219 after a determination that the state revenue and expenditure  
220 requires such action the State Personnel Board may institute an  
221 immediate suspension of all hirings, promotions,  
222 reclassifications, reallocations and pay grade realignments until  
223 such time as the State Fiscal Officer shall recommend that such  
224 action is no longer required.

225           **SECTION 3.** (1) For the purposes of this section, the term  
226 "state agency" means an agency, board, commission or department of  
227 the State of Mississippi.

228           (2) For the period beginning on July 1, 2005, and through  
229 June 30, 2006, unless specifically authorized in the appropriation  
230 bill for a state agency, the state agency is not authorized to  
231 expend funds to do any of the following:

232           (a) Hire any new employees, or promote, reclassify,  
233 reallocate or realign a pay grade with regard to any of its  
234 employees or job positions;

235           (b) Purchase any equipment or furniture as defined in  
236 Section 31-7-1, or any computer or telecommunications equipment;  
237 and even if authorized in the appropriation bill, a state agency  
238 is not authorized to expend funds to purchase any sports-utility  
239 vehicle unless the purchase is approved by the Department of  
240 Finance and Administration;

241           (c) Contract with any person or entity for professional  
242 services or consulting services, or make payments under any such  
243 contract;

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

245           (e) Publish or distribute any annual reports or other  
246 publications;

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

249           (g) Advertise the functions, programs or services of  
250 the state agency; however, the Mississippi Development Authority  
251 is authorized to expend funds for advertising to carry out the  
252 purposes of key programs administered by the authority; or

253           (h) Purchase cellular telephones for use of employees  
254 of the state agency, contract or enter an agreement with any  
255 person or entity to provide cellular telephone service for  
256 employees of the state agency, or make payments under any such  
257 contract or agreement; however, the prohibition in this paragraph  
258 (h) shall not apply to the Governor's Office, the Mississippi  
259 Development Authority or the law enforcement personnel of any  
260 state agency.

261           **SECTION 4.** Section 7-7-211, Mississippi Code of 1972, is  
262 amended as follows:

263           7-7-211. The department shall have the power and it shall be  
264 its duty:

265           (a) To identify and define for all public offices of  
266 the state and its subdivisions generally accepted accounting  
267 principles as promulgated by nationally recognized professional

268 organizations and to consult with the State Fiscal Officer in the  
269 prescription and implementation of accounting rules and  
270 regulations;

271 (b) To prescribe, for all public offices of regional  
272 and local subdivisions of the state, systems of accounting,  
273 budgeting and reporting financial facts relating to those offices  
274 in conformity with legal requirements and with generally accepted  
275 accounting principles as promulgated by nationally recognized  
276 professional organizations; to assist such subdivisions in need of  
277 assistance in the installation of such systems; to revise such  
278 systems when deemed necessary, and to report to the Legislature at  
279 periodic times the extent to which each office is maintaining such  
280 systems, along with such recommendations to the Legislature for  
281 improvement as seem desirable;

282 (c) To study and analyze existing managerial policies,  
283 methods, procedures, duties and services of the various state  
284 departments and institutions upon written request of the Governor,  
285 the Legislature or any committee or other body empowered by the  
286 Legislature to make such request to determine whether and where  
287 operations can be eliminated, combined, simplified and improved;

288 (d) To postaudit each year and, when deemed necessary,  
289 preaudit and investigate the financial affairs of each and every  
290 department, institution, board, commission or other agency of each  
291 branch of state government, as part of the publication of a  
292 comprehensive annual financial report for the State of  
293 Mississippi. In complying with the requirements of this  
294 subsection, the department shall have the authority to conduct all  
295 necessary audit procedures on an interim and year-end basis;

296 (e) To postaudit and, when deemed necessary, preaudit  
297 and investigate separately the financial affairs of (i) the  
298 offices, boards and commissions of county governments and any  
299 departments and institutions thereof and therein; (ii) public  
300 school districts, departments of education and junior college

301 districts; and (iii) any other local offices or agencies which  
302 share revenues derived from taxes or fees imposed by the State  
303 Legislature or receive grants from revenues collected by  
304 governmental divisions of the state; the cost of such audits,  
305 investigations or other services to be paid as follows: Such part  
306 shall be paid by the state from appropriations made by the  
307 Legislature for the operation of the State Department of Audit as  
308 may exceed the sum of Thirty-two Dollars and Fifty Cents (\$32.50)  
309 per hour for the services of each staff person engaged in  
310 performing the audit or other service, which sum shall be paid by  
311 the county, district, department, institution or other agency  
312 audited out of its general fund or any other available funds from  
313 which such payment is not prohibited by law;

314 (f) To postaudit and, when deemed necessary, preaudit  
315 and investigate the financial affairs of the levee boards;  
316 agencies created by the Legislature or by executive order of the  
317 Governor; profit or nonprofit business entities administering  
318 programs financed by funds flowing through the State Treasury or  
319 through any of the agencies of the state, or its subdivisions; and  
320 all other public bodies supported by funds derived in part or  
321 wholly from public funds, except municipalities which annually  
322 submit an audit prepared by a qualified certified public  
323 accountant using methods and procedures prescribed by the  
324 department;

325 (g) To make written demand, when necessary, for the  
326 recovery of any amounts representing public funds improperly  
327 withheld, misappropriated and/or otherwise illegally expended by  
328 an officer, employee or administrative body of any state, county  
329 or other public office, and/or for the recovery of the value of  
330 any public property disposed of in an unlawful manner by a public  
331 officer, employee or administrative body, such demands to be made  
332 (i) upon the person or persons liable for such amounts and upon  
333 the surety on official bond thereof, and/or (ii) upon any



334 individual, partnership, corporation or association to whom the  
335 illegal expenditure was made or with whom the unlawful disposition  
336 of public property was made, if such individual, partnership,  
337 corporation or association knew or had reason to know through the  
338 exercising of reasonable diligence that the expenditure was  
339 illegal or the disposition unlawful. Such demand shall be  
340 premised on competent evidence, which shall include at least one  
341 (1) of the following: (i) sworn statements, (ii) written  
342 documentation, (iii) physical evidence, or (iv) reports and  
343 findings of government or other law enforcement agencies. Other  
344 provisions notwithstanding, a demand letter issued pursuant to  
345 this subsection shall remain confidential by the State Auditor  
346 until the individual against whom the demand letter is being filed  
347 has been served with a copy of such demand letter. If, however,  
348 such individual cannot be notified within fifteen (15) days using  
349 reasonable means and due diligence, such notification shall be  
350 made to the individual's bonding company, if he or she is bonded.  
351 Each such demand shall be paid into the proper treasury of the  
352 state, county or other public body through the office of the  
353 department in the amount demanded within thirty (30) days from the  
354 date thereof, together with interest thereon in the sum of one  
355 percent (1%) per month from the date such amount or amounts were  
356 improperly withheld, misappropriated and/or otherwise illegally  
357 expended. In the event, however, such person or persons or such  
358 surety shall refuse, neglect or otherwise fail to pay the amount  
359 demanded and the interest due thereon within the allotted thirty  
360 (30) days, the State Auditor shall have the authority and it shall  
361 be his duty to institute suit, and the Attorney General shall  
362 prosecute the same in any court of the state to the end that there  
363 shall be recovered the total of such amounts from the person or  
364 persons and surety on official bond named therein; and the amounts  
365 so recovered shall be paid into the proper treasury of the state,  
366 county or other public body through the State Auditor. In any

367 case where written demand is issued to a surety on the official  
368 bond of such person or persons and the surety refuses, neglects or  
369 otherwise fails within one hundred twenty (120) days to either pay  
370 the amount demanded and the interest due thereon or to give the  
371 State Auditor a written response with specific reasons for  
372 nonpayment, then the surety shall be subject to a civil penalty in  
373 an amount of twelve percent (12%) of the bond, not to exceed Ten  
374 Thousand Dollars (\$10,000.00), to be deposited into the State  
375 General Fund;

376 (h) To investigate any alleged or suspected violation  
377 of the laws of the state by any officer or employee of the state,  
378 county or other public office in the purchase, sale or the use of  
379 any supplies, services, equipment or other property belonging  
380 thereto; and in such investigation to do any and all things  
381 necessary to procure evidence sufficient either to prove or  
382 disprove the existence of such alleged or suspected violations.  
383 The Department of Investigation of the State Department of Audit  
384 may investigate, for the purpose of prosecution, any suspected  
385 criminal violation of the provisions of this chapter. For the  
386 purpose of administration and enforcement of this chapter, the  
387 enforcement employees of the Department of Investigation of the  
388 State Department of Audit have the powers of a law enforcement  
389 officer of this state, and shall be empowered to make arrests and  
390 to serve and execute search warrants and other valid legal process  
391 anywhere within the State of Mississippi. All enforcement  
392 employees of the Department of Investigation of the State  
393 Department of Audit hired on or after July 1, 1993, shall be  
394 required to complete the Law Enforcement Officers Training Program  
395 and shall meet the standards of the program;

396 (i) To issue subpoenas, with the approval of, and  
397 returnable to, a judge of a chancery or circuit court, in termtime  
398 or in vacation, to examine the records, documents or other  
399 evidence of persons, firms, corporations or any other entities

400 insofar as such records, documents or other evidence relate to  
401 dealings with any state, county or other public entity. The  
402 circuit or chancery judge must serve the county in which the  
403 records, documents or other evidence is located; or where all or  
404 part of the transaction or transactions occurred which are the  
405 subject of the subpoena;

406           (j) In any instances in which the State Auditor is or  
407 shall be authorized or required to examine or audit, whether  
408 preaudit or postaudit, any books, ledgers, accounts or other  
409 records of the affairs of any public hospital owned or owned and  
410 operated by one or more political subdivisions or parts thereof or  
411 any combination thereof, or any school district, including  
412 activity funds thereof, it shall be sufficient compliance  
413 therewith, in the discretion of the State Auditor, that such  
414 examination or audit be made from the report of any audit or other  
415 examination certified by a certified public accountant and  
416 prepared by or under the supervision of such certified public  
417 accountant. Such audits shall be made in accordance with  
418 generally accepted standards of auditing, with the use of an audit  
419 program prepared by the State Auditor, and final reports of such  
420 audits shall conform to the format prescribed by the State  
421 Auditor. All files, working papers, notes, correspondence and all  
422 other data compiled during the course of the audit shall be  
423 available, without cost, to the State Auditor for examination and  
424 abstracting during the normal business hours of any business day.  
425 The expense of such certified reports shall be borne by the  
426 respective hospital, or any available school district funds other  
427 than minimum program funds, subject to examination or audit. The  
428 State Auditor shall not be bound by such certified reports and  
429 may, in his or their discretion, conduct such examination or audit  
430 from the books, ledgers, accounts or other records involved as may  
431 be appropriate and authorized by law;

432           (k) The State Auditor shall have the authority to  
433 contract with qualified public accounting firms to perform  
434 selected audits required in subsections (d), (e) and (f) of this  
435 section, if funds are made available for such contracts by the  
436 Legislature, or if funds are available from the governmental  
437 entity covered by subsections (d), (e) and (f). Such audits shall  
438 be made in accordance with generally accepted standards of  
439 auditing, with the use of an audit program prepared by the State  
440 Auditor, and final reports of such audits shall conform to the  
441 format prescribed by the State Auditor. All files, working  
442 papers, notes, correspondence and all other data compiled during  
443 the course of the audit shall be available, without cost, to the  
444 State Auditor for examination and abstracting during the normal  
445 business hours of any business day;

446           (l) The State Auditor shall have the authority to  
447 establish training courses and programs for the personnel of the  
448 various state and local governmental entities under the  
449 jurisdiction of the Office of the State Auditor. The training  
450 courses and programs shall include, but not be limited to, topics  
451 on internal control of funds, property and equipment control and  
452 inventory, governmental accounting and financial reporting, and  
453 internal auditing. The State Auditor is authorized to charge a  
454 fee from the participants of these courses and programs, which fee  
455 shall be deposited into the Department of Audit Special Fund.  
456 State and local governmental entities are authorized to pay such  
457 fee and any travel expenses out of their general funds or any  
458 other available funds from which such payment is not prohibited by  
459 law;

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

464 (n) To conduct performance audits of personal or  
465 professional service contracts by state agencies on a random  
466 sampling basis, or upon request of the State Personal Service  
467 Contract Review Board under Section 25-9-120(3);

468 (o) To annually postaudit the Chickasawhay Natural Gas  
469 District. The Department of Audit shall charge the Chickasawhay  
470 Natural Gas District, audited by the authority of this paragraph,  
471 the sum of Thirty-two Dollars and Fifty Cents (\$32.50) per hour  
472 for each hour of staff time devoted to the auditing of the  
473 district. The Chickasawhay Natural Gas District shall pay for the  
474 audit fees from any sums available to the district for its general  
475 operations.

476 **SECTION 5.** Section 7-7-213, Mississippi Code of 1972, is  
477 amended as follows:

478 7-7-213. The costs of audits and other services required by  
479 Sections 7-7-201 through 7-7-215, except for those audits and  
480 services authorized by Section 7-7-211(k) which shall be funded by  
481 appropriations made by the Legislature from such funds as it deems  
482 appropriate, shall be paid from a special fund that is created in  
483 the State Treasury, to be known as the State Department of Audit  
484 Fund, into which will be paid each year the amounts received for  
485 performing audits required by law. Except as provided in Section  
486 7-7-211(d) \* \* \*, the amounts to be charged for performing audits  
487 and other services shall be the actual cost, not to exceed  
488 Thirty-two Dollars and Fifty Cents (\$32.50) per hour for the  
489 services of each staff person engaged in performing the audit or  
490 other service. In the event of failure by any unit of government  
491 to pay the charges authorized herein, the Department of Audit  
492 shall notify the State Fiscal Officer, and upon a determination  
493 that the charges are substantially correct, the State Fiscal  
494 Officer shall notify the defaulting unit of his determination. If  
495 payment is not made within thirty (30) days after such  
496 notification, the State Fiscal Officer shall notify the State

497 Treasurer and Department of Public Accounts that no further  
498 warrants are to be issued to the defaulting unit until the  
499 deficiency is paid.

500 The cost of any service by the department not required of it  
501 under the provisions of the cited sections but made necessary by  
502 the willful fault or negligence of an officer or employee of any  
503 public office of the state shall be recovered (i) from such  
504 officer or employee and/or surety on official bond thereof and/or  
505 (ii) from the individual, partnership, corporation or association  
506 involved, in the same manner and under the same terms, when  
507 necessary, as provided the department for recovering public funds  
508 in Section 7-7-211.

509 The State Auditor shall deliver a copy of any audit of the  
510 fiscal and financial affairs of a county to the chancery clerk of  
511 such county and shall deliver a notice stating that a copy of such  
512 audit is on file in the chancery clerk's office to some newspaper  
513 published in the county to be published. If no newspaper is  
514 published in the county, a copy of such notice shall be delivered  
515 to a newspaper having a general circulation therein.

516 **SECTION 6.** Section 27-15-83, Mississippi Code of 1972, is  
517 brought forward as follows:

518 27-15-83. (1) Upon each foreign insurance company licensed  
519 as a single line company defined under Section 83-19-1, the  
520 privilege tax is as follows:

- 521 (a) Fire and Allied Lines and/or
- 522 Industrial Fire..... \$200.00
- 523 (b) Casualty/Liability..... \$200.00
- 524 (c) Fidelity and/or Surety..... \$200.00
- 525 (d) Workers' Compensation..... \$200.00
- 526 (e) Boiler and Machinery..... \$200.00
- 527 (f) Plate Glass..... \$200.00
- 528 (g) Aircraft..... \$200.00
- 529 (h) Inland Marine and/or Ocean Marine..... \$200.00

530	(i)	Automobile Physical Damage/Automobile	
531		Liability.....	\$200.00
532	(j)	Homeowners/Farmowners.....	\$200.00
533	(k)	Guaranty/Mortgage Guaranty.....	\$200.00
534	(l)	Trip Accident and Baggage.....	\$200.00
535	(m)	Legal.....	\$200.00
536	(n)	Life and/or Accident and Health;	
537		Credit Life, Accident and Health;	
538		Industrial Life, Accident and Health;	
539		and Variable Contracts.....	\$200.00
540	(o)	Title.....	\$200.00
541	(p)	Fraternal.....	\$ 50.00

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

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

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

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

553 **SECTION 7.** Section 27-15-85, Mississippi Code of 1972, is  
554 brought forward as follows:

555 27-15-85. (1) Upon each incorporated insurance agency  
556 licensed to represent fire, casualty, liability, fidelity, surety,  
557 guaranty and inland marine insurance companies in municipalities  
558 of Classes 1, 2, 3 and 4..... \$100.00.

559 Upon each such incorporated insurance agency in  
560 municipalities of Classes 5, 6, 7 and elsewhere in the  
561 state..... \$ 50.00.

562           The license issued to such incorporated agency shall specify  
563 the type, types or kinds of insurance that such incorporated  
564 agency is licensed and qualified to transact. Every person acting  
565 as agent or solicitor for any such agency shall qualify under the  
566 provisions of Laws, 2001, Chapter 510; and no person shall be  
567 exempt from the privilege tax placed on insurance agents by this  
568 section by reason of the fact that he is a stockholder or officer  
569 in any such incorporated agency, or by reason of the fact that he  
570 represents such an agency, but every agent or solicitor, except  
571 two (2) executive officers of such agency, shall pay the privilege  
572 tax herein imposed.

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

575           (3) Upon each incorporated "supervising general agent" for  
576 life, health and accident insurers as defined in Section  
577 83-17-1..... \$100.00.

578           The privilege licenses issued under this section to  
579 "supervising general agents" shall not constitute authority to  
580 solicit business within the State of Mississippi, and shall be  
581 renewed annually at the time and in the manner prescribed by  
582 Section 83-17-25 on application forms which shall be furnished by  
583 the Commissioner of Insurance and shall show the name of the  
584 insurance company or companies such "supervising general agent"  
585 represents, and other additional information as may be required by  
586 the Commissioner of Insurance.

587           **SECTION 8.** Section 27-15-87, Mississippi Code of 1972, is  
588 brought forward as follows:

589           27-15-87. Upon each fire, casualty, liability, fidelity,  
590 surety, guaranty and/or inland marine agent or solicitor when the  
591 total commission of the agency is in excess of Three Thousand  
592 Dollars (\$3,000.00) annually..... \$50.00.



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

596           Every agent or insurance solicitor for an agent, connected  
597 with any insurance agent, firm or corporation who solicits the  
598 sale of any of the above-named insurance, whether stock, mutual or  
599 reciprocal insurance carriers, directly or indirectly, shall be  
600 liable for the above tax.

601           Whenever a solicitor is employed by any such agent or agency  
602 to solicit business for its account, to be placed in the companies  
603 represented by said agent or agency, such agent or agency shall  
604 make application as provided for in Section 83-17-75(6), and  
605 Section 83-17-217, Mississippi Code of 1972, and pay the above tax  
606 on such solicitor and such license issued to him shall authorize  
607 such solicitor to solicit insurance for the agency.

608           At the time of the purchase of the license herein provided,  
609 every person, firm, corporation or solicitor shall file an  
610 affidavit with the Insurance Commissioner of the state stating the  
611 amount of commissions earned by said agency (whether such agency  
612 be conducted by a person, firm or corporation) during the past  
613 year, and this affidavit shall be filed at least once each year,  
614 and in the event that the commissioner has reason to believe that  
615 such affidavit is incorrect, then in such event, said Insurance  
616 Commissioner may refuse to accept said affidavit and demand  
617 further proof as to the clarification of said person, firm or  
618 corporation applying for said license. If the applicant for said  
619 license was not engaged in the insurance business during the year  
620 preceding the application for said license, then, in such event,  
621 the affidavit shall show said fact, and the Insurance Commissioner  
622 shall issue to said applicant a yearly license at and for the sum  
623 of Twenty-five Dollars (\$25.00) as above provided.

624           **SECTION 9.** Section 27-15-93, Mississippi Code of 1972, is  
625 brought forward as follows:

626           27-15-93. (1) Upon each incorporated insurance agency  
627 licensed to represent life, health or accident insurance  
628 companies..... \$ 25.00.

629           The license issued to such incorporated agency shall specify  
630 the type, types or kinds of insurance that such incorporated  
631 agency is licensed and qualified to transact. Every person acting  
632 as agent for any such agency shall qualify under the provisions of  
633 Laws, 2001, Chapter 510; and no person shall be exempt from the  
634 privilege tax placed on insurance agents by this section by reason  
635 of the fact that he is a stockholder or officer in any such  
636 incorporated agency, or by reason of the fact that he represents  
637 such an agency, but every agent shall pay the privilege tax herein  
638 imposed.

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

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

643           And any life insurance company that knowingly issues a policy  
644 where the application has been submitted to it by an agent or  
645 other person who has not paid all the taxes herein imposed upon  
646 each agent or person shall be liable for and pay to the state the  
647 sum of Fifty Dollars (\$50.00) for each policy written.

648           Provided, that any insurance agent who has paid the tax  
649 required as a life insurance agent, shall be permitted to write  
650 health, accident and industrial insurance without the payment of  
651 additional tax.

652           **SECTION 10.** Section 27-15-95, Mississippi Code of 1972, is  
653 brought forward as follows:

654           27-15-95. Upon each person, other than an incorporated  
655 insurance agency taxed under Section 27-15-93, writing health and  
656 accident, or industrial life insurance..... \$20.00.

657           **SECTION 11.** Section 83-49-47, Mississippi Code of 1972, is  
658 brought forward as follows:

659           83-49-47. (1) No person shall act as a representative of a  
660 sponsor or agent of a sponsor as defined in Section 83-17-1,  
661 Mississippi Code of 1972, without first having obtained a license  
662 from the commissioner to act as an agent or representative of a  
663 sponsor of prepaid legal services in this state.

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

667           (3) Before any licensee changes his address, he shall return  
668 his license to the commissioner, who shall endorse the license  
669 indicating the change.

670           (4) Each person to whom the license or the renewal thereof  
671 may be issued shall file sworn answers, subject to the penalties  
672 of perjury, to such interrogatories as the commissioner may  
673 require. The commissioner shall have authority, at any time, to  
674 require the applicant to disclose fully the identity of all  
675 stockholders, partners, officers and employees, and he may, in his  
676 discretion, refuse to issue or renew a license in the name of any  
677 firm, partnership or corporation if he is not satisfied that any  
678 officer, employee, stockholder or partner thereof who may  
679 materially influence the applicant's conduct meets the standards  
680 of this chapter.

681           (5) Upon the filing of an application and the payment of the  
682 license fee, the commissioner shall make an investigation of each  
683 applicant and shall issue a license if he finds the applicant is  
684 qualified in accordance with this chapter. If the commissioner  
685 does not so find, he shall, within ninety (90) days after he has  
686 received such application, so notify the applicant and, at the  
687 request of the applicant, give the applicant a full hearing.

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

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

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

697 **SECTION 12.** Section 83-11-237, Mississippi Code of 1972, is  
698 brought forward as follows:

699 83-11-237. (1) An automobile club operating in this state  
700 pursuant to a certificate of authority issued hereunder shall,  
701 within thirty (30) days of the date of appointment, file with the  
702 commissioner a notice of appointment of a club agent by an  
703 automobile club to sell memberships in the automobile club to the  
704 public. This notification shall be upon such form as the  
705 commissioner may prescribe, shall contain the name, address, age,  
706 sex, and social security number of such club agent, and also  
707 contain proof satisfactory to the commissioner that such applicant  
708 is of good reputation and that he has received training from the  
709 club or is otherwise qualified in the field of automobile club  
710 service contracts and the laws of this state pertaining thereto.  
711 Upon termination of any club agent's appointment by an automobile  
712 club, such automobile club shall, within thirty (30) days  
713 thereafter, notify the commissioner of such termination.

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

717 **SECTION 13.** Section 27-19-44.4, Mississippi Code of 1972, is  
718 amended as follows:

719 27-19-44.4. (1) Notwithstanding any other provision of law  
720 to the contrary, beginning with any registration year commencing  
721 on or after January 1, 2004, an additional fee of One Dollar  
722 (\$1.00) is imposed for any distinctive or special license tag or

723 plate authorized under this chapter regardless of whether such a  
724 distinctive or special license tag or plate was authorized before  
725 or after July 1, 2003. The proceeds collected from the additional  
726 fee imposed under this subsection shall be deposited into the  
727 special fund created under Section 27-19-56.69(8).

728 (2) Notwithstanding any other provision of law to the  
729 contrary, beginning with any registration year beginning on or  
730 after July 1, 2005, an additional fee of Twenty Dollars (\$20.00)  
731 is imposed for any distinctive or special license tag or plate  
732 authorized under this chapter, including personalized tags issued  
733 under Section 27-19-48, regardless of whether the license tag or  
734 plate was authorized before or after July 1, 2005. The proceeds  
735 collected from the additional fee imposed under this subsection  
736 shall be deposited into the State General Fund.

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

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

742 (a) Which are issued under Section 27-19-46, 27-19-51,  
743 27-19-53, 27-19-54, 27-19-56.5, 27-19-56.12, 27-19-56.13,  
744 27-19-56.33, 27-19-56.36, 27-19-56.38, 27-19-56.42, 27-19-56.48,  
745 27-19-56.49, 27-19-56.50, 27-19-56.51, 27-19-56.62, 27-19-56.79,  
746 27-19-56.85 or 27-19-169; or

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

748 **SECTION 14.** Section 27-19-89, Mississippi Code of 1972, is  
749 brought forward as follows:

750 **[Through June 30, 2006, this section shall read as follows:]**

751 27-19-89. (a) If any nonresident owner or operator or other  
752 nonresident person eligible for a temporary permit as provided in  
753 Section 27-19-79, who has not elected to register and pay the  
754 annual privilege taxes prescribed, shall enter or go upon the  
755 public highways of the state and shall fail or refuse to obtain

756 the permit required by Section 27-19-79, such person shall be  
757 liable, for the first such offense, for the full amount of the  
758 permit fee required, plus a penalty thereon of five hundred  
759 percent (500%). For the second and all subsequent offenses, such  
760 person who fails or refuses to obtain such permits shall be liable  
761 for the pro rata part of the annual tax for the balance of the tag  
762 year for the maximum legal gross weight of the vehicle plus a  
763 penalty thereon of twenty-five percent (25%). Any weight in  
764 excess of the maximum legal gross weight of the vehicle, or in  
765 excess of the maximum highway weight limit, shall be penalized  
766 according to subsection (c) of this section. In either case the  
767 excess weight shall be removed by the operator before the vehicle  
768 can be allowed to proceed. In order to constitute a "second or  
769 subsequent offense" under the provisions hereof, it shall not be  
770 necessary that the same or identical vehicle be involved, it being  
771 the declared purpose hereof to provide that such penalties shall  
772 run against the owner or operator rather than against the  
773 specified vehicle. It is further provided that, in order for such  
774 owner or operator to become liable for the penalties herein  
775 provided, it shall not be necessary to show that such owner or  
776 operator was guilty of willfulness, gross negligence or  
777 wantonness, but the offense shall be complete upon the failure or  
778 refusal to obtain the required permit.

779 (b) If any person who has registered his vehicle in  
780 Mississippi shall operate such vehicle upon the public highways,  
781 having a gross weight greater than the licensed gross weight of  
782 such vehicle, and shall fail or refuse to obtain a permit therefor  
783 as required by Section 27-19-79, or if any person shall operate  
784 any such registered vehicle upon the public highways in a higher  
785 classification than that for which it is registered, and shall  
786 fail or refuse to obtain a permit therefor as required by Section  
787 27-19-79, then such person shall be liable for the pro rata part  
788 of the annual tax for the balance of the tag year for the legal

789 gross weight of such vehicle and in the classification in which  
 790 same is being operated, plus a penalty thereon of twenty-five  
 791 percent (25%), after having been given credit for the unexpired  
 792 part of the privilege tax paid, as provided in Section 27-19-75.  
 793 In order that such owner or operator shall become liable for the  
 794 penalties herein provided, it shall not be necessary to show that  
 795 such owner or operator was guilty of willfulness, gross negligence  
 796 or wantonness, but the offense shall be complete upon the failure  
 797 or refusal to obtain the required permit.

798 (c) If any person shall operate upon a highway of this state  
 799 a vehicle which has a greater vehicle gross weight than the  
 800 maximum gross weight limit established by law for that highway and  
 801 shall have failed to obtain an overload permit as required by  
 802 Section 27-19-81 or Section 63-5-52, or if any person shall  
 803 operate a vehicle with a greater load on any axle or axle grouping  
 804 than allowed by law, then such person, owner or operator shall be  
 805 assessed a penalty on such axle load weight or vehicle gross  
 806 weight as exceeds the legal limit in accordance with the following  
 807 schedule:

808	AMOUNT IN EXCESS OF	
809	LEGAL HIGHWAY WEIGHT	
810	LIMITS IN POUNDS	PENALTY
811	1 to 999	\$10.00 minimum penalty
812	1,000 to 1,999	1¢ per pound in excess of legal limit
813	2,000 to 2,999	2¢ per pound in excess of legal limit
814	3,000 to 3,999	3¢ per pound in excess of legal limit
815	4,000 to 4,999	4¢ per pound in excess of legal limit
816	5,000 to 5,999	5¢ per pound in excess of legal limit
817	6,000 to 6,999	6¢ per pound in excess of legal limit
818	7,000 to 7,999	7¢ per pound in excess of legal limit
819	8,000 to 8,999	8¢ per pound in excess of legal limit
820	9,000 to 9,999	9¢ per pound in excess of legal limit
821	10,000 to 10,999	10¢ per pound in excess of legal limit

822 11,000 or more 11¢ per pound in excess of legal limit

823 Any vehicle in violation of the tolerance allowed pursuant to  
824 Section 63-5-33(3) shall be fined pursuant to Section 27-19-89(c)  
825 for all weight in excess of the legal highway gross weight limit  
826 authorized for such vehicle or for all weight in excess of the  
827 legal tandem axle load weight limit of forty thousand (40,000)  
828 pounds and the legal single axle load limit of twenty thousand  
829 (20,000) pounds, whichever the case may be.

830 The penalty to be assessed for operations of a vehicle with a  
831 greater load on any axle or axle grouping than the legal axle load  
832 weight limits shall be one-half (1/2) the penalty for operation in  
833 excess of the legal gross weight limit.

834 In instances where both the legal highway gross weight limit  
835 and the legal axle load weight limit(s) are exceeded, the fine  
836 that shall be levied shall be either the penalty amount for the  
837 excess vehicle gross weight or the total of the penalty amounts of  
838 all overloaded axles, whichever is the larger amount.

839 Notwithstanding any other provisions of this section to the  
840 contrary, the fine assessed against the holder of a harvest permit  
841 for exceeding a gross vehicle weight of eighty-four thousand  
842 (84,000) pounds shall be Five Cents (5¢) per pound and Fifteen  
843 Cents (15¢) per pound for exceeding a gross vehicle weight of one  
844 hundred thousand (100,000) pounds.

845 Notwithstanding any other provision of this subsection (c) to  
846 the contrary, upon an appeal to the Appeals Board of the  
847 Mississippi Transportation Commission by an owner or operator of a  
848 vehicle hauling without a harvest permit any of the products or  
849 materials described in subsection (3) of Section 63-5-33 and upon  
850 whom a penalty has been assessed under this subsection (c) for  
851 exceeding the legal weight limit(s) on a highway having a legal  
852 weight limit of eighty thousand (80,000) pounds or less, the  
853 appeals board shall reduce the penalty assessed against such  
854 owner/operator to an amount not to exceed ten percent (10%) of the



855 amount which would otherwise be due without the reduction  
856 authorized under this paragraph. A reduction shall not be  
857 authorized under this paragraph if the gross weight of the vehicle  
858 for which an owner/operator has been charged with a violation of  
859 this section exceeds eighty-four thousand (84,000) pounds; and, in  
860 any event, no reduction shall be authorized under this paragraph  
861 unless a penalty assessed under this section is appealed to the  
862 appeals board and unless the board determines, based upon its  
863 records, that such owner/operator has not been granted a penalty  
864 reduction under this paragraph within a period of twelve (12)  
865 months immediately preceding the date of filing an appeal with the  
866 board for a penalty reduction under this paragraph.

867 (d) If any nonresident owner or operator who has not  
868 registered his vehicle and paid the annual privilege taxes  
869 prescribed shall operate his vehicle upon the highways of this  
870 state when such vehicle has a greater gross weight than permitted  
871 by law for the highway traveled upon, and for which such excess  
872 gross weight a permit was not or could not be procured from the  
873 transportation department as required by Section 27-19-81, such  
874 person shall be liable upon his second and all subsequent offenses  
875 for the pro rata part of the annual tax for the balance of the tag  
876 year for the legal gross weight of the vehicle, and in addition  
877 thereto the penalty fee on the excess weight as specified in  
878 subsection (c) of this section. In order that such owner or  
879 operator shall become liable for the penalties herein provided, it  
880 shall not be necessary that the same or identical vehicle be  
881 involved, it being the declared purpose hereof to provide that  
882 such penalties shall run against the owner or operator rather than  
883 against the specific vehicle.

884 (e) All fines and penalties imposed and collected by the  
885 Mississippi Department of Transportation for violations of the  
886 maximum legal vehicle weight limits authorized on the highways of  
887 this state shall be deposited into a special fund that is created

888 in the State Treasury. Monies in the fund shall be allocated and  
889 distributed quarterly, beginning September 30, 1994, to each  
890 county of the state based on the amount of such fines and  
891 penalties imposed and collected in the county during the  
892 immediately preceding three (3) months. Monies distributed to the  
893 counties under this subsection shall be deposited in each county's  
894 road and bridge fund and may be expended, upon approval of the  
895 board of supervisors, for any purpose for which county road and  
896 bridge fund monies lawfully may be expended.

897 **[From and after July 1, 2006, this section shall read as**  
898 **follows:]**

899 27-19-89. (a) If any nonresident owner or operator or other  
900 nonresident person eligible for a temporary permit as provided in  
901 Section 27-19-79, who has not elected to register and pay the  
902 annual privilege taxes prescribed, shall enter or go upon the  
903 public highways of the state and shall fail or refuse to obtain  
904 the permit required by Section 27-19-79, such person shall be  
905 liable, for the first such offense, for the full amount of the  
906 permit fee required, plus a penalty thereon of five hundred  
907 percent (500%). For the second and all subsequent offenses, such  
908 person who fails or refuses to obtain such permits shall be liable  
909 for the pro rata part of the annual tax for the balance of the tag  
910 year for the maximum legal gross weight of the vehicle plus a  
911 penalty thereon of twenty-five percent (25%). Any weight in  
912 excess of the maximum legal gross weight of the vehicle, or in  
913 excess of the maximum highway weight limit, shall be penalized  
914 according to subsection (c) of this section. In either case the  
915 excess weight shall be removed by the operator before the vehicle  
916 can be allowed to proceed. In order to constitute a "second or  
917 subsequent offense" under the provisions hereof, it shall not be  
918 necessary that the same or identical vehicle be involved, it being  
919 the declared purpose hereof to provide that such penalties shall  
920 run against the owner or operator rather than against the

921 specified vehicle. It is further provided that, in order for such  
922 owner or operator to become liable for the penalties herein  
923 provided, it shall not be necessary to show that such owner or  
924 operator was guilty of willfulness, gross negligence or  
925 wantonness, but the offense shall be complete upon the failure or  
926 refusal to obtain the required permit.

927 (b) If any person who has registered his vehicle in  
928 Mississippi shall operate such vehicle upon the public highways,  
929 having a gross weight greater than the licensed gross weight of  
930 such vehicle, and shall fail or refuse to obtain a permit therefor  
931 as required by Section 27-19-79, or if any person shall operate  
932 any such registered vehicle upon the public highways in a higher  
933 classification than that for which it is registered, and shall  
934 fail or refuse to obtain a permit therefor as required by Section  
935 27-19-79, then such person shall be liable for the pro rata part  
936 of the annual tax for the balance of the tag year for the legal  
937 gross weight of such vehicle and in the classification in which  
938 same is being operated, plus a penalty thereon of twenty-five  
939 percent (25%), after having been given credit for the unexpired  
940 part of the privilege tax paid, as provided in Section 27-19-75.  
941 In order that such owner or operator shall become liable for the  
942 penalties herein provided, it shall not be necessary to show that  
943 such owner or operator was guilty of willfulness, gross negligence  
944 or wantonness, but the offense shall be complete upon the failure  
945 or refusal to obtain the required permit.

946 (c) If any person shall operate upon a highway of this state  
947 a vehicle which has a greater vehicle gross weight than the  
948 maximum gross weight limit established by law for that highway and  
949 shall have failed to obtain an overload permit as required by  
950 Section 27-19-81, or if any person shall operate a vehicle with a  
951 greater load on any axle or axle grouping than allowed by law,  
952 then such person, owner or operator shall be assessed a penalty on

953 such axle load weight or vehicle gross weight as exceeds the legal  
954 limit in accordance with the following schedule:

955	AMOUNT IN EXCESS OF	
956	LEGAL HIGHWAY WEIGHT	
957	LIMITS IN POUNDS	PENALTY
958	1 to 999	\$10.00 minimum penalty
959	1,000 to 1,999	1¢ per pound in excess of legal limit
960	2,000 to 2,999	2¢ per pound in excess of legal limit
961	3,000 to 3,999	3¢ per pound in excess of legal limit
962	4,000 to 4,999	4¢ per pound in excess of legal limit
963	5,000 to 5,999	5¢ per pound in excess of legal limit
964	6,000 to 6,999	6¢ per pound in excess of legal limit
965	7,000 to 7,999	7¢ per pound in excess of legal limit
966	8,000 to 8,999	8¢ per pound in excess of legal limit
967	9,000 to 9,999	9¢ per pound in excess of legal limit
968	10,000 to 10,999	10¢ per pound in excess of legal limit
969	11,000 or more	11¢ per pound in excess of legal limit

970 Any vehicle in violation of the tolerance allowed pursuant to  
971 Section 63-5-33(3) shall be fined pursuant to Section 27-19-89(c)  
972 for all weight in excess of the legal highway gross weight limit  
973 authorized for such vehicle or for all weight in excess of the  
974 legal tandem axle load weight limit of forty thousand (40,000)  
975 pounds and the legal single axle load limit of twenty thousand  
976 (20,000) pounds, whichever the case may be.

977 The penalty to be assessed for operations of a vehicle with a  
978 greater load on any axle or axle grouping than the legal axle load  
979 weight limits shall be one-half (1/2) the penalty for operation in  
980 excess of the legal gross weight limit.

981 In instances where both the legal highway gross weight limit  
982 and the legal axle load weight limit(s) are exceeded, the fine  
983 that shall be levied shall be either the penalty amount for the  
984 excess vehicle gross weight or the total of the penalty amounts of  
985 all overloaded axles, whichever is the larger amount.

986           Notwithstanding any other provisions of this section to the  
987 contrary, the fine assessed against the holder of a harvest permit  
988 for exceeding a gross vehicle weight of eighty-four thousand  
989 (84,000) pounds shall be Five Cents (5¢) per pound and Fifteen  
990 Cents (15¢) per pound for exceeding a gross vehicle weight of one  
991 hundred thousand (100,000) pounds.

992           Notwithstanding any other provision of this subsection (c) to  
993 the contrary, upon an appeal to the Appeals Board of the  
994 Mississippi Transportation Commission by an owner or operator of a  
995 vehicle hauling without a harvest permit any of the products or  
996 materials described in subsection (3) of Section 63-5-33 and upon  
997 whom a penalty has been assessed under this subsection (c) for  
998 exceeding the legal weight limit(s) on a highway having a legal  
999 weight limit of eighty thousand (80,000) pounds or less, the  
1000 appeals board shall reduce the penalty assessed against such  
1001 owner/operator to an amount not to exceed ten percent (10%) of the  
1002 amount which would otherwise be due without the reduction  
1003 authorized under this paragraph. A reduction shall not be  
1004 authorized under this paragraph if the gross weight of the vehicle  
1005 for which an owner/operator has been charged with a violation of  
1006 this section exceeds eighty-four thousand (84,000) pounds; and, in  
1007 any event, no reduction shall be authorized under this paragraph  
1008 unless a penalty assessed under this section is appealed to the  
1009 appeals board and unless the board determines, based upon its  
1010 records, that such owner/operator has not been granted a penalty  
1011 reduction under this paragraph within a period of twelve (12)  
1012 months immediately preceding the date of filing an appeal with the  
1013 board for a penalty reduction under this paragraph.

1014           (d) If any nonresident owner or operator who has not  
1015 registered his vehicle and paid the annual privilege taxes  
1016 prescribed shall operate his vehicle upon the highways of this  
1017 state when such vehicle has a greater gross weight than permitted  
1018 by law for the highway traveled upon, and for which such excess

1019 gross weight a permit was not or could not be procured from the  
1020 transportation department as required by Section 27-19-81, such  
1021 person shall be liable upon his second and all subsequent offenses  
1022 for the pro rata part of the annual tax for the balance of the tag  
1023 year for the legal gross weight of the vehicle, and in addition  
1024 thereto the penalty fee on the excess weight as specified in  
1025 subsection (c) of this section. In order that such owner or  
1026 operator shall become liable for the penalties herein provided, it  
1027 shall not be necessary that the same or identical vehicle be  
1028 involved, it being the declared purpose hereof to provide that  
1029 such penalties shall run against the owner or operator rather than  
1030 against the specific vehicle.

1031 (e) All fines and penalties imposed and collected by the  
1032 Mississippi Department of Transportation for violations of the  
1033 maximum legal vehicle weight limits authorized on the highways of  
1034 this state shall be deposited into a special fund that is created  
1035 in the State Treasury. Monies in the fund shall be allocated and  
1036 distributed quarterly, beginning September 30, 1994, to each  
1037 county of the state based on the amount of such fines and  
1038 penalties imposed and collected in the county during the  
1039 immediately preceding three (3) months. Monies distributed to the  
1040 counties under this subsection shall be deposited in each county's  
1041 road and bridge fund and may be expended, upon approval of the  
1042 board of supervisors, for any purpose for which county road and  
1043 bridge fund monies lawfully may be expended.

1044 **SECTION 15.** Section 27-65-27, Mississippi Code of 1972, is  
1045 brought forward as follows:

1046 27-65-27. (1) Any person who engages, or who intends to  
1047 engage, in any business or activity which will subject such person  
1048 to a privilege tax imposed by this chapter, shall apply to the  
1049 commissioner for a permit to engage in and to conduct any business  
1050 or activity upon the condition that he shall pay the tax accruing  
1051 to the State of Mississippi under the provisions of this chapter,

1052 and shall keep adequate records of such business or activity as  
1053 required by this chapter. By making an application for a permit  
1054 issued pursuant to this section, a person agrees, regardless of  
1055 his presence in this state, to:

1056 (a) Be subject to the jurisdiction of this state for  
1057 purposes of taxation;

1058 (b) Collect and remit all taxes levied under this  
1059 chapter on the type of business or activity to be conducted by the  
1060 applicant;

1061 (c) Be subject to all the provisions of this chapter.

1062 (2) Upon receipt of such permit, the applicant shall be duly  
1063 licensed under this chapter to engage in and conduct such business  
1064 or activity. Said permit shall continue in force so long as the  
1065 person to whom it is issued shall continue in the same business at  
1066 the same location, unless revoked by the commissioner for cause.

1067 (3) The commissioner shall require of every person desiring  
1068 to engage in business within this state who maintains no permanent  
1069 place of business within this state, of every person desiring to  
1070 engage in the business of making sales of mobile homes, a cash  
1071 bond or an approved surety bond in an amount sufficient to cover  
1072 twice the estimated tax liability for a period of three (3)  
1073 months. Provided, however, that the bond shall in no case be less  
1074 than One Hundred Dollars (\$100.00) and that the tax may be prepaid  
1075 in lieu of filing bond if the amount is approved by the  
1076 commissioner. This bond shall be filed with the commissioner  
1077 prior to the issuance of a permit to do business and before any  
1078 such person may engage in business within this state. Failure to  
1079 comply with the provision will subject such person to the  
1080 penalties provided by this chapter.

1081 (4) The commissioner is hereby authorized to revoke the  
1082 permit of any person failing to comply with any of the provisions  
1083 of this chapter, after giving to the person holding such permit  
1084 ten (10) days' notice of the intention of the commissioner to

1085 revoke such license. Unless good cause be shown within said ten  
1086 (10) days why such permit should not be revoked, the commissioner  
1087 may revoke such permit, and revocation of such permit, or engaging  
1088 or continuing in business after such permit is revoked, shall  
1089 subject such person to all the penalties imposed by this chapter.

1090 (5) Any person liable for the tax who fails to obtain a  
1091 permit from the commissioner, or who continues in business after  
1092 such permit has been revoked, or who fails to make his returns for  
1093 taxation as provided, or who fails to keep adequate records and  
1094 invoices provided by this chapter, or who fails or refuses to  
1095 permit inspection of such records, or who fails to pay any taxes  
1096 due hereunder, shall forfeit his rights to do business in this  
1097 state until he complies with all the provisions of this chapter  
1098 and until he enters into a bond, with sureties, to be approved by  
1099 the commissioner, in an amount not to exceed twice the amount of  
1100 all taxes estimated to become due under this chapter by said  
1101 person for any period of three (3) months, conditioned to comply  
1102 with the provisions of this chapter, and pay all taxes legally due  
1103 by him.

1104 (6) If any person is engaged in or continuing in this state  
1105 in any business or activity without obtaining a permit, or after  
1106 such permit has been revoked, or without filing a required bond,  
1107 or without keeping and allowing inspection of all records required  
1108 by this chapter, or without making a return, or returns, and  
1109 without paying all taxes due by him hereunder, it shall be the  
1110 duty of the commissioner to proceed by injunction to prevent the  
1111 continuance of said business. Any temporary injunction enjoining  
1112 the continuance of such business shall be granted without notice  
1113 by a judge or chancellor now authorized to grant injunctions.

1114 **SECTION 16.** Section 27-65-33, Mississippi Code of 1972, is  
1115 amended as follows:

1116 27-65-33. (1) Except as otherwise provided in this section,  
1117 the taxes levied by this chapter shall be due and payable on or



1118 before the twentieth day of the month next succeeding the month in  
1119 which the tax accrues, except as otherwise provided. Returns and  
1120 payments placed in the mail must be postmarked by the due date in  
1121 order to be considered timely filed, except when the due date  
1122 falls on a weekend or holiday, returns and payments placed in the  
1123 mail must be postmarked by the first working day following the due  
1124 date in order to be considered timely filed. The taxpayer shall  
1125 make a return showing the gross proceeds of sales or the gross  
1126 income of the business, and any and all allowable deductions, or  
1127 exempt sales, and compute the tax due for the period covered.

1128 As compensation for collecting sales and use taxes, complying  
1129 fully with the applicable statutes, filing returns and supplements  
1130 thereto and paying all taxes by the twentieth of the month  
1131 following the period covered, the taxpayer may discount and retain  
1132 two percent (2%) of the liability on each return subject to the  
1133 following limitations:

1134 (a) The compensation or discount shall not apply to  
1135 taxes levied under the provisions of Sections 27-65-19 and  
1136 27-65-21, or on charges for ginning cotton under Section 27-65-23.

1137 (b) The compensation or discount shall not apply to  
1138 taxes collected by a county official or state agency.

1139 (c) The compensation or discount shall not exceed Fifty  
1140 Dollars (\$50.00) per month, or Six Hundred Dollars (\$600.00) per  
1141 calendar year, per taxpayer for sales tax returns filed and shall  
1142 not exceed Fifty Dollars (\$50.00) per month, or Six Hundred  
1143 Dollars (\$600.00) per calendar year, per taxpayer for use tax  
1144 returns filed.

1145 (d) The compensation or discount shall not apply to any  
1146 wholesale tax, the rate of which is equal to or greater than the  
1147 tax rate applicable to retail sales of the same property or  
1148 service. The retailer of such items shall be entitled to the  
1149 compensation based on the tax computed on retail sales before

1150 application of the credit for any tax paid to the wholesaler,  
1151 jobber, or other person.

1152 (e) The compensation or discount allowed and taken for  
1153 any filing period may be reassessed and collected when an audit of  
1154 a taxpayer's records reveals a tax deficiency for that period.

1155 (2) A taxpayer required to collect sales taxes under this  
1156 chapter and having an average monthly sales tax liability of at  
1157 least Twenty Thousand Dollars (\$20,000.00) for the preceding  
1158 calendar year shall pay to the State Tax Commission on or before  
1159 June 25, 2003, and on or before the twenty-fifth day of June of  
1160 each succeeding year thereafter, an amount equal to at least  
1161 seventy-five percent (75%) of such taxpayer's estimated sales tax  
1162 liability for the month of June of the current calendar year, or  
1163 an amount equal to at least seventy-five percent (75%) of the  
1164 taxpayer's sales tax liability for the month of June of the  
1165 preceding calendar year. Payments required to be made under this  
1166 subsection must be received by the State Tax Commission no later  
1167 than June 25 in order to be considered timely made. A taxpayer  
1168 that fails to comply with the requirements of this subsection may  
1169 be assessed a penalty in an amount equal to ten percent (10%) of  
1170 the taxpayer's actual sales tax liability for the month of June  
1171 for which the estimated payment was required to be made. Payments  
1172 made by a taxpayer under this subsection shall not be considered  
1173 to be collected for the purposes of any sales tax diversions  
1174 required by law until the taxpayer files a return for the actual  
1175 sales taxes collected during the month of June. This subsection  
1176 shall not apply to any agency, department or instrumentality of  
1177 the United States, any agency, department, institution,  
1178 instrumentality or political subdivision of the State of  
1179 Mississippi, or any agency, department, institution or  
1180 instrumentality of any political subdivision of the State of  
1181 Mississippi. Payments made pursuant to this subsection for the  
1182 month of June 2003, shall be deposited by the State Tax Commission

1183 into the Budget Contingency Fund created under Section 27-103-301,  
1184 and payments made pursuant to this subsection for the month of  
1185 June of 2004, and each succeeding year thereafter, shall be  
1186 deposited by the State Tax Commission into the State General Fund.

1187 (3) All returns shall be sworn to by the taxpayer, if made  
1188 by an individual, or by the president, vice president, secretary  
1189 or treasurer of a corporation, or authorized agent, if made on  
1190 behalf of a corporation. If made on behalf of a partnership,  
1191 joint venture, association, trust, estate, or in any other group  
1192 or combination acting as a unit, any individual delegated by such  
1193 firm shall swear to the return on behalf of the taxpayer. The  
1194 commissioner may prescribe methods by which the taxpayer may swear  
1195 to his return.

1196 (4) The commissioner may promulgate rules and regulations to  
1197 require or permit filing periods of any duration, in lieu of  
1198 monthly filing periods, for any taxpayer or group thereof.

1199 (5) The commissioner may require the execution and filing by  
1200 the taxpayer with the commissioner of a good and solvent bond with  
1201 some surety company authorized to do business in Mississippi as  
1202 surety thereon in an amount double the aggregate tax liability by  
1203 such taxpayer for any previous three (3) months' period within the  
1204 last calendar year or estimated three (3) months' tax liability.  
1205 The bond is to be conditioned for the prompt payment of such taxes  
1206 as may be due for each such return.

1207 (6) The commissioner, for good cause, may grant such  
1208 reasonable additional time within which to make any return  
1209 required under the provisions of this chapter as he may deem  
1210 proper, but the time for filing any return shall not be extended  
1211 beyond the twentieth of the month next succeeding the regular due  
1212 date of the return without the imposition of interest at the rate  
1213 of one percent (1%) per month or fractional part of a month from  
1214 the time the return was due until the tax is paid.

1215           (7) For persistent, willful, or recurring failure to make  
1216 any return and pay the tax shown thereby to be due by the time  
1217 specified, there shall be added to the amount of tax shown to be  
1218 due ten percent (10%) damages, or interest at the rate of one  
1219 percent (1%) per month, or both.

1220           (8) Any taxpayer may, upon making application therefor,  
1221 obtain from the commissioner an extension of time for the payment  
1222 of taxes due on credit sales until collections thereon have been  
1223 made. When such extension is granted, the taxpayer shall  
1224 thereafter include in each monthly or quarterly report all  
1225 collections made during the preceding month or quarter, and shall  
1226 pay the taxes due thereon at the time of filing such report. Such  
1227 permission may be revoked or denied at the discretion of the  
1228 commissioner when, in his opinion, a total sales basis will best  
1229 reflect the taxable income or expedite examination of the  
1230 taxpayer's records.

1231           (9) Any taxpayer reporting credit sales before collection  
1232 thereof has been made may take credit on subsequent returns or  
1233 reports for bad debts actually charged off, if such amounts  
1234 charged off have previously been included in taxable gross income  
1235 or taxable gross proceeds of sales, as the case may be, and the  
1236 tax paid thereon. However, any amounts subsequently collected on  
1237 accounts that have been charged off as bad debts shall be included  
1238 in subsequent reports and the tax shall be paid thereon.

1239           (10) In cases where an extension of time has been granted by  
1240 the commissioner for payment of taxes due on credit sales and the  
1241 taxpayer thereafter discontinues the business, such taxpayer shall  
1242 be required to file with the commissioner within ten (10) days, or  
1243 such further time as the commissioner may direct, from the date of  
1244 the discontinuance of such business, a special report showing the  
1245 amounts of any credit sales which have not been included in  
1246 determining the measure of the tax previously paid and any other  
1247 information with reference to credit sales as the commissioner may

1248 require. The commissioner shall thereupon investigate the facts  
1249 with reference to credit sales and the condition of the accounts,  
1250 and shall determine, from the best evidence available, the value  
1251 of all open accounts, notes, or other evidence of debt arising  
1252 from credit sales. The value of all notes, open accounts and  
1253 other evidence of debt, as thus determined by the commissioner,  
1254 shall be used in determining the amount of the tax for which such  
1255 taxpayer shall be liable. When the amount of the tax shall have  
1256 been ascertained, the taxpayer shall be required to pay the same  
1257 within ten (10) days or such further time as the commissioner may  
1258 allow, notwithstanding the fact that such note or accounts may  
1259 still remain uncollected.

1260         **SECTION 17.** Section 27-69-5, Mississippi Code of 1972, is  
1261 brought forward as follows:

1262         27-69-5. Every distributor, wholesaler, dealer or retailer  
1263 who desires to become engaged in the sale or use of tobacco upon  
1264 which a tax is required to be paid shall file with the  
1265 commissioner an application for a permit to engage in such  
1266 business. The application for a permit shall be filed on blanks  
1267 to be furnished by the commissioner for that purpose. The  
1268 application must be subscribed and sworn to by the person owning  
1269 the business, or having an ownership interest therein. If the  
1270 applicant is a corporation, a duly authorized agent shall execute  
1271 the application. The application shall show the name of such  
1272 person, and in case of partnership, the name of each partner  
1273 thereof, the person's post office address, the location of the  
1274 place of business to which the permit shall apply, and the nature  
1275 of the business in which engaged, and any other information the  
1276 commissioner may require. No distributor, wholesaler, dealer or  
1277 retailer shall sell any tobacco until such application has been  
1278 filed, the prescribed permit fee paid, and the permit obtained.  
1279 Except as otherwise provided in this paragraph, said permit shall  
1280 expire on January 31 of each year. However, a retail permit shall

1281 continue in force during the time that the permit holder to whom  
1282 it is issued continues in the same business at the same location  
1283 unless such permit is revoked by the commissioner for cause or is  
1284 revoked pursuant to any provision of the Mississippi Juvenile  
1285 Tobacco Access Prevention Act in Sections 97-32-1 through  
1286 97-32-23.

1287 An application shall be filed, and a permit obtained for each  
1288 place of business owned or operated by each distributor,  
1289 wholesaler, dealer or retailer.

1290 Upon receipt of the application and any permit fee  
1291 hereinafter provided for, the commissioner may issue to every  
1292 distributor, wholesaler, dealer or retailer, for the place of  
1293 business designated, a nonassignable permit, authorizing the sale  
1294 or use of tobacco in the state. Said permit shall provide that  
1295 the same is revocable, and may be forfeited or suspended upon  
1296 violation of any provision of this chapter, the Mississippi  
1297 Tobacco Youth Access Prevention Act of 1997 or any rule or  
1298 regulation adopted by the commissioner. If such permit is  
1299 revoked or suspended, said distributor, wholesaler, dealer or  
1300 retailer shall not sell any tobacco from such place of business  
1301 until a new permit is granted, or the suspension of the old permit  
1302 removed.

1303 A permit cannot be transferred from one person to another,  
1304 and the permit shall at all times be publicly displayed by the  
1305 distributor, wholesaler, dealer or retailer in his place of  
1306 business so as to be seen easily by the public. A permit may be  
1307 refused to any person previously convicted of violations of this  
1308 chapter.

1309 **SECTION 18.** Section 27-69-7, Mississippi Code of 1972, is  
1310 brought forward as follows:

1311 27-69-7. In addition to the excise tax on each person  
1312 selling, using, consuming, handling or distributing tobacco as  
1313 hereinafter provided, it is hereby made the duty of the

1314 commissioner to collect a privilege tax of One Hundred Dollars  
1315 (\$100.00) for each permit issued to every distributor, wholesaler  
1316 or dealer doing business in this state. However, the amount of  
1317 the privilege tax to be paid for a permit issued for a period of  
1318 less than twelve (12) months shall be the proportionate amount of  
1319 the annual privilege tax that the number of months, or part of a  
1320 month, remaining until the permit expiration date bears to twelve  
1321 (12) months, but in no case shall the privilege tax be less than  
1322 Ten Dollars (\$10.00).

1323 Foreign manufacturers, wholesalers, or distributors may  
1324 secure a permit from the commissioner, upon the payment of a fee  
1325 of One Hundred Dollars (\$100.00), and shall agree in an  
1326 application sworn to and certified, that the excise tax shall be  
1327 paid on all shipments of taxable tobacco into the State of  
1328 Mississippi, that the required tax stamps shall be affixed to  
1329 cigarettes, and that the commissioner, or his authorized agent,  
1330 shall be permitted to inspect and audit their records of tobacco  
1331 shipments into the State of Mississippi at any and all reasonable  
1332 times.

1333 It is further provided that any person who engages in any  
1334 business for which a permit is required by this chapter, before  
1335 procuring a permit, or after the permit is cancelled, shall be  
1336 guilty of a misdemeanor, and punishable by a fine of not exceeding  
1337 Five Hundred Dollars (\$500.00), nor less than Fifty Dollars  
1338 (\$50.00).

1339 **SECTION 19.** Section 27-69-13, Mississippi Code of 1972, is  
1340 amended as follows:

1341 27-69-13. There is \* \* \* imposed, levied and assessed, to be  
1342 collected and paid as hereinafter provided in this chapter, an  
1343 excise tax on each person or dealer in cigarettes, cigars,  
1344 stogies, snuff, chewing tobacco, and smoking tobacco, or  
1345 substitutes therefor, upon the sale, use, consumption, handling or  
1346 distribution in the State of Mississippi, as follows:

1347           (a) On cigarettes, the rate of tax shall be  
1348 Eighteen-twentieths of One Cent (18/20 of 1¢) on each cigarette  
1349 sold with a maximum length of one hundred twenty (120)  
1350 millimeters; any cigarette in excess of this length shall be taxed  
1351 as if it were two (2) or more cigarettes. \* \* \* However, if the  
1352 federal tax rate on cigarettes in effect on July 1, 1985, is  
1353 reduced, then the rate as provided herein shall be increased by  
1354 the amount of the federal tax reduction. Such tax increase shall  
1355 take effect on the first day of the month following the effective  
1356 date of such reduction in the federal tax rate.

1357           (b) On cigars, cheroots, stogies, snuff, chewing and  
1358 smoking tobacco and all other tobacco products except cigarettes,  
1359 the rate of tax shall be fifteen percent (15%) of the  
1360 manufacturer's list price.

1361           No stamp evidencing the tax herein levied on cigarettes shall  
1362 be of a denomination of less than One Cent (1¢), and whenever the  
1363 tax computed at the rates herein prescribed on cigarettes shall be  
1364 a specified amount, plus a fractional part of One Cent (1¢), the  
1365 package shall be stamped for the next full cent \* \* \*.

1366           Every wholesaler shall purchase stamps as provided in this  
1367 chapter, and affix the same to all packages of cigarettes handled  
1368 by him as herein provided.

1369           The \* \* \* tax levied by this section is levied upon the sale,  
1370 use, gift, possession, or consumption of tobacco within the State  
1371 of Mississippi, and the impact of the tax levied by this chapter  
1372 is \* \* \* declared to be on the vendee, user, consumer, or  
1373 possessor of tobacco in this state; and when the tax is paid by  
1374 any other person, such payment shall be considered as an advance  
1375 payment and shall thereafter be added to the price of the tobacco  
1376 and recovered from the ultimate consumer or user.

1377           **SECTION 20.** Section 27-69-31, Mississippi Code of 1972, is  
1378 amended as follows:



1379           27-69-31. Except as otherwise provided in this section,  
1380 dealers subject to the provisions of this chapter shall be  
1381 allowed, as compensation for their services in affixing the stamps  
1382 herein required, a sum equal to eight percent (8%) of the face  
1383 value of the stamps purchased by them, provided that the  
1384 commission shall allow no discount on the purchase of stamps by  
1385 wholesalers of an aggregate amount of less than One Hundred  
1386 Dollars (\$100.00), and by retailers of an aggregate amount of less  
1387 than Fifty Dollars (\$50.00) in any one order.

1388           It is further provided that the commissioner may, in his  
1389 discretion, either reduce the compensation allowed, or disallow  
1390 any compensation for the affixing of stamps, for failure of such  
1391 dealer to comply with any provisions of the law or rules and  
1392 regulations promulgated by the commissioner.

1393           From and after July 1, 2005, there shall be no compensation  
1394 or discount allowed under this section.

1395           **SECTION 21.** Section 27-69-75, Mississippi Code of 1972, is  
1396 amended as follows:

1397           27-69-75. All taxes levied by this chapter shall be payable  
1398 to the commissioner in cash, or by personal check, cashier's  
1399 check, bank exchange, post office money order or express money  
1400 order, and shall be deposited by the commissioner in the State  
1401 Treasury on the same day collected. No remittance other than cash  
1402 shall be a final discharge of liability for the tax herein  
1403 assessed and levied, unless and until it has been paid in cash to  
1404 the commissioner.

1405           All tobacco taxes collected, including tobacco license taxes,  
1406 shall be deposited into the State Treasury to the credit of the  
1407 General Fund.

1408           Wholesalers who are entitled to purchase stamps \* \* \* may  
1409 have consigned to them, without advance payment, such stamps, if  
1410 and when such wholesaler shall give to the commissioner a good and  
1411 sufficient bond executed by some surety company authorized to do

1412 business in this state, conditioned to secure the payment for the  
1413 stamps so consigned. The commissioner shall require payment for  
1414 such stamps not later than thirty (30) days from the date the  
1415 stamps were consigned.

1416 **SECTION 22.** Section 75-23-27, Mississippi Code of 1972, is  
1417 brought forward as follows:

1418 75-23-27. After the effective date of the Unfair Cigarette  
1419 Sales Law, no person shall engage in or conduct the business of  
1420 purchasing for resale or selling cigarettes without having first  
1421 obtained the appropriate license for that purpose.

1422 All such licenses shall be issued by the State Tax Commission  
1423 or its designated agent, who shall make rules and regulations  
1424 respecting applications therefor and issuance thereof.

1425 A wholesaler or retailer who sells or intends to sell  
1426 cigarettes at one (1), two (2) or more places of business shall be  
1427 required to obtain a separate license for each place of business.

1428 Any person licensed only as a wholesaler shall not operate as  
1429 a retailer unless the appropriate license therefor is first  
1430 secured, and any person licensed only as a retailer shall not  
1431 operate as a wholesaler unless the appropriate license therefor is  
1432 first secured.

1433 **SECTION 23.** Section 27-71-11, Mississippi Code of 1972, is  
1434 amended as follows:

1435 27-71-11. The commission shall from time to time by  
1436 resolution request the State Bond Commission to provide sufficient  
1437 funds required to maintain an adequate alcoholic beverage  
1438 inventory. Those funds shall be provided under the provisions of  
1439 Chapter 557, Laws of 1966.

1440 The commission shall add to the cost of all alcoholic  
1441 beverages a markup of thirty percent (30%), inclusive of the three  
1442 percent (3%) markup imposed by Section 27-71-7(2).

1443 The commission shall sell alcoholic beverages at uniform  
1444 prices throughout the state.

1445           **SECTION 24.** Section 27-71-303, Mississippi Code of 1972, is  
1446 brought forward as follows:

1447           27-71-303. Upon each person approved for a permit to engage  
1448 in the business of selling light wines or beer there is hereby  
1449 imposed, levied and assessed, to be collected and paid as herein  
1450 provided, annual privilege taxes in the following amounts:

- 1451           (a) Retailers--for each place of  
1452                       business..... \$ 30.00
- 1453           (b) Wholesalers or distributors--for each  
1454                       county..... \$ 100.00
- 1455           (c) Manufacturers--for each place of  
1456                       business..... \$1,000.00
- 1457           (d) Brewpubs--for each place of  
1458                       business..... \$1,000.00

1459           Upon each person operating an airline, bus, boat or railroad  
1460 car upon which light wines or beer may be sold there is hereby  
1461 imposed, levied and assessed, to be collected and paid, annual  
1462 privilege taxes of Thirty Dollars (\$30.00) for each airplane, bus,  
1463 boat or railroad car so operated in this state.

1464           Provided, however, the amount of the privilege tax to be paid  
1465 for a permit issued for a period of less than twelve (12) months  
1466 shall be that proportionate amount of the annual privilege tax  
1467 that the number of months, or part of a month, remaining until its  
1468 expiration date bears to twelve (12) months, but in no case shall  
1469 the privilege tax be less than Ten Dollars (\$10.00).

1470           **SECTION 25.** Section 39-5-5, Mississippi Code of 1972, is  
1471 amended as follows:

1472           39-5-5. The duties and powers of the Board of Trustees of  
1473 the Department of Archives and History shall include, in addition  
1474 to other duties and powers granted or prescribed by law, the  
1475 following:

- 1476           (a) To determine the location of places of historical  
1477 interest within the state;

1478           (b) To make a survey of buildings of all types  
1479 throughout the state which are in danger of destruction, without  
1480 proper care, and which in the opinion of the board of trustees  
1481 should be preserved for historical purposes;

1482           (c) To contact the proper authorities of the United  
1483 States national cemeteries and military parks to determine whether  
1484 or not the record of Mississippi troops is adequately  
1485 commemorated;

1486           (d) To acquire, preserve, restore or operate any real  
1487 or personal property deemed significant for historical,  
1488 architectural, archaeological or cultural reasons, to expend funds  
1489 for such purposes, to enter into contracts or agreements with any  
1490 agency of the United States or any person, firm, corporation or  
1491 association for such purposes and to do any and all things which  
1492 may be necessary or desirable to carry out such purposes;

1493           (e) To participate with any agency of the United  
1494 States, any other governmental agency or any person, firm,  
1495 corporation, association or group in mutual or cooperative  
1496 programs or projects within the duties and powers of the board of  
1497 trustees;

1498           (f) To accept grants or donations of money or property,  
1499 real or personal, from any agency of the United States, any other  
1500 governmental agency or any person, firm, corporation, association  
1501 or group. However, the board of trustees shall not be required,  
1502 except by specific act of the Legislature, to accept any property  
1503 without its consent; \* \* \*

1504           (g) To provide suitable markers with adequate  
1505 descriptions of the historical sites to which they refer, for  
1506 places of historical interest and to provide suitable markers on  
1507 the highways and roads of this state showing the direction and  
1508 distance to the historical sites; and

1509           (h) To charge reasonable fees to persons who use the  
1510 facilities of the department to conduct research, and to charge

1511 reasonable fees for the department to perform research on behalf  
1512 of persons or entities. All fees charged under the authority of  
1513 this paragraph shall be deposited into the State General Fund.

1514 **SECTION 26.** Section 41-3-18, Mississippi Code of 1972, is  
1515 amended as follows:

1516 41-3-18. (1) The board shall assess fees in the following  
1517 amounts and for the following purposes:

1518 (a) Food establishment annual permit fee, based on the  
1519 assessment factors of the establishment as follows:

1520	Assessment Category 1.....	\$ 15.00
1521	Assessment Category 2.....	30.00
1522	Assessment Category 3.....	70.00
1523	Assessment Category 4 .....	100.00
1524	Assessment Category 5 .....	150.00

1525 (b) Private water supply approval fee..... \$ 10.00

1526 The board may develop such reasonable standards, rules and  
1527 regulations to clearly define each assessment category.

1528 Assessment categories shall be based upon the factors to the  
1529 public health implications of the category and type of food  
1530 preparation being utilized by the food establishment, utilizing  
1531 the model Food Code of 1995, or as may be amended by the federal  
1532 Food and Drug Administration.

1533 The fee authorized under paragraph (a) of this section shall  
1534 not be assessed for food establishments operated by public  
1535 schools, public junior and community colleges, or state agencies  
1536 or institutions, including without limitation, the state  
1537 institutions of higher learning and the State Penitentiary.

1538 The fee authorized under paragraph (b) of this section shall  
1539 not be assessed for private water supplies used by foster homes  
1540 licensed by the Department of Human Services.

1541 (2) In addition to the fees charged under subsection (1) of  
1542 this section, the board shall charge a fee of Twenty-five Dollars  
1543 (\$25.00) for food establishment permits and private water supply

1544 approvals. The fees collected under this subsection shall be  
1545 deposited into the State General Fund.

1546 **SECTION 27.** Section 41-4-7, Mississippi Code of 1972, is  
1547 amended as follows:

1548 41-4-7. The State Board of Mental Health shall have the  
1549 following powers and duties:

1550 (a) To appoint a full-time Executive Director of the  
1551 Department of Mental Health, who shall be employed by the board  
1552 and shall serve as executive secretary to the board. The first  
1553 director shall be a duly licensed physician with special interest  
1554 and competence in psychiatry, and shall possess a minimum of three  
1555 (3) years' experience in clinical and administrative psychiatry.  
1556 Subsequent directors shall possess at least a master's degree or  
1557 its equivalent, and shall possess at least ten (10) years'  
1558 administrative experience in the field of mental health. The  
1559 salary of the executive director shall be determined by the board;

1560 (b) To set up state plans for the purpose of  
1561 controlling and treating any and all forms of mental and emotional  
1562 illness, alcoholism, drug misuse and developmental disabilities;

1563 (c) To supervise, coordinate and establish standards  
1564 for all operations and activities of the state related to mental  
1565 health and providing mental health services, including, but not  
1566 limited to: the requirement that no person be approved for  
1567 treatment which is paid for by funds made available through the  
1568 department who has not had a treatment plan established as a  
1569 result of having been seen by a licensed physician or licensed  
1570 clinical psychologist and that physician or clinical psychologist  
1571 signing these plans stating that he/she has personally evaluated  
1572 the client and that the treatment plan is medically necessary. A  
1573 physician or clinical psychologist shall recertify each client's  
1574 record at least semiannually (except for persons with a diagnosis  
1575 of mental retardation/developmental disability which shall be  
1576 completed annually), and more often if medically indicated by

1577 physically visiting the client and certifying same in the record.  
1578 The board shall have the authority to develop and implement all  
1579 standards and plans and shall have the authority to establish  
1580 appropriate actions, including financially punitive actions, to  
1581 insure enforcement of these established standards, in accordance  
1582 with the Administrative Procedures Law (Section 25-43-1 et seq.);

1583 (d) To enter into contracts with any other state or  
1584 federal agency, or with any private person, organization or group  
1585 capable of contracting, if it finds such action to be in the  
1586 public interest;

1587 (e) To collect reasonable fees for its services;  
1588 provided, however, if it is determined that a person receiving  
1589 services is unable to pay the total fee, the department shall  
1590 collect any amount such person is able to pay;

1591 (f) To certify, coordinate and establish minimum  
1592 standards and establish minimum required services for regional  
1593 mental health and mental retardation commissions and other  
1594 community service providers for community or regional programs and  
1595 services in mental health, mental retardation, alcoholism, drug  
1596 misuse, developmental disabilities, compulsive gambling, addictive  
1597 disorders and related programs throughout the state. Such  
1598 regional mental health and mental retardation commissions and  
1599 other community service providers shall submit an annual  
1600 operational plan to the State Department of Mental Health for  
1601 approval or disapproval based on the minimum standards and minimum  
1602 required services established by the department for certification.  
1603 If the department finds deficiencies in the plan of any regional  
1604 commission or community service provider based on the minimum  
1605 standards and minimum required services established for  
1606 certification, the department shall give the regional commission  
1607 or community service provider a six-month probationary period to  
1608 bring its standards and services up to the established minimum  
1609 standards and minimum required services. After the six-month

1610 probationary period, if the department determines that the  
1611 regional commission or community service provider still does not  
1612 meet the minimum standards and minimum required services  
1613 established for certification, the department may remove the  
1614 certification of the commission or provider. However, the  
1615 department shall not mandate a standard or service, or decertify a  
1616 regional commission or community service provider for not meeting  
1617 a standard or service, if the standard or service does not have  
1618 funding appropriated by the Legislature or have a funding source  
1619 from the State Department of Mental Health or a local funding  
1620 source. The State Board of Mental Health shall promulgate rules  
1621 and regulations necessary to implement the provisions of this  
1622 paragraph (f), in accordance with the Administrative Procedures  
1623 Law (Section 25-43-1 et seq.);

1624           (g) To establish and promulgate reasonable minimum  
1625 standards for the construction and operation of state and all  
1626 Department of Mental Health certified facilities, including  
1627 reasonable minimum standards for the admission, diagnosis, care,  
1628 treatment, transfer of patients and their records, and also  
1629 including reasonable minimum standards for providing day care,  
1630 outpatient care, emergency care, inpatient care and follow-up  
1631 care, when such care is provided for persons with mental or  
1632 emotional illness, mental retardation, alcoholism, drug misuse and  
1633 developmental disabilities;

1634           (h) To assist community or regional programs consistent  
1635 with the purposes of this chapter by making grants and contracts  
1636 from available funds;

1637           (i) To establish and collect reasonable fees for  
1638 necessary inspection services incidental to certification or  
1639 compliance;

1640           (j) To accept gifts, trusts, bequests, grants,  
1641 endowments or transfers of property of any kind;



1642           (k) To receive monies coming to it by way of fees for  
1643 services or by appropriations;

1644           (l) To serve as the single state agency in receiving  
1645 and administering any and all funds available from any source for  
1646 the purpose of service delivery, training, research and education  
1647 in regard to all forms of mental illness, mental retardation,  
1648 alcoholism, drug misuse and developmental disabilities, unless  
1649 such funds are specifically designated to a particular agency or  
1650 institution by the federal government, the Mississippi Legislature  
1651 or any other grantor;

1652           (m) To establish mental health holding centers for the  
1653 purpose of providing short-term emergency mental health treatment,  
1654 places for holding persons awaiting commitment proceedings or  
1655 awaiting placement in a state mental health facility following  
1656 commitment, and for diverting placement in a state mental health  
1657 facility. These mental health holding facilities shall be readily  
1658 accessible, available statewide, and be in compliance with  
1659 emergency services' minimum standards. They shall be  
1660 comprehensive and available to triage and make appropriate  
1661 clinical disposition, including the capability to access inpatient  
1662 services or less restrictive alternatives, as needed, as  
1663 determined by medical staff. Such facility shall have medical,  
1664 nursing and behavioral services available on a  
1665 twenty-four-hour-a-day basis. The board may provide for all or  
1666 part of the costs of establishing and operating the holding  
1667 centers in each district from such funds as may be appropriated to  
1668 the board for such use, and may participate in any plan or  
1669 agreement with any public or private entity under which the entity  
1670 will provide all or part of the costs of establishing and  
1671 operating a holding center in any district. The board may charge  
1672 the county of residence of a patient in any of the facilities for  
1673 the services provided to the patient, not exceeding Twenty-five  
1674 Dollars (\$25.00) per day;

1675           (n) To certify/license case managers, mental health  
1676 therapists, mental retardation therapists, mental  
1677 health/retardation program administrators, addiction counselors  
1678 and others as deemed appropriate by the board. Persons already  
1679 professionally licensed by another state board or agency are not  
1680 required to be certified/licensed under this section by the  
1681 Department of Mental Health. The department shall not use  
1682 professional titles in its certification/licensure process for  
1683 which there is an independent licensing procedure. Such  
1684 certification/licensure shall be valid only in the state mental  
1685 health system, in programs funded and/or certified by the  
1686 Department of Mental Health, and/or in programs certified/licensed  
1687 by the State Department of Health that are operated by the state  
1688 mental health system serving the mentally ill, mentally retarded,  
1689 developmentally disabled or persons with addictions, and shall not  
1690 be transferable;

1691           (o) To develop formal mental health worker  
1692 qualifications for regional mental health and mental retardation  
1693 commissions and other community service providers. The State  
1694 Personnel Board shall develop and promulgate a recommended salary  
1695 scale and career ladder for all regional mental health/retardation  
1696 center therapists and case managers who work directly with  
1697 clients. The State Personnel Board shall also develop and  
1698 promulgate a career ladder for all direct care workers employed by  
1699 the State Department of Mental Health;

1700           (p) The employees of the department shall be governed  
1701 by personnel merit system rules and regulations, the same as other  
1702 employees in state services;

1703           (q) To establish such rules and regulations as may be  
1704 necessary in carrying out the provisions of this chapter,  
1705 including the establishment of a formal grievance procedure to  
1706 investigate and attempt to resolve consumer complaints;

1707                   (r) To grant easements for roads, utilities and any  
1708 other purpose it finds to be in the public interest;

1709                   (s) To survey statutory designations, building markers  
1710 and the names given to mental health/retardation facilities and  
1711 proceedings in order to recommend deletion of obsolete and  
1712 offensive terminology relative to the mental health/retardation  
1713 system;

1714                   (t) To ensure an effective case management system  
1715 directed at persons who have been discharged from state and  
1716 private psychiatric hospitals to ensure their continued well-being  
1717 in the community;

1718                   (u) To develop formal service delivery standards  
1719 designed to measure the quality of services delivered to community  
1720 clients, as well as the timeliness of services to community  
1721 clients provided by regional mental health/retardation commissions  
1722 and other community services providers;

1723                   (v) To establish regional state offices to provide  
1724 mental health crisis intervention centers and services available  
1725 throughout the state to be utilized on a case-by-case emergency  
1726 basis. The regional services director, other staff and delivery  
1727 systems shall meet the minimum standards of the Department of  
1728 Mental Health;

1729                   (w) To require performance contracts with community  
1730 mental health/mental retardation service providers to contain  
1731 performance indicators to measure successful outcomes, including  
1732 diversion of persons from inpatient psychiatric hospitals,  
1733 rapid/timely response to emergency cases, client satisfaction with  
1734 services and other relevant performance measures;

1735                   (x) To enter into interagency agreements with other  
1736 state agencies, school districts and other local entities as  
1737 determined necessary by the department to ensure that local mental  
1738 health service entities are fulfilling their responsibilities to  
1739 the overall state plan for behavioral services;

1740           (y) To establish and maintain a toll-free grievance  
1741 reporting telephone system for the receipt and referral for  
1742 investigation of all complaints by clients of state and community  
1743 mental health/retardation facilities;

1744           (z) To establish a peer review/quality assurance  
1745 evaluation system that assures that appropriate assessment,  
1746 diagnosis and treatment is provided according to established  
1747 professional criteria and guidelines;

1748           (aa) To develop and implement state plans for the  
1749 purpose of assisting with the care and treatment of persons with  
1750 Alzheimer's disease and other dementia. This plan shall include  
1751 education and training of service providers, care-givers in the  
1752 home setting and others who deal with persons with Alzheimer's  
1753 disease and other dementia, and development of adult day care,  
1754 family respite care and counseling programs to assist families who  
1755 maintain persons with Alzheimer's disease and other dementia in  
1756 the home setting. No agency shall be required to provide any  
1757 services under this section until such time as sufficient funds  
1758 have been appropriated or otherwise made available by the  
1759 Legislature specifically for the purposes of the treatment of  
1760 persons with Alzheimer's and other dementia;

1761           (bb) Working with the advice and consent of the  
1762 administration of Ellisville State School, to enter into  
1763 negotiations with the Economic Development Authority of Jones  
1764 County for the purpose of negotiating the possible exchange, lease  
1765 or sale of lands owned by Ellisville State School to the Economic  
1766 Development Authority of Jones County. It is the intent of the  
1767 Mississippi Legislature that such negotiations shall ensure that  
1768 the financial interest of the persons with mental retardation  
1769 served by Ellisville State School will be held paramount in the  
1770 course of these negotiations. The Legislature also recognizes the  
1771 importance of economic development to the citizens of the State of  
1772 Mississippi and Jones County, and encourages fairness to the

1773 Economic Development Authority of Jones County. Any negotiations  
1774 proposed which would result in the recommendation for exchange,  
1775 lease or sale of lands owned by Ellisville State School must have  
1776 the approval of the State Board of Mental Health. The State Board  
1777 of Mental Health may and has the final authority as to whether or  
1778 not these negotiations result in the exchange, lease or sale of  
1779 the properties it currently holds in trust for citizens with  
1780 mental retardation served at Ellisville State School.

1781       If the State Board of Mental Health authorizes the sale of  
1782 lands owned by Ellisville State School, as provided for under this  
1783 paragraph (bb), the monies derived from the sale shall be placed  
1784 into a special fund that is created in the State Treasury to be  
1785 known as the "Ellisville State School Client's Trust Fund." The  
1786 principal of the trust fund shall remain inviolate and shall never  
1787 be expended. Any interest earned on the principal may be expended  
1788 solely for the benefits of clients served at Ellisville State  
1789 School. The State Treasurer shall invest the monies of the trust  
1790 fund in any of the investments authorized for the Mississippi  
1791 Prepaid Affordable College Tuition Program under Section 37-155-9,  
1792 and those investments shall be subject to the limitations  
1793 prescribed by Section 37-155-9. Unexpended amounts remaining in  
1794 the trust fund at the end of a fiscal year shall not lapse into  
1795 the State General Fund, and any interest earned on amounts in the  
1796 trust fund shall be deposited to the credit of the trust fund.  
1797 The administration of Ellisville State School may use any interest  
1798 earned on the principal of the trust fund, upon appropriation by  
1799 the Legislature, as needed for services or facilities by the  
1800 clients of Ellisville State School. Ellisville State School shall  
1801 make known to the Legislature, through the Legislative Budget  
1802 Committee and the respective Appropriations Committees of the  
1803 House and Senate, its proposed use of interest earned on the  
1804 principal of the trust fund for any fiscal year in which it  
1805 proposes to make expenditures thereof. The State Treasurer shall

1806 provide Ellisville State School with an annual report on the  
1807 Ellisville State School Client's Trust Fund to indicate the total  
1808 monies in the trust fund, interest earned during the year,  
1809 expenses paid from the trust fund and such other related  
1810 information.

1811       Nothing in this section shall be construed as applying to or  
1812 affecting mental health/retardation services provided by hospitals  
1813 as defined in Section 41-9-3(a), and/or their subsidiaries and  
1814 divisions, which hospitals, subsidiaries and divisions are  
1815 licensed and regulated by the Mississippi State Department of  
1816 Health unless such hospitals, subsidiaries or divisions  
1817 voluntarily request certification by the Mississippi State  
1818 Department of Mental Health.

1819       All new programs authorized under this section shall be  
1820 subject to the availability of funds appropriated therefor by the  
1821 Legislature;

1822       (cc) Working with the advice and consent of the  
1823 administration of Boswell Regional Center, to enter into  
1824 negotiations with the Economic Development Authority of Simpson  
1825 County for the purpose of negotiating the possible exchange, lease  
1826 or sale of lands owned by Boswell Regional Center to the Economic  
1827 Development Authority of Simpson County. It is the intent of the  
1828 Mississippi Legislature that such negotiations shall ensure that  
1829 the financial interest of the persons with mental retardation  
1830 served by Boswell Regional Center will be held paramount in the  
1831 course of these negotiations. The Legislature also recognizes the  
1832 importance of economic development to the citizens of the State of  
1833 Mississippi and Simpson County, and encourages fairness to the  
1834 Economic Development Authority of Simpson County. Any  
1835 negotiations proposed which would result in the recommendation for  
1836 exchange, lease or sale of lands owned by Boswell Regional Center  
1837 must have the approval of the State Board of Mental Health. The  
1838 State Board of Mental Health may and has the final authority as to

1839 whether or not these negotiations result in the exchange, lease or  
1840 sale of the properties it currently holds in trust for citizens  
1841 with mental retardation served at Boswell Regional Center. In any  
1842 such exchange, lease or sale of such lands owned by Boswell  
1843 Regional Center, title to all minerals, oil and gas on such lands  
1844 shall be reserved, together with the right of ingress and egress  
1845 to remove same, whether such provisions be included in the terms  
1846 of any such exchange, lease or sale or not.

1847         If the State Board of Mental Health authorizes the sale of  
1848 lands owned by Boswell Regional Center, as provided for under this  
1849 paragraph (cc), the monies derived from the sale shall be placed  
1850 into a special fund that is created in the State Treasury to be  
1851 known as the "Boswell Regional Center Client's Trust Fund." The  
1852 principal of the trust fund shall remain inviolate and shall never  
1853 be expended. Any earnings on the principal may be expended solely  
1854 for the benefits of clients served at Boswell Regional Center.  
1855 The State Treasurer shall invest the monies of the trust fund in  
1856 any of the investments authorized for the Mississippi Prepaid  
1857 Affordable College Tuition Program under Section 37-155-9, and  
1858 those investments shall be subject to the limitations prescribed  
1859 by Section 37-155-9. Unexpended amounts remaining in the trust  
1860 fund at the end of a fiscal year shall not lapse into the State  
1861 General Fund, and any earnings on amounts in the trust fund shall  
1862 be deposited to the credit of the trust fund. The administration  
1863 of Boswell Regional Center may use any earnings on the principal  
1864 of the trust fund, upon appropriation by the Legislature, as  
1865 needed for services or facilities by the clients of Boswell  
1866 Regional Center. Boswell Regional Center shall make known to the  
1867 Legislature, through the Legislative Budget Committee and the  
1868 respective Appropriations Committees of the House and Senate, its  
1869 proposed use of the earnings on the principal of the trust fund  
1870 for any fiscal year in which it proposes to make expenditures  
1871 thereof. The State Treasurer shall provide Boswell Regional

1872 Center with an annual report on the Boswell Regional Center  
1873 Client's Trust Fund to indicate the total monies in the trust  
1874 fund, interest and other income earned during the year, expenses  
1875 paid from the trust fund and such other related information.

1876         Nothing in this section shall be construed as applying to or  
1877 affecting mental health/retardation services provided by hospitals  
1878 as defined in Section 41-9-3(a), and/or their subsidiaries and  
1879 divisions, which hospitals, subsidiaries and divisions are  
1880 licensed and regulated by the Mississippi State Department of  
1881 Health unless such hospitals, subsidiaries or divisions  
1882 voluntarily request certification by the Mississippi State  
1883 Department of Mental Health.

1884         All new programs authorized under this section shall be  
1885 subject to the availability of funds appropriated therefor by the  
1886 Legislature;

1887         (dd) Notwithstanding any other section of the code, the  
1888 Board of Mental Health shall be authorized to fingerprint and  
1889 perform a criminal history record check on every employee or  
1890 volunteer. Every employee and volunteer shall provide a valid  
1891 current social security number and/or driver's license number  
1892 which shall be furnished to conduct the criminal history record  
1893 check. If no disqualifying record is identified at the state  
1894 level, fingerprints shall be forwarded to the Federal Bureau of  
1895 Investigation for a national criminal history record check;

1896         (ee) The Department of Mental Health shall have the  
1897 authority for the development of a consumer friendly single point  
1898 of intake and referral system within its service areas for persons  
1899 with mental illness, mental retardation, developmental  
1900 disabilities or alcohol or substance abuse who need assistance  
1901 identifying or accessing appropriate services. The department  
1902 will develop and implement a comprehensive evaluation procedure  
1903 ensuring that, where appropriate, the affected person or their  
1904 parent or legal guardian will be involved in the assessment and



1905 planning process. The department, as the point of intake and as  
1906 service provider, shall have the authority to determine the  
1907 appropriate institutional, hospital or community care setting for  
1908 persons who have been diagnosed with mental illness, mental  
1909 retardation, developmental disabilities and/or alcohol or  
1910 substance abuse, and may provide for the least restrictive  
1911 placement if the treating professional believes such a setting is  
1912 appropriate, if the person affected or their parent or legal  
1913 guardian wants such services, and if the department can do so with  
1914 a reasonable modification of the program without creating a  
1915 fundamental alteration of the program. The least restrictive  
1916 setting could be an institution, hospital or community setting,  
1917 based upon the needs of the affected person or their parent or  
1918 legal guardian;

1919 (ff) To have the sole power and discretion to enter  
1920 into, sign, execute and deliver long-term or multiyear leases of  
1921 real and personal property owned by the Department of Mental  
1922 Health to and from other state and federal agencies and private  
1923 entities deemed to be in the public's best interest. Any monies  
1924 derived from such leases shall be deposited into the funds of the  
1925 Department of Mental Health for its exclusive use. Leases to  
1926 private entities shall be approved by the Department of Finance  
1927 and Administration and all leases shall be filed with the  
1928 Secretary of State.

1929 **SECTION 28.** Section 41-7-71, Mississippi Code of 1972, is  
1930 brought forward as follows:

1931 41-7-71. It is hereby declared to be the policy of the State  
1932 of Mississippi that a patient or resident in a state institution  
1933 whose estate is sufficient, or, if not, who has (a) a spouse; or  
1934 (b) one or more parent(s) if said patient or resident is under the  
1935 age of twenty-one (21) years and unmarried, who is(are)  
1936 financially able to pay all or any part of the cost of such  
1937 hospitalization or treatment, shall be required to pay for all or

1938 part of his or her maintenance in such institution. No resident  
1939 of this state shall be refused admission to or treatment in any of  
1940 the institutions enumerated in Section 41-7-73 because of his  
1941 inability to pay all or any of said costs. It shall be the duty  
1942 of the director or the governing board, as appropriate, of the  
1943 admitting institution to ascertain the financial ability of the  
1944 patient or resident and to establish an amount to be paid monthly  
1945 based on current ability to pay, with a continuing claim for the  
1946 difference in the amount paid and the maximum charges assessed  
1947 that could be made as determined pursuant to Section 41-7-79.

1948 **SECTION 29.** Section 41-7-73, Mississippi Code of 1972, is  
1949 brought forward as follows:

1950 41-7-73. The term "state institution" or "state  
1951 institutions" as used in Sections 41-7-71 through 41-7-95 shall  
1952 include the following: Mississippi State Hospital at Whitfield,  
1953 Ellisville State School, East Mississippi State Hospital at  
1954 Meridian, Mississippi Children's Rehabilitation Center, North  
1955 Mississippi Regional Center, Hudspeth Regional Center, South  
1956 Mississippi Regional Center, North Mississippi State Hospital at  
1957 Tupelo, South Mississippi State Hospital at Purvis, University of  
1958 Mississippi Hospital, Boswell Regional Center, the Juvenile  
1959 Rehabilitation Center at Brookhaven, the Specialized Treatment  
1960 Facility for the Emotionally Disturbed in Harrison County, and the  
1961 Central Mississippi Residential Center at Newton.

1962 **SECTION 30.** Section 41-7-79, Mississippi Code of 1972, is  
1963 brought forward as follows:

1964 41-7-79. Each state institution shall have the power to  
1965 assess and collect charges from patients, patients' estates and  
1966 from all persons legally liable for the cost of care of such  
1967 patients in such state institution. The maximum charges which may  
1968 be made shall be based on the estimated cost of operating the  
1969 institution, and such costs shall include a reasonable amount for  
1970 depreciation. The director or the governing board of each

1971 institution, as appropriate, shall investigate or cause to be  
1972 investigated the financial ability of each patient, his or her  
1973 estate, and all other persons legally liable for the cost or care  
1974 of the patient, and the charges assessed shall be in accordance  
1975 with the ability of the person assessed to pay.

1976         The Director of the Mississippi Children's Rehabilitation  
1977 Center or the governing board of the center, as appropriate, upon  
1978 conclusion of the investigation of the financial ability of each  
1979 patient and all other persons legally liable for the cost of care  
1980 of the patient, shall assess a fee against each patient based on  
1981 the financial ability of such patient or others legally liable for  
1982 such patient to pay. The fee shall be adjustable and commensurate  
1983 with the patient's financial ability to pay. In order to receive  
1984 the benefits of the sliding scale fee each patient is required to  
1985 provide for the Children's Rehabilitation Center sufficient  
1986 financial information in order to allow the center to make a  
1987 determination as to whether or not a reduced fee is appropriate.  
1988 The center shall not utilize such fee scale for any patient unless  
1989 the patient has a need for additional treatment, and has no  
1990 insurance covering his treatment or such insurance is exhausted.  
1991 The Children's Rehabilitation Center shall make every effort to  
1992 collect the total charges from a patient, the patient's estate and  
1993 from all persons legally liable for the cost of care of the  
1994 patient before it may utilize a sliding fee scale for the patient.

1995         After three (3) good faith attempts have been made to collect  
1996 a remaining balance of such charges, and upon the recommendation  
1997 of the Children's Rehabilitation Center fiscal officer, said  
1998 balance may be declared uncollectible and worthless, and no longer  
1999 listed as an asset.

2000         In the determination of ability to pay, the director or  
2001 governing board shall not work an undue hardship on any patient or  
2002 person legally responsible for such a patient. The value of a  
2003 homestead shall not be considered in determining the ability to

2004 pay. The number of dependents of a patient or the party legally  
2005 responsible for such patient shall be considered in determining  
2006 ability to pay. The value of real and/or personal property may  
2007 also be considered.

2008 The director or the governing board, as appropriate, shall  
2009 have authority to enter into agreements with the patients or  
2010 others legally liable whereby periodic payments can be made on  
2011 said accounts. The director or governing board may accept notes,  
2012 secured or open, or any other evidences of indebtedness.

2013 The director or the governing board, as appropriate, of each  
2014 state institution shall have the right to institute suits where  
2015 necessary or advisable, and it shall be the duty of the Attorney  
2016 General to institute such suits either in the name of the  
2017 institution or in the name of the State of Mississippi. Except in  
2018 matters involving the administration of estates, the probate of  
2019 wills or the appointment of guardians or conservators, venue for  
2020 such suits shall lie in the county in which the institution is  
2021 located, and the venue shall not be subject to change.

2022 **SECTION 31.** Section 45-1-29, Mississippi Code of 1972, is  
2023 brought forward as follows:

2024 45-1-29. (1) The Mississippi Crime Laboratory shall be  
2025 funded separately from the Department of Public Safety. Any  
2026 appropriated funds shall be maintained in an account separate from  
2027 any funds of the Department of Public Safety and shall never be  
2028 commingled with any funds of said department. However, nothing in  
2029 this section shall be construed to prohibit the utilization of the  
2030 combined resources of the Mississippi Crime Laboratory, the  
2031 Division of Support Services of the Department of Public Safety or  
2032 the Mississippi Justice Information Center to efficiently carry  
2033 out the mission of the Department of Public Safety.

2034 (2) Grants and donations to the crime laboratory may be  
2035 accepted from individuals, the federal government, firms,

2036 corporations, foundations and other interested organizations and  
2037 societies.

2038 (3) The Commissioner of Public Safety shall establish and  
2039 the Division of Support Services of the Department of Public  
2040 Safety shall collect for services rendered proper fees  
2041 commensurate with the services rendered by the crime laboratory.  
2042 Those fees shall be deposited into a special fund in the State  
2043 Treasury to the credit of the crime laboratory and expended in  
2044 accordance with applicable rules and regulations of the Department  
2045 of Finance and Administration. Those fees may be used for any  
2046 authorized expenditure of the crime laboratory except expenditures  
2047 for salaries, wages and fringe benefits.

2048 **SECTION 32.** Section 49-17-30, Mississippi Code of 1972, is  
2049 brought forward as follows:

2050 49-17-30. (1) As a condition of any air operating permit  
2051 required under Title V of the federal Clean Air Act, the owner or  
2052 operator of any stationary source shall pay to the Department of  
2053 Environmental Quality an annual permit fee. The commission shall  
2054 establish the amount of each fee to cover the costs of the Title V  
2055 program as provided in Section 49-17-14.

2056 (2) To facilitate the proper administration of the Title V  
2057 program, the commission is authorized to assess and collect fees  
2058 from Title V program permittees. The commission is further  
2059 authorized to promulgate such rules and regulations as are  
2060 necessary for the development and administration of the Title V  
2061 program and the assessment and collection of Title V program fees.

2062 (a) For purposes of fee assessment and collection, the  
2063 maximum emission rate of each pollutant used in the calculation of  
2064 fees shall be four thousand (4,000) tons per year per facility.

2065 (b) For purposes of fee assessment and collection, the  
2066 permit holder shall elect for actual or allowable emissions to be  
2067 used in determining the annual quantity of emissions unless the  
2068 commission determines by order that the method chosen by the

2069 applicant for calculating actual emissions fails to reasonably  
2070 represent actual emissions. Such order of the commission shall be  
2071 subject to appeal in the manner provided in Section 49-17-41.  
2072 Actual emissions shall be calculated using emission monitoring  
2073 data or direct emissions measurements for the pollutant(s); mass  
2074 balance calculations such as the amounts of the pollutant(s)  
2075 entering and leaving process equipment and where mass balance  
2076 calculations can be supported by direct measurement of process  
2077 parameters, such direct measurement data shall be supplied;  
2078 published emission factors such as those relating release  
2079 quantities to throughput or equipment type (e.g., air emission  
2080 factors); or other approaches such as engineering calculations  
2081 (e.g., estimating volatilization using published mathematical  
2082 formulas) or best engineering judgments where such judgments are  
2083 derived from process and/or emission data which supports the  
2084 estimates of maximum actual emissions.

2085         If the commission determines that there is not sufficient  
2086 information available on a facility's emissions, the determination  
2087 of the fee shall be based upon the permitted allowable emissions  
2088 until such time as an adequate determination of actual emissions  
2089 is made.

2090                 (c) A minimum annual fee of Two Hundred Fifty Dollars  
2091 (\$250.00) shall be assessed to and collected from the owner or  
2092 operator of each facility that is required to hold a Title V  
2093 permit. The maximum annual fee shall be Two Hundred Fifty  
2094 Thousand Dollars (\$250,000.00) per facility.

2095                 (3) (a) Prior to the date of full implementation of the  
2096 Title V program in Mississippi, the fee assessed shall be Four  
2097 Dollars (\$4.00) per ton of emissions of each air pollutant for  
2098 which fees can be assessed under the Title V program, not to  
2099 exceed Fifty Thousand Dollars (\$50,000.00) per facility.

2100                 (b) Following the date of full implementation of the  
2101 Title V program in Mississippi, the fee schedule for Title V

2102 permit fees for any subsequent calendar year shall be set by order  
2103 of the commission in an amount sufficient to cover the reasonable  
2104 costs of development and administration of the Title V program.  
2105 The commission's order shall follow:

2106           (i) Receipt of the report and recommendations of  
2107 the Advisory Council; and

2108           (ii) A public hearing to be held not earlier than  
2109 thirty (30) days following receipt by the commission of the report  
2110 and recommendations of the Advisory Council. The commission may  
2111 proceed with entry of the order on fees if the Advisory Council  
2112 fails to submit its report in a timely manner. The order of the  
2113 commission may be appealed in the manner set forth in Section  
2114 49-17-41. The determination of the fee shall be by order of the  
2115 commission and shall not be considered the promulgation of a  
2116 regulation by the commission. The record of the public hearing  
2117 shall be included in the record upon which the order is based and  
2118 shall become a part of the appellate records for all appeals taken  
2119 from the order of the commission establishing or modifying Title V  
2120 permit fees. Any undisputed amount due from an appellant must be  
2121 paid according to the appellant's payment schedule during the  
2122 pendency of the appeal.

2123           (4) Any person required to pay the Title V permit fee set  
2124 forth under this chapter who disagrees with the calculation or  
2125 applicability of the person's fee may petition the commission in  
2126 writing for a hearing in accordance with Section 49-17-35. Such  
2127 hearing shall be in accordance with Section 49-17-33. Any  
2128 disputed portion of the fee for which a hearing has been requested  
2129 will not incur any penalty or interest from and after the receipt  
2130 by the commission of the hearing petition. The decision of the  
2131 commission may be appealed in the manner set forth in Section  
2132 49-17-41.

2133 (5) All fees collected pursuant to this section shall be  
2134 deposited into the "Air Operating Permit Program Fee Trust Fund"  
2135 established in Section 49-17-14.

2136 **SECTION 33.** Section 49-17-421, Mississippi Code of 1972, is  
2137 amended as follows:

2138 49-17-421. (1) The commission may assess and collect a tank  
2139 regulatory fee in an amount sufficient to administer Sections  
2140 49-17-401 through 49-17-435 but not to exceed One Hundred Dollars  
2141 (\$100.00) per tank per year from the owner of each underground  
2142 storage tank in use in Mississippi on July 1, 1988, or brought  
2143 into use after that date, as provided in the Mississippi  
2144 Underground Storage Tank Act of 1988 (Sections 49-17-401 through  
2145 49-17-435). The tank regulatory fee assessed under this section  
2146 is a debt due by the owner of each underground storage tank in use  
2147 in Mississippi on July 1, 1988, or brought into use after that  
2148 date. The tank regulatory fee shall be due July 1 of each year.  
2149 If any part of the tank regulatory fee is not paid within thirty  
2150 (30) days after the due date, a penalty of fifty percent (50%) of  
2151 the amount due shall accrue at once and be added to the fee,  
2152 unless the owner of the underground storage tank demonstrates to  
2153 the commission that the failure to make timely payment was  
2154 unavoidable due to financial hardship or otherwise beyond the  
2155 control of the owner. Monies collected under this section shall  
2156 be deposited in a special fund which is created in the State  
2157 Treasury. Unexpended amounts remaining in the special fund at the  
2158 end of the fiscal year shall not lapse into the General Fund and  
2159 any interest earned on amounts in the special fund shall be  
2160 credited to the special fund by the Treasurer. The fund may  
2161 receive monies from any available public or private source,  
2162 including, but not limited to, collection of fees, interest,  
2163 grants, taxes, public or private donations and judicial actions.  
2164 Monies in this special fund shall be expended by annual



2165 appropriation approved by the Legislature to administer Sections  
2166 49-17-401 through 49-17-435.

2167 (2) In addition to the fees imposed under subsection (1) of  
2168 this section, the department shall impose a fee of Fifty Dollars  
2169 (\$50.00) per tank per year for each underground storage tank in  
2170 use in Mississippi on July 1, 1988, or brought into use after that  
2171 date, as provided in the Mississippi Underground Storage Tank Act  
2172 of 1988 (Sections 49-17-401 through 49-17-435). The fees  
2173 collected under this subsection shall be deposited into the State  
2174 General Fund.

2175 **SECTION 34.** (1) Beginning on July 1, 2005, in all instances  
2176 where no provision of law sets a fee, the Department of  
2177 Environmental Quality shall charge a fee of One Hundred Dollars  
2178 (\$100.00) for any general permit that it issues to any permittee.  
2179 For any other permit or any activity associated with the  
2180 monitoring of the activities of a permittee, where no provision of  
2181 law sets a permit or monitoring fee, the department shall charge  
2182 all permittees a fee of Two Hundred Fifty Dollars (\$250.00). Fees  
2183 for permits shall be collected at the time of the issuance of the  
2184 permits. Monitoring fees shall be collected after completion of  
2185 the monitoring activity. The fees collected under this section  
2186 shall be deposited into the State General Fund.

2187 (2) The department shall not charge any fees under the  
2188 authority of this section to animal feeding operations or confined  
2189 animal feeding operations.

2190 **SECTION 35.** Section 51-3-31, Mississippi Code of 1972, is  
2191 amended as follows:

2192 51-3-31. Any person desiring to use water for a beneficial  
2193 purpose shall apply to the board for a permit for such use on a  
2194 form prescribed by the board for such purpose. The application  
2195 shall be accompanied by a fee of Two Hundred Fifty Dollars  
2196 (\$250.00). The application shall provide such information as  
2197 deemed appropriate by the board to its decision to issue such

2198 permit. The fees and applications required by this section also  
2199 shall apply to renewals of permits and any modifications to  
2200 permits. The board shall not charge any fees under this section  
2201 to animal feeding operations or confined animal feeding  
2202 operations.

2203 All fees received by the board under this section shall be  
2204 deposited in the State General Fund \* \* \*.

2205 **SECTION 36.** Section 53-7-7, Mississippi Code of 1972, is  
2206 amended as follows:

2207 53-7-7. (1) Except as provided in this section, it is  
2208 unlawful to commence an operation or operate a surface mine  
2209 without a permit or coverage under a general permit as provided by  
2210 this chapter.

2211 (2) Except as expressly provided in this section, this  
2212 chapter shall not apply to:

2213 (a) Excavations made by the owner of land for the  
2214 owner's own use and not for commercial purposes, where the  
2215 materials removed do not exceed one thousand (1,000) cubic yards  
2216 per year and where one (1) acre or less of land is affected;

2217 (b) Excavations made by a public agency on a one-time  
2218 basis for emergency use at an emergency site if:

2219 (i) The excavation lies in the vicinity of the  
2220 emergency site and affects less than one-fourth (1/4) acre of  
2221 mined surface area;

2222 (ii) The landowner has signed a statement giving  
2223 approval for the removal of the materials; and

2224 (iii) The public agency notifies the department as  
2225 required by the commission within two (2) working days of the  
2226 removal of the materials.

2227 (c) Operations for any materials on any affected area  
2228 conducted before April 15, 1978, but this chapter shall apply to  
2229 any additional land which the operation extended to or encompassed  
2230 after April 15, 1978;

2231 (d) Operations for any materials that affected four (4)  
2232 acres or less and were greater than one thousand three hundred  
2233 twenty (1,320) feet from any other affected area if:

2234 (i) The operation began before July 1, 2002; and

2235 (ii) The operator notified the commission of the  
2236 commencement, expansion or resumption of the operation before July  
2237 1, 2002; and

2238 (e) Operations for any materials that affect four (4)  
2239 acres or less, are greater than one thousand three hundred twenty  
2240 (1,320) feet from any other affected area and commenced after July  
2241 1, 2002, if the operator notifies the department at least seven  
2242 (7) calendar days before commencement or expansion of the  
2243 operation as required in regulations adopted by the commission.  
2244 The seven-day notice prior to mining requirement shall be waived  
2245 and the operator may begin mining immediately after notifying the  
2246 department if:

2247 (i) The operator agrees, in the notification, to  
2248 reclaim the mine site in accordance with the minimum standards  
2249 adopted by the commission; or

2250 (ii) The exempted operation is conducted for  
2251 Mississippi Department of Transportation projects or state aid  
2252 road construction projects funded in whole or in part by public  
2253 funds.

2254 (3) Exempt operations under paragraph (e) that are conducted  
2255 for the MDOT projects or state aid road construction projects  
2256 shall be reclaimed in accordance with the requirements of the  
2257 Mississippi Standard Specifications for Road and Bridge  
2258 Construction, Mississippi Department of Transportation or Division  
2259 of State Aid Road Construction, as applicable. Any operator  
2260 failing to reclaim as required under this subsection may be  
2261 subject to the penalties provided in Section 53-7-59(2).

2262 (4) If a landowner refuses to allow the operator to complete  
2263 reclamation in accordance with minimum standards or interferes

2264 with or authorizes a third party to disturb or interfere with  
2265 reclamation in accordance with minimum standards, the landowner  
2266 shall assume the exempt notice and shall be responsible for any  
2267 reclamation.

2268 (5) All operations exempted under Sections 53-7-7(2)(d) and  
2269 53-7-7(2)(e) shall be subject to the prohibitions on mining in  
2270 certain areas contained in Sections 53-7-49 and 53-7-51 and may be  
2271 subject to the penalties in Section 53-7-59(2) for any violation  
2272 of those sections.

2273 (6) Any operator conducting operations exempted under  
2274 Section 53-7-7(2)(b) or 53-7-7(2)(e) failing to notify the  
2275 department in accordance with the regulations of the commission,  
2276 may be subject to penalties provided in Section 53-7-59(2). Any  
2277 operator exempted under Section 53-7-7(2)(e) who agrees in the  
2278 notification to reclaim and fails to reclaim in accordance with  
2279 that paragraph may be subject to penalties provided in Section  
2280 53-7-59(2).

2281 (7) The department shall collect from every operator granted  
2282 an exemption the amount of One Hundred Dollars (\$100.00) from any  
2283 operator whose mining operations are exempted under the authority  
2284 of this section. The department shall charge an annual monitoring  
2285 fee of One Hundred Dollars (\$100.00) to any exempted and  
2286 nonexempted operators to help defray the costs of monitoring  
2287 surface mining activity. All fees collected under this subsection  
2288 shall be deposited into the State General Fund.

2289 **SECTION 37.** Section 53-7-21, Mississippi Code of 1972, is  
2290 amended as follows:

2291 53-7-21. (1) Unless exempted under Section 53-7-7, no  
2292 operator shall engage in surface mining without having first  
2293 obtained coverage under a general permit or having obtained from  
2294 the Permit Board a permit for each operation. The permit or  
2295 coverage under a general permit shall authorize the operator to  
2296 engage in surface mining upon the area of land described in the

2297 application for a period of either five (5) years or longer period  
2298 of time as deemed appropriate by the Permit Board from the date of  
2299 issuance or until reclamation of the affected area is completed  
2300 and the reclamation bond is finally released, whichever comes  
2301 first.

2302 (2) Each operator holding a permit shall annually, before  
2303 the anniversary date of the permit, file with the department a  
2304 certificate of compliance in which the operator, under oath, shall  
2305 declare that the operator is following the approved mining and  
2306 reclamation plan and is abiding by this chapter and the rules and  
2307 regulations adopted under this chapter.

2308 (3) The department shall charge all permit holders an annual  
2309 permit monitoring fee of One Hundred Twenty-five Dollars  
2310 (\$125.00). All fees collected under this subsection shall be  
2311 deposited into the State General Fund.

2312 **SECTION 38.** Section 53-7-25, Mississippi Code of 1972, is  
2313 amended as follows:

2314 53-7-25. (1) Each application for a surface mining permit  
2315 and for coverage under a general permit shall be accompanied by an  
2316 application fee in accordance with a published fee schedule  
2317 adopted by the commission. The application fee shall not be less  
2318 than One Hundred Dollars (\$100.00) plus Ten Dollars (\$10.00) per  
2319 acre included in the application. The total application fee shall  
2320 not exceed Five Hundred Dollars (\$500.00). The commission, in  
2321 considering regulations on the fee schedule, shall recognize the  
2322 difference in the various materials, taking into consideration the  
2323 commercial value of the material and the nature and size of  
2324 operation necessary to extract it.

2325 (2) All state agencies, political subdivisions of the state,  
2326 and local governing bodies shall be exempt from all fees required  
2327 by this chapter.

2328           (3) Upon submission of the certificate of compliance  
2329 required under Section 53-7-21, each operator shall pay a fee of  
2330 Fifty Dollars (\$50.00).

2331           (4) In addition to the fees provided for in this section,  
2332 the department shall charge a fee of One Hundred Dollars (\$100.00)  
2333 for any permit issued and for the renewal of permits. All funds  
2334 collected under this subsection shall be deposited into the State  
2335 General Fund.

2336           **SECTION 39.** Section 53-7-27, Mississippi Code of 1972, is  
2337 amended as follows:

2338           53-7-27. (1) Before commencing any operation for which a  
2339 permit is required, each applicant for a permit shall submit to  
2340 the Permit Board an application, a proposed initial reclamation  
2341 plan and a performance bond in an amount proposed to be sufficient  
2342 by the applicant to reclaim the permit area.

2343           (2) The application shall be in the form prescribed by the  
2344 commission and shall contain the following information:

2345           (a) A legal description of the tract or tracts of land  
2346 in the affected area and one or more maps or plats of adequate  
2347 scale to clearly portray the location of the affected area. The  
2348 description shall contain sufficient information so that the  
2349 affected area may be located and distinguished from other lands  
2350 and shall identify the access from the nearest public road;

2351           (b) The approximate location and depth of the deposit  
2352 in the permit area and the total number of acres in the permit  
2353 area;

2354           (c) The name, address and management officers of the  
2355 permit applicant and any affiliated persons who shall be engaged  
2356 in the operations;

2357           (d) The name and address of any person holding legal  
2358 and equitable interests of record, if reasonably ascertainable, in  
2359 the surface estate of the permit area and in the surface estate of

2360 land located within five hundred (500) feet of the exterior limits  
2361 of the permit area;

2362 (e) The name and address of any person residing on the  
2363 property of the permit area at the time of application;

2364 (f) Current or previous surface mining permits held by  
2365 the applicant, including any revocations, suspensions or bond  
2366 forfeitures;

2367 (g) The type and method of operation, the engineering  
2368 techniques and the equipment that is proposed to be used,  
2369 including mining schedules, the nature and expected amount of  
2370 overburden to be removed, the depth of excavations, a description  
2371 of the permit area, the anticipated hydrologic consequences of the  
2372 mining operation, and the proposed use of explosives for blasting,  
2373 including the nature of the explosive, the proposed location of  
2374 the blasting and the expected effect of the blasting;

2375 (h) A notarized statement showing the applicant's legal  
2376 right to surface mine the affected area;

2377 (i) The names and locations of all lakes, rivers,  
2378 reservoirs, streams, creeks and other bodies of water in the  
2379 vicinity of the contemplated operations which may be affected by  
2380 the operations and the types of existing vegetative cover on the  
2381 area affected thereby and on adjoining lands within five hundred  
2382 (500) feet of the exterior limits of the affected area;

2383 (j) A topographical survey map showing the surface  
2384 drainage plan on and away from the permit area;

2385 (k) The surface location and extent of all existing and  
2386 proposed waste and spoil piles, cuts, pits, tailing dumps, ponds,  
2387 borrow pits, evaporation and settling basins, roads, buildings,  
2388 access ways, workings and installations sufficient to provide a  
2389 reasonably clear and accurate portrayal of the existing surface  
2390 conditions and the proposed mining operations;

2391 (l) If the surface and mineral estates, or any part of  
2392 those estates, in land covered by the application, have been

2393 severed and are owned by separate owners, the applicant shall  
2394 provide a notarized statement subscribed to by each surface owner  
2395 and lessee of those lands, unless the lease or other conveyance to  
2396 the applicant specifically states the material to be mined by the  
2397 operator granting consent for the applicant to initiate and  
2398 conduct surface mining, exploration and reclamation activities on  
2399 the land;

2400 (m) Except for governmental agencies, a certificate of  
2401 insurance certifying that the applicant has in force a public  
2402 liability insurance policy issued by an insurance company  
2403 authorized to conduct business in the State of Mississippi  
2404 covering all operations of the applicant in this state and  
2405 affording bodily injury protection and property damage protection  
2406 in an amount not less than the following:

2407 (i) One Hundred Thousand Dollars (\$100,000.00) for  
2408 all damages because of bodily injury sustained by one (1) person  
2409 as the result of any one (1) occurrence, and Three Hundred  
2410 Thousand Dollars (\$300,000.00) for all damages because of bodily  
2411 injury sustained by two (2) or more persons as the result of any  
2412 one (1) occurrence; \* \* \*

2413 (ii) One Hundred Thousand Dollars (\$100,000.00)  
2414 for all claims arising out of damage to property as the result of  
2415 any one (1) occurrence including completed operations; and

2416 (iii) In any case where the department releases  
2417 any permittee from the obligation of having the insurance or bond  
2418 required by this paragraph (m), the department shall charge the  
2419 permittee One Hundred Dollars (\$100.00). The fees collected under  
2420 this subparagraph (iii) shall be deposited into the State General  
2421 Fund.

2422 The policy shall be maintained in full force and effect  
2423 during the term of the permit, including the length of all  
2424 reclamation operations.



2425 (n) A copy of a proposed initial reclamation plan  
2426 prepared under Section 53-7-31; and

2427 (o) Any other information needed to clarify the  
2428 required parts of the application.

2429 **SECTION 40.** Section 53-7-69, Mississippi Code of 1972, is  
2430 amended as follows:

2431 53-7-69. (1) There is created in the State Treasury a fund  
2432 to be designated as the "Surface Mining and Reclamation Fund,"  
2433 referred to hereinafter as the "fund." There is created in the  
2434 fund an account designated as the "Land Reclamation Account" and  
2435 an account designated as the "Surface Mining Program Operations  
2436 Account."

2437 (2) The fund shall be treated as a special trust fund.  
2438 Interest earned on the principal therein shall be credited by the  
2439 Treasurer to the fund.

2440 (3) The fund may receive monies from any available public or  
2441 private sources, including, but not limited to, collection of  
2442 fees, interest, grants, taxes, public and private donations,  
2443 judicial actions, penalties and forfeited performance bonds. Any  
2444 monies received from penalties, forfeited performance bonds,  
2445 judicial actions and the interest thereon, less enforcement and  
2446 collection costs, shall be credited to the Land Reclamation  
2447 Account. Except as otherwise provided by law, any monies received  
2448 from the collection of fees, grants, taxes, public or private  
2449 donations and the interest thereon shall be credited to the  
2450 Surface Mining Program Operations Account.

2451 (4) The commission shall expend or utilize monies in the  
2452 fund by an annual appropriation by the Legislature as provided  
2453 herein. Monies in the Land Reclamation Account may be used to  
2454 defray any costs of reclamation of land affected by mining  
2455 operations. Monies in the Surface Mining Program Operations  
2456 Account may be used to defray the reasonable direct and indirect

2457 costs associated with the administration and enforcement of this  
2458 chapter.

2459 (5) Proceeds from the forfeiture of performance bonds or  
2460 deposits and penalties recovered shall be available to be expended  
2461 to reclaim, in accordance with this chapter, lands with respect to  
2462 which the performance bonds or deposits were provided and  
2463 penalties assessed. If the commission expends monies from the  
2464 fund for which the cost of reclamation exceeded the proceeds from  
2465 the forfeiture of performance bonds or deposits, the commission  
2466 may seek to recover any monies expended from the fund from any  
2467 responsible party.

2468 **SECTION 41.** Section 49-19-217, Mississippi Code of 1972, is  
2469 amended as follows:

2470 49-19-217. (1) If an eligible owner cannot provide his own  
2471 resources or procure a private vendor to implement any approved  
2472 practice, the commission, in its discretion, may act as vendor by  
2473 utilizing employees, equipment, materials and supplies of the  
2474 commission. In such event, the commission shall charge the  
2475 eligible owner a sum equal to the established rate of the  
2476 commission for providing such service. Payments for such charge  
2477 shall be collected, received, and recorded in the same manner as  
2478 other sales and services funds received by the commission.

2479 (2) In addition to any fee that may be charged under the  
2480 authority of this section or any other provision of law, the  
2481 commission shall charge a fee of One and Eight-tenths Cents  
2482 (1-8/10¢) for every seedling distributed to any person. The fees  
2483 collected under this subsection shall be deposited into the State  
2484 General Fund.

2485 **SECTION 42.** Section 55-3-33, Mississippi Code of 1972, is  
2486 amended as follows:

2487 55-3-33. (1) The Mississippi Department of Wildlife,  
2488 Fisheries and Parks shall have the power and authority, and it  
2489 shall be its duty to:

2490           (a) Take charge and have full jurisdiction and control  
2491 over all state parks, which parks shall be operated for the  
2492 purpose of providing outdoor recreational activities and enjoyment  
2493 for the citizens of the State of Mississippi and for the purpose  
2494 of attracting visitors to the state.

2495           (b) Set up a uniform accounting procedure for the state  
2496 parks and prescribe the manner in which books, records and  
2497 accounts shall be kept, which procedure shall account for all  
2498 moneys taken in and expended by the various parks and shall  
2499 provide for periodic audits of such books.

2500           (c) Accept gifts, bequests of money or other property,  
2501 real or personal, to be used for the purpose of advancing the  
2502 recreation and conservation interests in state parks. The  
2503 department is authorized, subject to approval by the State  
2504 Legislature, to purchase property, real or personal, to be used  
2505 for state park purposes.

2506           (d) Contract with the State Transportation Commission,  
2507 any municipality or board of supervisors of the state for  
2508 locating, constructing and maintaining roads and other  
2509 improvements in state parks and for payment of a part of the costs  
2510 thereof; however, no county or municipality more than twenty-five  
2511 (25) miles distant from a state park may contract for, or do, or  
2512 pay for any such work for a state park other than the  
2513 International Gardens of Mississippi. Any county or municipality  
2514 authorized to assist financially under the provisions of Sections  
2515 55-3-31 through 55-3-51 is authorized, in the discretion of its  
2516 respective governing authority, to set aside, appropriate and  
2517 expend moneys from the General Fund for the purpose of defraying  
2518 such expense after a mandatory election is held on the question  
2519 within the county or municipality.

2520           (e) Designate employees as peace officers with power to  
2521 make arrests for infraction of the rules and regulations of the  
2522 department. Such officers are authorized to carry weapons and to

2523 enforce the laws of the State of Mississippi within the confines  
2524 of a state park.

2525 (f) Enforce and delegate the responsibility to enforce  
2526 all reasonable rules and regulations governing the occupancy and  
2527 use of lands and waters in state parks under its jurisdiction,  
2528 supply recreational and conservation facilities and charge fees  
2529 for the use of same; review all rates and charges for facilities  
2530 and accommodations furnished at the various state parks annually,  
2531 making such charges as are justified; and establish fees for  
2532 entrance to state parks.

2533 Each park shall retain from revenues generated therein, a sum  
2534 sufficient to pay necessary expenses of operation, but in no event  
2535 to be less than seventy-five percent (75%) of such revenues.

2536 (2) The department shall have the authority to lease to any  
2537 entity, sell and convey or otherwise transfer to any county or  
2538 municipality, or close any state park or historical site within  
2539 its jurisdiction which received a General Fund subsidy in Fiscal  
2540 Year 1985 in excess of Two Dollars (\$2.00) per visitor to such  
2541 state park or historical site; \* \* \* however, \* \* \* this authority  
2542 shall not include the authority to sell, lease or convey any park  
2543 that was not in operation under the jurisdiction of the department  
2544 for a full fiscal year prior to fiscal year 1986.

2545 (3) The department may execute agreements with  
2546 rails-to-trails and recreational districts by which the department  
2547 will assume responsibility for the operation and maintenance of  
2548 trails developed under Sections 55-25-1 through 55-25-15.

2549 (4) In addition to any other fees the department charges for  
2550 admission to the parks, the department shall charge an additional  
2551 admission fee of Twenty-five Cents (25¢) upon each vehicle  
2552 entering any park operated by the department. The fees collected  
2553 under this subsection shall be deposited into the State General  
2554 Fund.

2555           **SECTION 43.** Section 45-35-7, Mississippi Code of 1972, is  
2556 amended as follows:

2557           45-35-7. (1) Except as provided in subsection (3) of this  
2558 section, each applicant for an original identification card issued  
2559 pursuant to this chapter who is entitled to issuance of such a  
2560 card shall be issued a four-year card. Each card shall expire at  
2561 midnight on the last day of the cardholder's birth month.

2562           (2) Except as provided in subsection (3) of this section,  
2563 all renewal identification cards shall be for four-year periods  
2564 and may be renewed any time during the birth month of the  
2565 cardholder upon application and payment of the required fee.

2566           (3) (a) Any applicant who is blind, as defined in Section  
2567 43-6-1, upon payment of the fee prescribed in this section, shall  
2568 be issued an original identification card which shall remain valid  
2569 for a period of ten (10) years. All renewal identification cards  
2570 issued to such persons shall also be valid for a period of ten  
2571 (10) years.

2572           (b) Any applicant who is not a United States citizen  
2573 and who does not possess a social security number issued by the  
2574 United States government, upon payment of the fee prescribed in  
2575 this section, shall be issued an original identification card  
2576 which shall remain valid for a period of one (1) year from date of  
2577 issuance. All renewal identification cards issued to such persons  
2578 shall also be valid for a period of one (1) year from date of  
2579 issuance.

2580           (4) A fee of Seventeen Dollars (\$17.00) shall be collected  
2581 for the issuance of an original or renewal identification card  
2582 plus the applicable photograph fee as provided in subsection (5)  
2583 of this section. The fee of Seventeen Dollars (\$17.00) shall be  
2584 deposited into the State General Fund. The photograph fee shall  
2585 be deposited into a special photograph fee account or the State  
2586 General Fund as provided under subsection (5) of this section.

2587           (5) The Commissioner of Public Safety, by rule or  
2588 regulation, shall establish an identification card photograph fee  
2589 which shall be the actual cost of the photograph rounded off to  
2590 the next highest dollar. Monies collected for the photograph fee  
2591 shall be deposited into a special photograph fee account which the  
2592 Department of Public Safety shall use to pay the actual cost of  
2593 producing the photographs. Any monies collected in excess of the  
2594 actual costs of the photography shall be deposited to the General  
2595 Fund of the State of Mississippi.

2596           (6) Any person who, for medical reasons, surrenders his  
2597 unexpired driver's license, and any person whose unexpired  
2598 driver's license is suspended for medical reasons by the  
2599 Commissioner of Public Safety under Section 63-1-53(e), may be  
2600 issued an identification card without payment of a fee. The  
2601 identification card shall be valid for a period of four (4) years  
2602 from its date of issue. All renewals of such card shall be  
2603 subject to the fees prescribed in subsections (4) and (5) of this  
2604 section.

2605           (7) The department shall maintain a record of all  
2606 identification cards issued, except for those cards cancelled,  
2607 surrendered or denied renewal.

2608           (8) (a) Any male who is at least eighteen (18) years of age  
2609 but less than twenty-six (26) years of age and who applies for an  
2610 identification card or a renewal of an identification card under  
2611 this chapter shall be registered in compliance with the  
2612 requirements of Section 3 of the Military Selective Service Act,  
2613 50 USCS Appx 451 et seq., as amended.

2614           (b) The department shall forward in an electronic  
2615 format the necessary personal information of the applicant to the  
2616 Selective Service System. The applicant's submission of the  
2617 application shall serve as an indication that the applicant either  
2618 has already registered with the Selective Service System or that  
2619 he is authorizing the department to forward to the Selective

2620 Service System the necessary information for registration. The  
2621 commissioner shall notify the applicant on, or as a part of, the  
2622 application that his submission of the application will serve as  
2623 his consent to registration with the Selective Service System, if  
2624 so required. The commissioner also shall notify any male  
2625 applicant under the age of eighteen (18) that he will be  
2626 registered upon turning age eighteen (18) as required by federal  
2627 law.

2628 **SECTION 44.** Section 45-35-9, Mississippi Code of 1972, is  
2629 brought forward as follows:

2630 45-35-9. (1) If an identification card issued under this  
2631 chapter is lost, destroyed or mutilated, or a new name is  
2632 required, the person to whom it was issued may obtain a duplicate  
2633 by furnishing satisfactory proof of such fact to the department.  
2634 The same identifying data shall be furnished for a duplicate as  
2635 for an original card. A fee of Three Dollars (\$3.00) plus the  
2636 applicable photograph fee shall be collected for the first  
2637 duplicate card issued and a fee of Eight Dollars (\$8.00) plus the  
2638 applicable photograph fee shall be collected for the second and  
2639 each subsequent duplicate copy. However, whenever a duplicate  
2640 copy of an identification card is issued only because a new name  
2641 is required and the previously issued identification card is  
2642 returned to the department, the fee for the issuance of such  
2643 duplicate shall be Three Dollars (\$3.00) plus the applicable  
2644 photograph fee, regardless of whether the duplicate is the first,  
2645 second or subsequent duplicate copy. All fees collected under  
2646 this section, except photograph fees, shall be deposited into the  
2647 State General Fund. Photograph fees collected under this section  
2648 shall be deposited into a special photograph fee account or into  
2649 the State General Fund in the same manner as photograph fees  
2650 collected from the issuance of drivers' licenses under Section  
2651 63-1-43.

2652           (2) Any person who loses an identification card and who,  
2653 after obtaining a duplicate, finds the original card shall  
2654 promptly surrender the original card to the department.

2655           **SECTION 45.** Section 63-1-43, Mississippi Code of 1972, is  
2656 amended as follows:

2657           63-1-43. (1) The fee for receiving the application and  
2658 issuing the regular driver's or operator's license and the fee for  
2659 renewing the license shall be:

2660                   (a) Twenty-four Dollars (\$24.00) plus the applicable  
2661 photograph fee for each applicant for a four-year license;

2662                   (b) Nine Dollars (\$9.00) plus the applicable photograph  
2663 fee for each applicant for a one-year license, except as provided  
2664 in paragraph (c) of this subsection; and

2665                   (c) Fourteen Dollars (\$14.00) plus the applicable  
2666 photograph fee for a one-year license for each applicant who is  
2667 not a United States citizen and who does not possess a social  
2668 security number issued by the United States government.

2669           All originals and renewals of regular operators' licenses  
2670 shall be in compliance with Section 63-1-47.

2671           (2) The fee for receiving the application and issuing a  
2672 motorcycle endorsement shall be Five Dollars (\$5.00). Motorcycle  
2673 endorsements shall be valid for the same period of time as the  
2674 applicant's operator's license.

2675           (3) The fee for receiving the application and issuing a  
2676 restricted motorcycle operator's license and the fee for renewing  
2677 such license shall be:

2678                   (a) Eleven Dollars (\$11.00) plus the applicable  
2679 photograph fee for a four-year license; and

2680                   (b) Eight Dollars (\$8.00) plus the applicable  
2681 photograph fee for a one (1) year license.

2682           All originals and renewals of restricted motorcycle licenses  
2683 shall be valid for the same period of time that an original



2684 regular driver's license may be issued to such person in  
2685 compliance with Section 63-1-47.

2686 (4) From and after January 1, 1990, every person who makes  
2687 application for an original license or a renewal license to  
2688 operate a vehicle as a common carrier by motor vehicle, taxicab,  
2689 passenger coach, dray, contract carrier or private commercial  
2690 carrier as such terms are defined in Section 27-19-3, except for  
2691 those vehicles for which a Class A, B or C license is required  
2692 under Article 2 of this chapter, shall, in lieu of the regular  
2693 driver's license above provided for, apply for and obtain a Class  
2694 D commercial driver's license. Except as otherwise provided in  
2695 subsection (5) of this section, the fee for the issuance of a  
2696 Class D commercial driver's license shall be Twenty-nine Dollars  
2697 (\$29.00) plus the applicable photograph fee for a period of four  
2698 (4) years; however, except as required under Article 2 of this  
2699 chapter, no driver of a pickup truck shall be required to have a  
2700 commercial license regardless of the purpose for which the pickup  
2701 truck is used.

2702 Except as otherwise provided in subsection (5) of this  
2703 section, all originals and renewals of commercial licenses issued  
2704 under this section shall be valid for a period of four (4) years,  
2705 in compliance with Section 63-1-47. Only persons who operate the  
2706 above-mentioned vehicles in the course of the regular and  
2707 customary business of the owner shall be required to obtain a  
2708 Class D commercial operator's license, and persons operating such  
2709 vehicles for private purposes or in emergencies shall not be  
2710 required to obtain such license.

2711 (5) The original and each renewal of a commercial driver's  
2712 license issued under this section to a person who is not a United  
2713 States citizen and who does not possess a social security number  
2714 issued by the United States government shall be issued for a  
2715 period of one (1) year for a fee of Eight Dollars (\$8.00) plus the  
2716 applicable photograph fee and shall expire one (1) year from the

2717 date of issuance. Such person may renew a commercial license  
2718 issued under this section within thirty (30) days of expiration of  
2719 the license.

2720 (6) The Commissioner of Public Safety, by rule or  
2721 regulation, shall establish a driver's license photograph fee  
2722 which shall be the actual cost of the photograph rounded off to  
2723 the next highest dollar. Monies collected for the photograph fee  
2724 shall be deposited into a special photograph fee account which the  
2725 Department of Public Safety shall use to pay the actual cost of  
2726 producing the photographs. Any monies collected in excess of the  
2727 actual costs of the photography shall be deposited to the General  
2728 Fund of the State of Mississippi.

2729 **SECTION 46.** Section 63-1-21, Mississippi Code of 1972, is  
2730 brought forward as follows:

2731 63-1-21. (1) Every applicant for a new or original driver's  
2732 or operator's license, except persons holding an out-of-state  
2733 license, shall first obtain a temporary driving permit upon the  
2734 payment of a fee of One Dollar (\$1.00) to the Department of Public  
2735 Safety and upon the successful completion of the examination  
2736 provided for in Section 63-1-33 and the payment of the fee for  
2737 such examination provided for in Section 63-1-43.

2738 (2) A temporary driving permit entitles the holder, provided  
2739 the permit is in his immediate possession, to drive a motor  
2740 vehicle other than a motorcycle on the highways of the State of  
2741 Mississippi only when accompanied by a licensed operator who is at  
2742 least twenty-one (21) years of age and who is actually occupying  
2743 the seat beside the driver. A temporary driving permit may be  
2744 issued to any applicant who is at least fifteen (15) years of age.  
2745 A temporary driving permit shall be valid for a period of one (1)  
2746 year from the date of issue.

2747 (3) An intermediate license allows unsupervised driving from  
2748 6:00 a.m. to 10:00 p.m. At all other times the intermediate  
2749 licensee must be supervised by a parent, guardian or other person

2750 age twenty-one (21) years or older who holds a valid driver's  
2751 license under this article and who is actually occupying the seat  
2752 beside the driver.

2753 (4) The fee for issuance of an intermediate license shall be  
2754 Five Dollars (\$5.00).

2755 Except as otherwise provided by Section 63-1-6, every  
2756 applicant for a restricted motorcycle operator's license or a  
2757 motorcycle endorsement shall first obtain a temporary motorcycle  
2758 driving permit upon the payment of a fee of One Dollar (\$1.00) to  
2759 the Department of Public Safety, and upon the successful  
2760 completion of the examination provided for in Section 63-1-33, and  
2761 payment of the fee for said examination provided for in Section  
2762 63-1-43. All applicants for such temporary permit shall (a) be at  
2763 least fifteen (15) years of age; (b) operate a motorcycle only  
2764 under the direct supervision of a person at least twenty-one (21)  
2765 years of age who possesses either a valid driver's or operator's  
2766 license with a motorcycle endorsement or a valid restricted  
2767 motorcycle operator's license; (c) be prohibited from transporting  
2768 a passenger on a motorcycle; (d) be prohibited from operating a  
2769 motorcycle upon any controlled access highway; and (e) be  
2770 prohibited from operating a motorcycle during the hours of 6:00  
2771 p.m. through 6:00 a.m. Temporary motorcycle driving permits shall  
2772 be valid for the same period of time and may be renewed upon the  
2773 same conditions as temporary driving permits issued for vehicles  
2774 other than motorcycles.

2775 **SECTION 47.** Section 63-1-37, Mississippi Code of 1972, is  
2776 brought forward as follows:

2777 63-1-37. In the event that a license or temporary driving  
2778 permit issued under the provisions of this article is lost or  
2779 destroyed, the licensee shall obtain from the commissioner a  
2780 duplicate copy thereof and shall pay a fee in the amount of Three  
2781 Dollars (\$3.00) plus the applicable photograph fee for the first  
2782 duplicate copy and a fee in the amount of Eight Dollars (\$8.00)

2783 plus the applicable photograph fee for the second and each  
2784 subsequent duplicate copy. The license or permit shall be marked  
2785 "Duplicate."

2786 All fees collected under this section, except photograph  
2787 fees, shall be deposited into the State General Fund. Photograph  
2788 fees collected under this section shall be deposited pursuant to  
2789 the provisions of Section 63-1-43.

2790 **SECTION 48.** Section 63-1-46, Mississippi Code of 1972, is  
2791 brought forward as follows:

2792 63-1-46. (1) A fee of Twenty-five Dollars (\$25.00) shall be  
2793 charged for the reinstatement of a license issued pursuant to this  
2794 article to every person whose license has been validly suspended,  
2795 revoked or cancelled. This fee shall be in addition to the fee  
2796 provided for in Section 63-1-43, Mississippi Code of 1972.

2797 (2) The funds received under the provisions of subsection  
2798 (1) of this section shall be deposited into the State General Fund  
2799 in accordance with Section 45-1-23, Mississippi Code of 1972.

2800 (3) In addition to the fee provided for in subsection (1) of  
2801 this section, an additional fee of Seventy-five Dollars (\$75.00)  
2802 shall be charged for the reinstatement of a license issued  
2803 pursuant to this article to every person whose license has been  
2804 suspended or revoked under the provisions of the Mississippi  
2805 Implied Consent Law or as a result of a conviction of a violation  
2806 of the Uniform Controlled Substances Law under the provisions of  
2807 Section 63-1-71.

2808 (4) The funds received under the provisions of subsection  
2809 (3) of this section shall be placed in a special fund hereby  
2810 created in the State Treasury. Monies in such special fund may be  
2811 expended solely to contribute to the Disability and Relief Fund  
2812 for members of the Mississippi Highway Safety Patrol such amounts  
2813 as are necessary to make sworn agents of the Mississippi Bureau of  
2814 Narcotics who were employed by such bureau prior to December 1,  
2815 1990, and who were subsequently employed as enforcement troopers

2816 by the Department of Public Safety, full members of the retirement  
2817 system for the Mississippi Highway Safety Patrol with full credit  
2818 for the time they were employed as sworn agents for the  
2819 Mississippi Bureau of Narcotics. The Board of Trustees of the  
2820 Public Employees' Retirement System shall certify to the State  
2821 Treasurer the amounts necessary for the purposes described above.  
2822 The State Treasurer shall monthly transfer from the special fund  
2823 created pursuant to this subsection the amounts deposited in such  
2824 special fund to the Disability and Relief Fund for members of the  
2825 Mississippi Highway Safety Patrol until such time as the certified  
2826 amount has been transferred. At such time as the certified amount  
2827 has been transferred, the State Treasurer shall transfer any funds  
2828 remaining in the special fund created pursuant to this subsection  
2829 to the State General Fund and shall then dissolve such special  
2830 fund. This subsection (4) shall stand repealed at such time when  
2831 the State Treasurer transfers funds and dissolves the special fund  
2832 account in accordance with the provisions of this subsection.

2833 (5) The procedure for the reinstatement of a license issued  
2834 pursuant to this article that has been suspended for being out of  
2835 compliance with an order for support, as defined in Section  
2836 93-11-153, and the payment of any fees for the reinstatement of a  
2837 license suspended for that purpose, shall be governed by Section  
2838 93-11-157 or 93-11-163, as the case may be.

2839 **SECTION 49.** Section 63-1-81, Mississippi Code of 1972, is  
2840 brought forward as follows:

2841 63-1-81. (1) Each application for a commercial driver's  
2842 license or commercial driver instruction permit shall include the  
2843 following:

2844 (a) The full name and the current mailing and  
2845 residential address of the applicant;

2846 (b) A physical description of the applicant, including  
2847 sex, height, weight, eye and hair color;

2848 (c) The applicant's date of birth;

2849 (d) The applicant's social security number unless the  
2850 application is for a nonresident commercial driver's license;

2851 (e) The applicant's signature;

2852 (f) The applicant's color photograph;

2853 (g) All certifications required by applicable federal  
2854 regulations;

2855 (h) Any other information which the Commissioner of  
2856 Public Safety, by rule or regulation, determines necessary and  
2857 essential; and

2858 (i) The consent of the applicant to release driving  
2859 record information.

2860 (2) The fee for accepting and processing an application for  
2861 a commercial driver instruction permit shall be Ten Dollars  
2862 (\$10.00).

2863 (3) The fee for accepting and processing an application for  
2864 a Class A, B or C commercial driver's license shall be Twenty-five  
2865 Dollars (\$25.00).

2866 (4) No person who has been a resident of this state for  
2867 thirty (30) days may drive a commercial motor vehicle under the  
2868 authority of a commercial driver's license issued by another  
2869 jurisdiction. Any violation of this subsection shall be  
2870 punishable as provided by Section 63-1-69, Mississippi Code of  
2871 1972.

2872 (5) Any person who knowingly falsifies information or  
2873 certifications required under subsection (1) of this section shall  
2874 be subject to the penalties prescribed in Section 63-1-59,  
2875 Mississippi Code of 1972, and shall be subject to suspension of  
2876 his commercial driver instruction permit or commercial driver's  
2877 license in accordance with Section 63-1-51, Mississippi Code of  
2878 1972.

2879 (6) Each application or filing made under this section shall  
2880 include the social security number(s) of the applicant in  
2881 accordance with Section 93-11-64, Mississippi Code of 1972.

2882           (7) (a) Any male who is at least eighteen (18) years of age  
2883 but less than twenty-six (26) years of age and who applies for a  
2884 commercial license or renewal of a commercial license under this  
2885 article shall be registered in compliance with the requirements of  
2886 Section 3 of the Military Selective Service Act, 50 USCS Appx 451  
2887 et seq., as amended.

2888           (b) The department shall forward in an electronic  
2889 format the necessary personal information of the applicant to the  
2890 Selective Service System. The applicant's submission of the  
2891 application shall serve as an indication that the applicant either  
2892 has already registered with the Selective Service System or that  
2893 he is authorizing the department to forward to the Selective  
2894 Service System the necessary information for registration. The  
2895 commissioner shall notify the applicant on, or as a part of, the  
2896 application that his submission of the application will serve as  
2897 his consent to registration with the Selective Service System, if  
2898 so required. The commissioner also shall notify any male  
2899 applicant under the age of eighteen (18) that he will be  
2900 registered upon turning age eighteen (18) as required by federal  
2901 law.

2902           **SECTION 50.** Section 63-1-82, Mississippi Code of 1972, is  
2903 brought forward as follows:

2904           63-1-82. (1) Each commercial driver's license shall be  
2905 marked "Commercial Driver's License" or "CDL" and shall, to the  
2906 maximum extent practicable, be tamper proof. Each such license  
2907 shall include thereon, but not be limited to, the following  
2908 information:

2909                   (a) The name and residential address of the licensee;

2910                   (b) The licensee's color photograph;

2911                   (c) A physical description of the licensee, including  
2912 his sex, height, weight, eye and hair color;

2913                   (d) The licensee's date of birth;

2914           (e) Except for a nonresident commercial driver's  
2915 license, the licensee's social security number; and any other  
2916 identifying information which the Commissioner of Public Safety,  
2917 by rule or regulation, determines necessary and essential for the  
2918 purposes of complying with the provisions of this article;

2919           (f) The licensee's signature;

2920           (g) The class or type of commercial motor vehicle or  
2921 vehicles which the licensee is authorized to drive together with  
2922 any endorsements or restrictions;

2923           (h) The name of this state; and

2924           (i) The dates between which the license is valid.

2925       (2) The holder of a valid commercial driver's license may  
2926 drive all vehicles in the class for which that license is issued  
2927 and all lesser classes of vehicles, including any vehicle for  
2928 which an operator's license or commercial driver's license issued  
2929 under Article 1 of this chapter authorizes a person to drive.  
2930 However, vehicles which require an endorsement may not be driven  
2931 unless the proper endorsement appears on the license.

2932       (3) Commercial driver's licenses may be issued with the  
2933 following classifications:

2934           (a) Class A. Any combination of vehicles with a gross  
2935 vehicle weight rating of twenty-six thousand one (26,001) pounds  
2936 or more, provided the gross vehicle weight rating of the vehicle  
2937 or vehicles being towed is in excess of ten thousand (10,000)  
2938 pounds;

2939           (b) Class B. Any single vehicle with a gross vehicle  
2940 weight rating of twenty-six thousand one (26,001) pounds or more,  
2941 and any such vehicle towing a vehicle not in excess of ten  
2942 thousand (10,000) pounds;

2943           (c) Class C. Any single vehicle with a gross vehicle  
2944 weight rating of less than twenty-six thousand one (26,001) pounds  
2945 or any such vehicle towing a vehicle with a gross vehicle weight  
2946 rating not in excess of ten thousand (10,000) pounds comprising:



2947 (i) Vehicles designed to transport sixteen (16) or  
2948 more passengers, including the driver; and

2949 (ii) Vehicles used in the transportation of  
2950 hazardous materials which are required to be placarded under the  
2951 Hazardous Materials Transportation Act, 49 USCS Appx., Section  
2952 1801 et seq.; and

2953 (d) Class D. All other vehicles or combination of  
2954 vehicles which are not included in Class A, Class B or Class C and  
2955 for which a commercial license is required to be issued as  
2956 provided by Section 63-1-43, Mississippi Code of 1972.

2957 (4) Commercial driver's licenses may be issued with the  
2958 following endorsements and restrictions:

2959 (a) "H" authorizes the driver to drive a vehicle  
2960 transporting hazardous materials;

2961 (b) "K" restricts the driver to vehicles not equipped  
2962 with air brakes;

2963 (c) "T" authorizes driving double and triple trailers;

2964 (d) "P" authorizes driving vehicles carrying  
2965 passengers;

2966 (e) "N" authorizes driving tank vehicles;

2967 (f) "X" represents a combination of hazardous materials  
2968 and tank vehicle endorsements;

2969 (g) "S" restricts the driver to school buses being  
2970 operated for the purpose of transporting pupils to and from school  
2971 or to school-related functions and/or to all other vehicles not  
2972 requiring a commercial driver's license; and

2973 (h) "I" restricts driving which requires a commercial  
2974 license to intrastate driving only.

2975 (5) Before issuing a commercial driver's license, the  
2976 Commissioner of Public Safety shall obtain driving record  
2977 information through the Commercial Driver License Information  
2978 System.

2979           (6) Within ten (10) days after issuing a commercial driver's  
2980 license, the Commissioner of Public Safety shall notify the  
2981 Commercial Driver License Information System of that fact,  
2982 providing all information required to ensure identification of the  
2983 person.

2984           (7) The fee charged for the issuance of each original and  
2985 each renewal of a Class A, B or C commercial driver's license  
2986 shall be Thirty-eight Dollars (\$38.00) plus the applicable  
2987 photograph fee. In addition, a fee of Five Dollars (\$5.00) shall  
2988 be charged for each endorsement or restriction entered on a  
2989 commercial driver's license under subsection (4) of this section.  
2990 However, the fee charged for each original and renewal of a  
2991 commercial driver's license with an "S" restriction shall be the  
2992 same as the fee for a Class D commercial driver's license in  
2993 addition to all application fees.

2994           (8) If a commercial driver instruction permit or commercial  
2995 driver's license is lost or destroyed, or if the holder of a  
2996 commercial driver's license changes his name, mailing address or  
2997 residence, an application for a duplicate permit or license shall  
2998 be made as provided by Section 63-1-37, Mississippi Code of 1972.

2999           (9) All commercial driver's licenses issued under the  
3000 provisions of this article shall be issued for a period of not  
3001 more than four (4) years and shall expire at midnight on the last  
3002 day of the licensee's month of birth.

3003           (10) Every person applying for renewal of a commercial  
3004 driver's license shall complete the application form required by  
3005 Section 63-1-81, Mississippi Code of 1972, providing updated  
3006 information and required certifications and paying the appropriate  
3007 fees. If the applicant wishes to retain a hazardous materials  
3008 endorsement, the written test for a hazardous materials  
3009 endorsement must be taken and passed.

3010           (11) The Commissioner of Public Safety, by rule or  
3011 regulation, shall establish a driver's license photograph fee

3012 which shall be the actual cost of the photograph rounded off to  
3013 the next highest dollar. Monies collected for the photograph fee  
3014 shall be deposited into a special photograph fee account which the  
3015 Department of Public Safety shall use to pay the actual cost of  
3016 producing the photographs. Any monies collected in excess of the  
3017 actual costs of the photography shall be deposited to the General  
3018 Fund of the State of Mississippi.

3019 **SECTION 51.** Section 63-15-4, Mississippi Code of 1972, is  
3020 amended as follows:

3021 63-15-4. (1) The following vehicles are exempted from the  
3022 requirements of this section:

3023 (a) Vehicles exempted by Section 63-15-5;

3024 (b) Vehicles for which a bond or a certificate of  
3025 deposit of money or securities in at least the minimum amounts  
3026 required for proof of financial responsibility is on file with the  
3027 department;

3028 (c) Vehicles that are self-insured under Section  
3029 63-15-53; and

3030 (d) Implements of husbandry.

3031 (2) (a) Every motor vehicle operated in this state shall  
3032 have an insurance card maintained in the vehicle as proof of  
3033 liability insurance that is in compliance with the liability  
3034 limits required by Section 63-15-3(j). The insured parties shall  
3035 be responsible for maintaining the insurance card in each vehicle.

3036 (b) An insurance company issuing a policy of motor  
3037 vehicle liability insurance as required by this section shall  
3038 furnish to the insured an insurance card for each vehicle at the  
3039 time the insurance policy becomes effective.

3040 (3) Upon stopping a motor vehicle for any other statutory  
3041 violation, a law enforcement officer, who is authorized to issue  
3042 traffic citations, shall verify that the insurance card required  
3043 by this section is in the motor vehicle. However, no driver shall

3044 be stopped or detained solely for the purpose of verifying that an  
3045 insurance card is in the motor vehicle.

3046 (4) Failure of the owner or the operator of a motor vehicle  
3047 to have the insurance card in the motor vehicle is a misdemeanor  
3048 and, upon conviction, is punishable by a fine of One Thousand  
3049 Dollars (\$1,000.00) and suspension of driving privilege for a  
3050 period of one (1) year or until the owner of the motor vehicle  
3051 shows proof of liability insurance that is in compliance with the  
3052 liability limits required by Section 63-15-3(j). Fraudulent use  
3053 of an insurance card shall be punishable in accordance with  
3054 Section 97-7-10. In addition to the fine imposed by this section,  
3055 there is imposed and shall be collected a state assessment in the  
3056 amount of Two Hundred Fifty Dollars (\$250.00) from each person  
3057 upon whom the court imposes a fine under this section. The funds  
3058 from such fines and assessments shall be deposited in the State  
3059 General Fund in the State Treasury.

3060 (5) If, at the hearing date or the date of payment of the  
3061 fine, the motor vehicle owner shows proof of motor vehicle  
3062 liability insurance in the amounts required by Section 63-15-3(j),  
3063 the fine shall be reduced to One Hundred Dollars (\$100.00). If  
3064 the owner shows proof that such insurance was in effect at the  
3065 time of citation, the fine of One Hundred Dollars (\$100.00) and  
3066 court costs shall be waived. However, the reduction or waiver of  
3067 the fine under the provision of this subsection shall not affect  
3068 the imposition or collection of the state assessment under  
3069 subsection (4) of this section, which shall remain collectable in  
3070 full from the motor vehicle owner.

3071 **SECTION 52.** Section 63-21-63, Mississippi Code of 1972, is  
3072 amended as follows:

3073 63-21-63. There shall be paid to the State Tax Commission  
3074 for issuing and processing documents required by this chapter,  
3075 fees according to the following schedule:

3076 (1) Each application for certificate of title... \$14.00

3077	(2) Each application for replacement or	
3078	corrected certificate of title.....	<u>14.00</u>
3079	(3) Each suspension or revocation of	
3080	certificate of title.....	<u>14.00</u>
3081	(4) Each notice of security interest.....	<u>14.00</u>
3082	(5) Each release of security interest.....	<u>14.00</u>
3083	(6) Each assignment by lienholder.....	<u>14.00</u>
3084	(7) Each application for information as to	
3085	the status of the title of a vehicle.....	<u>14.00</u>

3086 The designated agent may add the sum of One Dollar (\$1.00) to  
3087 each document processed for which a fee is charged to be retained  
3088 as his commission for services rendered. All other fees collected  
3089 shall be remitted to the State Tax Commission.

3090 If more than one (1) transaction be involved in any  
3091 application on a single vehicle and if supported by all required  
3092 documents, the fee charged by the State Tax Commission and by the  
3093 designated agent for processing and issuing shall be considered as  
3094 only one (1) transaction.

3095 **SECTION 53.** The following shall be codified as Section  
3096 7-3-30, Mississippi Code of 1972:

3097 7-3-30. The Secretary of State shall provide for the annual  
3098 publication of a Judiciary Directory and Court Calendar, which  
3099 shall be made available for sale for not less than Two Dollars and  
3100 Fifty Cents (\$2.50) per copy, plus the actual cost of shipping and  
3101 handling. The Secretary of State shall pay the proceeds of those  
3102 sales into the State General Fund.

3103 **SECTION 54.** Section 25-7-81, Mississippi Code of 1972, is  
3104 amended as follows:

3105 25-7-81. (1) The Secretary of State shall charge the  
3106 following fees:

3107 (a) For every commission issued by him to persons  
3108 appointed by the Governor as a commissioner of this state in any

3109 other state, territory, or district of the United States, or in  
3110 any foreign country..... \$10.00

3111 (b) For recording charter of a corporation for  
3112 literary, religious, benevolent, fraternal, or scientific  
3113 purposes, and not for pecuniary profits, directly or  
3114 indirectly..... 20.00

3115 (c) For commission of each notary public..... 25.00

3116 (d) For commission of each commissioner of  
3117 deeds..... 10.00

3118 (2) In addition to the fees charged under subsection (1)(c)  
3119 of this section, the Secretary of State shall charge a fee of Ten  
3120 Dollars (\$10.00) for the commissioning of notaries public, which  
3121 shall be deposited into the State General Fund.

3122 **SECTION 55.** Section 79-4-1.22, Mississippi Code of 1972, is  
3123 amended as follows:

3124 79-4-1.22. (a) The Secretary of State shall collect the  
3125 following fees when the documents described in this subsection are  
3126 delivered to him for filing:

Document	Fee
(1) Articles of incorporation.....	\$50.00
(2) Application for use of indistinguishable name.....	5.00
(3) Application for reserved name.....	25.00
(4) Notice of transfer of reserved name.....	25.00
(5) Application for registered name.....	50.00
(6) Application for renewal of registered name.....	50.00
(7) Corporation's statement of change of registered agent or registered office or both.....	10.00
(8) Agent's statement of change of registered office for each affected corporation.....	10.00
not to exceed a total of.....	1,000.00

3142	(9)	Agent's statement of resignation.....	No fee
3143	(10)	Amendment of articles of incorporation...	50.00
3144	(11)	Restatement of articles of incorporation.	50.00
3145		with amendment of articles.....	50.00
3146	(12)	Articles of merger or share exchange.....	50.00
3147	(13)	Articles of dissolution.....	25.00
3148	(14)	Articles of revocation of dissolution....	25.00
3149	(15)	Certificate of administrative dissolution	No fee
3150	(16)	Application for reinstatement following	
3151		administrative dissolution.....	50.00
3152	(17)	Certificate of reinstatement.....	No fee
3153	(18)	Certificate of judicial dissolution.....	No fee
3154	(19)	Application for certificate of authority.	500.00
3155	(20)	Application for amended certificate of	
3156		authority.....	50.00
3157	(21)	Application for certificate of withdrawal	125.00
3158	(22)	Certificate of revocation of authority to	
3159		transact business.....	No fee
3160	(23)	Application for reinstatement following	
3161		administrative revocation.....	100.00
3162	(24)	Certificate of reinstatement.....	No fee
3163	(25)	Annual report.....	25.00
3164	(26)	Articles of correction.....	50.00
3165	(27)	Application for certificate of existence	
3166		or authorization.....	25.00
3167	(28)	Any other document required or permitted	
3168		to be filed by Section 79-4-1.01 et seq...	25.00

3169 (b) The Secretary of State shall collect a fee of  
3170 Twenty-five Dollars (\$25.00) each time process is served on him  
3171 under Section 79-4-1.01 et seq. The party to a proceeding causing  
3172 service of process is entitled to recover this fee as costs if he  
3173 prevails in the proceeding.

3174 (c) The Secretary of State shall collect the following fees  
3175 for copying and certifying the copy of any filed document relating  
3176 to a domestic or foreign corporation:

3177 (1) One Dollar (\$1.00) a page for copying; and

3178 (2) Ten Dollars (\$10.00) for the certificate.

3179 (d) The Secretary of State may collect a filing fee greater  
3180 than the fee set out herein, not to exceed the actual costs of  
3181 processing such filing, if the form for such filing prescribed by  
3182 the Secretary of State has not been used.

3183 (e) In addition to any other fees charged under this  
3184 section, the Secretary of State shall charge the following fees:

3185 (1) Articles of incorporation..... \$25.00

3186 (2) Agent's statement of resignation..... \$25.00

3187 (3) Annual report..... \$25.00

3188 The fees collected under this subsection (e) shall be  
3189 deposited into the State General Fund.

3190 **SECTION 56.** Section 75-9-525, Mississippi Code of 1972, is  
3191 amended as follows:

3192 **[Until December 31, 2007, this section shall read as**  
3193 **follows:]**

3194 75-9-525. (a) Except as otherwise provided in subsection  
3195 (e), the fee for filing and indexing a record under this part,  
3196 other than an initial financing statement of the kind described in  
3197 subsection (b) is the amount specified in subsection (c), if  
3198 applicable, plus:

3199 (1) Ten Dollars (\$10.00) if the record is communicated  
3200 in writing and is in the standard form prescribed by the Secretary  
3201 of State;

3202 (2) Thirteen Dollars (\$13.00) if the record is  
3203 communicated in writing and is not in the standard form prescribed  
3204 by the Secretary of State; and

3205 (3) Eight Dollars (\$8.00) if the record is communicated  
3206 by another medium authorized by filing-office rule.



3207       In addition to the fees charged in paragraphs (1), (2) and  
3208 (3) of this subsection (a), a fee of Ten Dollars (\$10.00) shall be  
3209 charged on all transactions described in paragraphs (1) and (2),  
3210 and a fee of Eight Dollars (\$8.00) shall be charged on all  
3211 transactions described in paragraph (3). The fees collected under  
3212 this paragraph shall be deposited into the State General Fund.

3213       (b) Except as otherwise provided in subsection (e), the fee  
3214 for filing and indexing an initial financing statement of the  
3215 following kind is the amount specified in subsection (c), if  
3216 applicable, plus:

3217           (1) Thirteen Dollars (\$13.00) if the financing  
3218 statement indicates that it is filed in connection with a  
3219 public-finance transaction;

3220           (2) Ten Dollars (\$10.00) if the financing statement  
3221 indicates that it is filed in connection with a manufactured-home  
3222 transaction.

3223       In addition to the fees charged in paragraphs (1) and (2) of  
3224 this subsection (b), a fee of Ten Dollars (\$10.00) shall be  
3225 charged on all transactions described in paragraphs (1) and (2) of  
3226 this subsection (b). The fees collected under this paragraph  
3227 shall be deposited into the State General Fund.

3228       (c) Except as otherwise provided in subsection (e), if a  
3229 record is communicated in writing, the fee for each additional  
3230 debtor name more than one (1) required to be indexed is Four  
3231 Dollars (\$4.00).

3232       In addition to the fee charged in this subsection (c), a fee  
3233 of Sixteen Dollars (\$16.00) shall be charged on all transactions  
3234 described in this subsection. The fees collected under this  
3235 paragraph shall be deposited into the State General Fund.

3236       (d) The fee for responding to a request for information from  
3237 the filing office, including for issuing a certificate showing  
3238 whether there is on file any financing statement naming a  
3239 particular debtor, is:

3240 (1) Five Dollars (\$5.00) if the request is communicated  
3241 in writing on the standard form prescribed by the Secretary of  
3242 State;

3243 (2) Ten Dollars (\$10.00) if the request is communicated  
3244 in writing and is not in the standard form prescribed by the  
3245 Secretary of State;

3246 (3) Three Dollars (\$3.00) if the request is  
3247 communicated by another medium authorized by filing-office rule;  
3248 and

3249 (4) An additional fee of Two Dollars (\$2.00) shall be  
3250 paid by the requesting party for each financing statement listed  
3251 on the filing officer's certificate, the aggregate of which shall  
3252 be billed to the requesting party at the time the filing officer's  
3253 certificate is issued.

3254 (e) This section does not require a fee to the chancery  
3255 clerk with respect to a record of a mortgage which is effective as  
3256 a financing statement filed as a fixture filing or as a financing  
3257 statement covering as-extracted collateral or timber to be cut  
3258 under Section 75-9-502(c). However, the recording and  
3259 satisfaction fees to the chancery clerk that otherwise would be  
3260 applicable under Section 25-7-9 to the record of the mortgage  
3261 apply.

3262 **[From and after December 31, 2007, this section shall read as**  
3263 **follows:]**

3264 75-9-525. (a) Except as otherwise provided in subsection  
3265 (e), the fee for filing and indexing a record under this part,  
3266 other than an initial financing statement of the kind described in  
3267 subsection (b) is the amount specified in subsection (c), if  
3268 applicable, plus:

3269 (1) Five Dollars (\$5.00) if the record is communicated  
3270 in writing and is in the standard form prescribed by the Secretary  
3271 of State;

3272           (2) Eight Dollars (\$8.00) if the record is communicated  
3273 in writing and is not in the standard form prescribed by the  
3274 Secretary of State; and

3275           (3) Three Dollars (\$3.00) if the record is communicated  
3276 by another medium authorized by filing-office rule.

3277           In addition to the fees charged in paragraphs (1), (2) and  
3278 (3) of this subsection (a), a fee of Ten Dollars (\$10.00) shall be  
3279 charged on all transactions described in paragraphs (1) and (2),  
3280 and a fee of Eight Dollars (\$8.00) shall be charged on all  
3281 transactions described in paragraph (3). The fees collected under  
3282 this paragraph shall be deposited into the State General Fund.

3283           (b) Except as otherwise provided in subsection (e), the fee  
3284 for filing and indexing an initial financing statement of the  
3285 following kind is the amount specified in subsection (c), if  
3286 applicable, plus:

3287           (1) Eight Dollars (\$8.00) if the financing statement  
3288 indicates that it is filed in connection with a public-finance  
3289 transaction;

3290           (2) Five Dollars (\$5.00) if the financing statement  
3291 indicates that it is filed in connection with a manufactured-home  
3292 transaction.

3293           In addition to the fees charged in paragraphs (1) and (2) of  
3294 this subsection (b), a fee of Ten Dollars (\$10.00) shall be  
3295 charged on all transactions described in paragraphs (1) and (2) of  
3296 this subsection (b). The fees collected under this paragraph  
3297 shall be deposited into the State General Fund.

3298           (c) Except as otherwise provided in subsection (e), if a  
3299 record is communicated in writing, the fee for each additional  
3300 debtor name more than one (1) required to be indexed is Four  
3301 Dollars (\$4.00).

3302           In addition to the fee charged in this subsection (c), a fee  
3303 of Sixteen Dollars (\$16.00) shall be charged on all transactions

3304 described in this subsection. The fees collected under this  
3305 paragraph shall be deposited into the State General Fund.

3306 (d) The fee for responding to a request for information from  
3307 the filing office, including for issuing a certificate showing  
3308 whether there is on file any financing statement naming a  
3309 particular debtor, is:

3310 (1) Five Dollars (\$5.00) if the request is communicated  
3311 in writing on the standard form prescribed by the Secretary of  
3312 State;

3313 (2) Ten Dollars (\$10.00) if the request is communicated  
3314 in writing and is not in the standard form prescribed by the  
3315 Secretary of State;

3316 (3) Three Dollars (\$3.00) if the request is  
3317 communicated by another medium authorized by filing-office rule;  
3318 and

3319 (4) An additional fee of Two Dollars (\$2.00) shall be  
3320 paid by the requesting party for each financing statement listed  
3321 on the filing officer's certificate, the aggregate of which shall  
3322 be billed to the requesting party at the time the filing officer's  
3323 certificate is issued.

3324 (e) This section does not require a fee to the chancery  
3325 clerk with respect to a record of a mortgage which is effective as  
3326 a financing statement filed as a fixture filing or as a financing  
3327 statement covering as-extracted collateral or timber to be cut  
3328 under Section 75-9-502(c). However, the recording and  
3329 satisfaction fees to the chancery clerk that otherwise would be  
3330 applicable under Section 25-7-9 to the record of the mortgage  
3331 apply.

3332 **SECTION 57.** Section 75-63-65, Mississippi Code of 1972, is  
3333 amended as follows:

3334 75-63-65. (1) Any establishment or organization which  
3335 engages in the business of selling pre-need merchandise and/or  
3336 services shall register with the Secretary of State and shall pay

3337 a registration fee. A separate registration is required for each  
3338 separate corporation or business entity. The establishment or  
3339 organization shall pay to the Secretary of State for the  
3340 registration of the main establishment or organization a fee of  
3341 Two Hundred Fifty Dollars (\$250.00).

3342 (2) Any person who engages in the business of selling  
3343 pre-need contracts shall register with the Secretary of State.

3344 (3) The Secretary of State shall establish regulations to  
3345 register each establishment or organization selling pre-need  
3346 merchandise or services. No establishment or organization shall  
3347 be registered to sell pre-need merchandise or services that the  
3348 establishment or organization cannot lawfully provide at the time  
3349 of a person's death. The Secretary of State shall also maintain a  
3350 record of all individuals who are registered to sell pre-need  
3351 merchandise or services through the registered establishment.

3352 (4) The Secretary of State shall establish regulations to  
3353 register each person selling pre-need contracts, including the  
3354 establishment through which the seller will be selling. No person  
3355 shall be registered to sell pre-need contracts without indicating  
3356 the establishment for which he or she is selling.

3357 (5) The Secretary of State shall develop and furnish the  
3358 forms necessary for the registration of establishments and  
3359 individuals selling pre-need contracts.

3360 (6) The Secretary of State shall charge the following fees  
3361 under this article:

3362	<u>(a) Renewal of registration for establishments and</u>	
3363	<u>organizations.....</u>	<u>\$250.00</u>
3364	<u>(b) Registration of agents.....</u>	<u>\$100.00</u>
3365	<u>(c) Renewal of registration for agents.....</u>	<u>\$100.00</u>
3366	<u>(d) Filing of sales reports.....</u>	<u>\$ 50.00</u>

3367 The fees collected under this subsection shall be deposited  
3368 into the State General Fund.



3402	(a) Articles of incorporation.....	\$50.00
3403	(b) Application for use of indistinguishable name	
3404	.....	25.00
3405	(c) Application for reserved name.....	25.00
3406	(d) Notice of transfer of reserved name.....	25.00
3407	(e) Application for registered name.....	50.00
3408	(f) Application for renewal of registered name	50.00
3409	(g) Corporation's statement of change of registered	
3410	agent or registered office or both.....	10.00
3411	(h) Agent's statement of change of registered office	
3412	for each affected corporation.....	10.00
3413	not to exceed a total of.....	1,000.00
3414	(i) Agent's statement of resignation.....	No Fee
3415	(j) Amendment of articles of incorporation....	50.00
3416	(k) Restatement of articles of incorporation with	
3417	amendments.....	50.00
3418	(l) Articles of merger.....	50.00
3419	(m) Articles of dissolution.....	25.00
3420	(n) Articles of revocation of dissolution.....	25.00
3421	(o) Certificate of administrative dissolution.	No Fee
3422	(p) Application for reinstatement following	
3423	administrative dissolution.....	50.00
3424	(q) Certificate of reinstatement.....	No Fee
3425	(r) Certificate of judicial dissolution.....	No Fee
3426	(s) Application for certificate of authority..	100.00
3427	(t) Application for amended certificate of	
3428	authority.....	50.00
3429	(u) Application for certificate of withdrawal..	25.00
3430	(v) Certificate of revocation of authority to	
3431	transact business.....	No Fee
3432	(w) Status report.....	25.00
3433	(x) Articles of correction.....	50.00
3434	(y) Application for certificate of existence or	

3435 authorization..... 25.00

3436 (z) Any other document required or permitted  
3437 to be filed by Sections 79-11-101 et seq..... 25.00

3438 (2) Except as otherwise provided in subsection (4) of this  
3439 section, the Secretary of State shall collect a fee of Twenty-five  
3440 Dollars (\$25.00) upon being served with process under Sections  
3441 79-11-101 et seq. The party to a proceeding causing service of  
3442 process is entitled to recover the fee paid the Secretary of State  
3443 as costs if the party prevails in the proceeding.

3444 (3) Except as otherwise provided in subsection (4) of this  
3445 section, the Secretary of State shall collect the following fees  
3446 for copying and certifying the copy of any filed document relating  
3447 to a domestic or foreign corporation:

3448 (a) One Dollar (\$1.00) a page for copying; and

3449 (b) Ten Dollars (\$10.00) for the certificate.

3450 (4) The Secretary of State may collect a filing fee greater  
3451 than the fee set forth in subsections (1), (2) and (3) in an  
3452 amount not to exceed twice the fee set forth in subsections (1),  
3453 (2) and (3) of processing the filing, if the form prescribed by  
3454 the Secretary of State for such filing has not been used.

3455 (5) In addition to any other fees charged in this section,  
3456 the Secretary of State shall charge the following fees:

3457 (a) Articles of incorporation..... \$25.00

3458 (b) Corporation's statement of change  
3459 of registered agent or registered office or both..... \$25.00

3460 The fees collected under this subsection shall be deposited  
3461 into the State General Fund.

3462 **SECTION 60.** Section 79-11-504, Mississippi Code of 1972, is  
3463 amended as follows:

3464 79-11-504. (1) The Secretary of State shall have the  
3465 authority to:

3466 (a) Promulgate rules of procedure and regulations  
3467 necessary for the administration of Sections 79-11-501 through



3468 79-11-529, subject to the provisions of the Mississippi  
3469 Administrative Procedures Law.

3470 (b) Honor written requests from interested person for  
3471 interpretative opinions regarding registration and exemptions from  
3472 registration.

3473 (c) Publish and disseminate information to the public  
3474 concerning persons subject to Sections 79-11-501 through  
3475 79-11-529.

3476 (d) Perform any other functions and duties which may be  
3477 necessary to carry out the provisions of Sections 79-11-501  
3478 through 79-11-529.

3479 (2) The Secretary of State shall charge the following fees  
3480 under Sections 79-11-501 through 79-11-529:

3481	<u>(a) Registration of exempt organizations.....</u>	<u>\$50.00</u>
3482	<u>(b) Registration of solicitors.....</u>	<u>\$50.00</u>
3483	<u>(c) Renewal of solicitors registration.....</u>	<u>\$50.00</u>
3484	<u>(d) Filing of solicitation campaign notices....</u>	<u>\$50.00</u>
3485	<u>(e) Issuing opinion letters--charitable and</u>	
3486	<u>fundraising.....</u>	<u>\$100.00</u>

3487 The fees collected under this subsection shall be deposited  
3488 into the State General Fund.

3489 **SECTION 61.** Section 79-29-1203, Mississippi Code of 1972, is  
3490 amended as follows:

3491 79-29-1203. (1) The Secretary of State shall charge and  
3492 collect a fee for:

3493 (a) Filing of Reservation of Limited Liability Company  
3494 Name, Twenty-Five Dollars (\$25.00).

3495 (b) Filing of Change of Address of Registered Agent,  
3496 Twenty-Five Dollars (\$25.00).

3497 (c) Filing of Resignation of Registered Agent, Five  
3498 Dollars (\$5.00).

3499 (d) Filing of Certificate of Formation, Fifty Dollars  
3500 (\$50.00).

3501 (e) Filing of Amendment to Certificate of Formation,  
3502 Fifty Dollars (\$50.00).

3503 (f) Filing of Certificate of Dissolution, Twenty-Five  
3504 Dollars (\$25.00).

3505 (g) Filing of Certificate of Cancellation, Twenty-Five  
3506 Dollars (\$25.00).

3507 (h) Filing of Restated Certificate of Formation or  
3508 Amended and Restated Certificate of Formation, Twenty-Five Dollars  
3509 (\$25.00).

3510 (i) Filing of Certificate of Withdrawal, Twenty-Five  
3511 Dollars (\$25.00).

3512 (j) Filing of Application for Registration of Foreign  
3513 Limited Liability Company, Two Hundred Fifty Dollars (\$250.00).

3514 (k) Filing of Certificate Correcting Application for  
3515 Registration of Foreign Limited Liability Company, Fifty Dollars  
3516 (\$50.00).

3517 (l) Filing of Certificate of Cancellation of  
3518 Registration of Foreign Limited Liability Company, Twenty-Five  
3519 Dollars (\$25.00).

3520 (m) Any other document required or permitted to be  
3521 filed under this chapter, Twenty-Five Dollars (\$25.00).

3522 (2) In addition to any other fees charged under this  
3523 section, the Secretary of State shall charge the following fees:

3524 (a) For filing a certificate of formation..... \$25.00

3525 (b) For filing annual reports..... \$75.00

3526 The fees collected under this subsection shall be deposited  
3527 into the State General Fund.

3528 **SECTION 62.** Section 75-55-23, Mississippi Code of 1972, is  
3529 amended as follows:

3530 75-55-23. (1) The Commissioner of Agriculture and Commerce  
3531 (the "commissioner") and his agents and employees shall have full  
3532 access, ingress and egress, at all reasonable hours, to any place  
3533 or building wherein internal combustion engine fuels, lubricating

3534 oils or other like products are stored, transported, sold, offered  
3535 or exposed for sale. The commissioner and his agents or employees  
3536 may open for inspection any case, package or other container,  
3537 tank, pump, tank car, storage tank, stationary engine or tractor,  
3538 and enter upon any barge, vessel or other vehicle of  
3539 transportation and, with instruments conforming to the standards  
3540 of weights and measures most recently adopted by the Division of  
3541 Institute of Standards and Technology of the United States  
3542 Department of Commerce, check any measuring device of the volume  
3543 or weight of contents of any container. Furthermore, the  
3544 commissioner and his agents or employees may take samples, not  
3545 exceeding one (1) gallon, for analysis.

3546 (2) The commissioner shall charge a fee for performing  
3547 annual inspections of the pumps and dispensing equipment for  
3548 gasoline, diesel fuel and/or other motor fuels at retail to ensure  
3549 proper operation and calibration, in the amount of Five Dollars  
3550 (\$5.00) per nozzle used with the dispensing equipment. However,  
3551 where multiple grades of motor fuels are pumped through the same  
3552 nozzle, the fee shall be Five Dollars (\$5.00) for each grade of  
3553 fuel pumped through the nozzle. The fees collected under this  
3554 subsection shall be deposited into the State General Fund.

3555 (3) Any distributor or other person failing or refusing to  
3556 permit the commissioner and his agents and employees to exercise  
3557 any right or authority granted the Mississippi Department of  
3558 Agriculture and Commerce under the provisions of this section,  
3559 shall be guilty of a misdemeanor for the first offense, and, upon  
3560 conviction, shall be punishable by a fine of not less than Two  
3561 Hundred Dollars (\$200.00) nor more than Five Hundred Dollars  
3562 (\$500.00), or by imprisonment in the county jail for sixty (60)  
3563 days, or by both such fine and imprisonment. Any person guilty of  
3564 a second violation of this section shall, in addition to the other  
3565 penalty provided herein, be enjoined from continuing in the  
3566 gasoline, alcohol blended fuel, diesel fuel, kerosene or oil

3567 business in this state for a period of not less than one (1) year  
3568 nor more than five (5) years, and any judge or chancellor now  
3569 authorized to grant injunctions shall grant an injunction  
3570 enjoining the distributor or other person from continuing in the  
3571 gasoline, alcohol blended fuel, diesel fuel, kerosene or oil  
3572 business for the period prescribed by this section, provided that  
3573 no injunction shall be issued unless not less than five (5) days'  
3574 notice is given in the manner prescribed by law.

3575       (4) Any room, house, building, boat, vehicle, structure or  
3576 place where any petroleum product is received, stored,  
3577 manufactured, refined, distilled, blended, compounded, sold or  
3578 distributed in violation of this chapter, and any such petroleum  
3579 product and all property kept and used in maintaining the same,  
3580 is \* \* \* declared to be a common nuisance. If such nuisance be  
3581 found to exist, any judge or chancellor authorized to issue  
3582 injunctions may issue an injunction, enjoining and restraining the  
3583 continuance of such nuisance for a period of not less than three  
3584 (3) months, nor more than one (1) year.

3585       **SECTION 63.** Section 75-76-131, Mississippi Code of 1972, is  
3586 amended as follows:

3587       75-76-131. (1) The executive director shall:

3588           (a) Ascertain and keep himself informed of the  
3589 identity, prior activities and present location of all gaming  
3590 employees in the State of Mississippi; and

3591           (b) Maintain confidential records of such information.

3592       (2) No person may be employed as a gaming employee unless he  
3593 is the holder of a work permit issued by the commission.

3594       (3) A work permit issued to a gaming employee must have  
3595 clearly imprinted thereon a statement that it is valid for gaming  
3596 purposes only.

3597       (4) Application for a work permit is to be made to the  
3598 executive director and may be granted or denied for any cause  
3599 deemed reasonable by the commission. Whenever the executive

3600 director denies such an application, he shall include in the  
3601 notice of the denial a statement of the facts upon which he relied  
3602 in denying the application.

3603 (5) Any person whose application for a work permit has been  
3604 denied by the executive director may, not later than sixty (60)  
3605 days after receiving notice of the denial or objection, apply to  
3606 the commission for a hearing before a hearing examiner. A failure  
3607 of a person whose application has been denied to apply for a  
3608 hearing within sixty (60) days or his failure to appear at a  
3609 hearing conducted pursuant to this section shall be deemed to be  
3610 an admission that the denial or objection is well founded and  
3611 precludes administrative or judicial review. At the hearing, the  
3612 hearing examiner appointed by the commission shall take any  
3613 testimony deemed necessary. After the hearing the hearing  
3614 examiner shall within thirty (30) days after the date of the  
3615 hearing announce his decision sustaining or reversing the denial  
3616 of the work permit or the objection to the issuance of a work  
3617 permit. The executive director may refuse to issue a work permit  
3618 if the applicant has:

3619 (a) Failed to disclose, misstated or otherwise  
3620 attempted to mislead the commission with respect to any material  
3621 fact contained in the application for the issuance or renewal of a  
3622 work permit;

3623 (b) Knowingly failed to comply with the provisions of  
3624 this chapter or the regulations of the commission at a place of  
3625 previous employment;

3626 (c) Committed, attempted or conspired to commit any  
3627 crime of moral turpitude, embezzlement or larceny or any violation  
3628 of any law pertaining to gaming, or any crime which is inimical to  
3629 the declared policy of this state concerning gaming;

3630 (d) Been identified in the published reports of any  
3631 federal or state legislative or executive body as being a member

3632 or associate of organized crime, or as being of notorious and  
3633 unsavory reputation;

3634 (e) Been placed and remains in the constructive custody  
3635 of any federal, state or municipal law enforcement authority;

3636 (f) Had a work permit revoked or committed any act  
3637 which is a ground for the revocation of a work permit or would  
3638 have been a ground for revoking his work permit if he had then  
3639 held a work permit; or

3640 (g) For any other reasonable cause.

3641 The executive director shall refuse to issue a work permit if  
3642 the applicant has committed, attempted or conspired to commit a  
3643 crime which is a felony in this state or an offense in another  
3644 state or jurisdiction which would be a felony if committed in this  
3645 state.

3646 (6) Any applicant aggrieved by the decision of the hearing  
3647 examiner may, within fifteen (15) days after the announcement of  
3648 the decision, apply in writing to the commission for review of the  
3649 decision. Review is limited to the record of the proceedings  
3650 before the hearing examiner. The commission may sustain or  
3651 reverse the hearing examiner's decision. The commission may  
3652 decline to review the hearing examiner's decision, in which case  
3653 the hearing examiner's decision becomes the final decision of the  
3654 commission. The decision of the commission is subject to judicial  
3655 review.

3656 (7) All records acquired or compiled by the commission  
3657 relating to any application made pursuant to this section and all  
3658 lists of persons to whom work permits have been issued or denied  
3659 and all records of the names or identity of persons engaged in the  
3660 gaming industry in this state are confidential and must not be  
3661 disclosed except in the proper administration of this chapter or  
3662 to an authorized law enforcement agency. Any record of the  
3663 commission which shows that the applicant has been convicted of a  
3664 crime in another state must show whether the crime was a

3665 misdemeanor, gross misdemeanor, felony or other class of crime as  
3666 classified by the state in which the crime was committed. In a  
3667 disclosure of the conviction, reference to the classification of  
3668 the crime must be based on the classification in the state where  
3669 it was committed.

3670 (8) A work permit expires unless renewed within ten (10)  
3671 days after a change of place of employment or if the holder  
3672 thereof is not employed as a gaming employee within the  
3673 jurisdiction of the issuing authority for more than ninety (90)  
3674 days.

3675 (9) Notice of any objection to or denial of a work permit by  
3676 the executive director as provided pursuant to this section is  
3677 sufficient if it is mailed to the applicant's last known address  
3678 as indicated on the application for a work permit. The date of  
3679 mailing may be proven by a certificate signed by the executive  
3680 director or his designee that specifies the time the notice was  
3681 mailed. The notice is presumed to have been received by the  
3682 applicant five (5) days after it is deposited with the United  
3683 States Postal Service with the postage thereon prepaid.

3684 (10) In addition to any application fee imposed by authority  
3685 of any rule of the commission, the commission shall charge each  
3686 applicant for a work permit a fee of Fifty Dollars (\$50.00). The  
3687 fees collected under this subsection shall be deposited into the  
3688 State General Fund.

3689 **SECTION 64.** Section 69-29-1, Mississippi Code of 1972, which  
3690 creates the Mississippi Agricultural and Livestock Theft Bureau,  
3691 provides for the appointment of the bureau director, and sets  
3692 forth the duties of the director, is repealed.

3693 **SECTION 65.** Section 25-1-87, Mississippi Code of 1972, is  
3694 amended as follows:

3695 25-1-87. All motor vehicles owned or leased by the State of  
3696 Mississippi or any agency, department or political subdivision  
3697 thereof, which shall include counties and municipalities, when

3698 such agency or department or political subdivision, which shall  
3699 include counties and municipalities, is supported wholly or in  
3700 part by public taxes or by appropriations from public funds, shall  
3701 have painted on both sides in letters at least three (3) inches in  
3702 height, and on the rear in letters not less than one and one-half  
3703 (1-1/2) inches in height, the name of the state agency or  
3704 department, or political subdivision, which shall include counties  
3705 and municipalities, in a color which is in contrast with the color  
3706 of the vehicle; provided, however, that a permanent decal may be  
3707 used in lieu of paint, and provided further, that any municipality  
3708 may affix a permanent decal or design at least twelve (12) inches  
3709 in height and twelve (12) inches in width on both sides of the  
3710 vehicle with the name of the municipality within or across the  
3711 permanent decal or design, and the permanent design or decal shall  
3712 be in a color or colors which are in contrast with the color of  
3713 the vehicle. No privilege license tag shall be issued for such  
3714 vehicle until the name has been painted thereon or a permanent  
3715 design or decal affixed thereto as required by this section. A  
3716 permanent decal may be used in lieu of paint. The provisions of  
3717 this paragraph shall not apply to vehicles used by the Chief  
3718 Executive of the State of Mississippi, to vehicles owned or leased  
3719 by the Department of Economic and Community Development, to  
3720 vehicles owned or leased by the Office of the Attorney General, to  
3721 not more than one (1) vehicle owned or leased by the Department of  
3722 Finance and Administration for use by the Capitol Police, to  
3723 vehicles owned or leased by the Mississippi State Board of Medical  
3724 Licensure and used only by the Investigative Division of the  
3725 board, to one (1) vehicle owned or leased by the Executive  
3726 Director of the Department of Mental Health, to not more than one  
3727 (1) vehicle owned or leased by the Mississippi Division of  
3728 Medicaid, to one (1) vehicle owned or leased by the State  
3729 Department of Rehabilitation Services, to one (1) vehicle owned or  
3730 leased by the Mississippi Department of Transportation, to one (1)



3731 vehicle owned or leased by the Commissioner of the Mississippi  
3732 Department of Corrections, to not more than three (3) vehicles  
3733 owned or leased by the Department of Corrections and used only by  
3734 Community Services Division officers, to not more than one (1)  
3735 vehicle owned or leased by the Mississippi Department of  
3736 Transportation and used only by an investigator employed by the  
3737 Mississippi Department of Transportation, to not more than two (2)  
3738 vehicles owned or leased by the Mississippi Department of Marine  
3739 Resources, or to not more than one (1) vehicle owned or leased by  
3740 the Mississippi State Tax Commission; and upon receipt of a  
3741 written request from the State Adjutant General, the Commissioner  
3742 of Public Safety, the Director of the Alcoholic Beverage Control  
3743 Division of the Mississippi State Tax Commission, the Executive  
3744 Director of the Mississippi Department of Wildlife, Fisheries and  
3745 Parks, the Director of the Bureau of Narcotics, the Executive  
3746 Officer of the Board of Pharmacy, the Executive Director of the  
3747 Mississippi Gaming Commission, the State Auditor or a president or  
3748 chancellor of a state institution of higher learning, the Governor  
3749 may authorize the use of specified unmarked vehicles only in  
3750 instances where such identifying marks will hinder official  
3751 investigations, and the governing authorities of any municipality  
3752 may authorize the use of specified, unmarked police vehicles when  
3753 identifying marks would hinder official criminal investigations by  
3754 the police. The written request or the order or resolution  
3755 authorizing such shall contain the manufacturer's serial number,  
3756 the state inventory number, where applicable, and shall set forth  
3757 why the vehicle should be exempt from the provisions of this  
3758 paragraph. In the event the request is granted, the Governor  
3759 shall furnish the State Department of Audit with a copy of his  
3760 written authority for the use of the unmarked vehicles, or the  
3761 governing authority, as the case may be, shall enter its order or  
3762 resolution on the minutes and shall furnish the State Department  
3763 of Audit with a certified copy of its order or resolution for the

3764 use of the unmarked police vehicle. The state property auditors  
3765 of the State Department of Audit shall personally examine vehicles  
3766 owned or leased by the State of Mississippi or any agency,  
3767 department or commission thereof and report violations of the  
3768 provisions of this paragraph to the State Auditor and the Chairman  
3769 of the Joint Legislative Committee on Performance Evaluation and  
3770 Expenditure Review. Any vehicle found to be in violation of this  
3771 paragraph shall be reported immediately to the department head  
3772 charged with such vehicle, and five (5) days shall be given for  
3773 compliance; and if not complied with, such vehicles shall be  
3774 impounded by the State Auditor until properly marked or exempted.

3775       Upon notification to the State Tax Commission by the State  
3776 Auditor that any municipality or political subdivision is not in  
3777 compliance with this section, the State Tax Commission shall  
3778 withhold any sales tax due for distribution to any such  
3779 municipality and any excise tax on gasoline, diesel fuel, kerosene  
3780 and oil due any such county and for any months thereafter, and  
3781 shall continue to withhold such funds until compliance with this  
3782 section is certified to the State Tax Commission by the State  
3783 Department of Audit.

3784       County-owned motor vehicles operated by the sheriff's  
3785 department shall not be subject to the provisions of this section,  
3786 but shall be subject to the provisions of Section 19-25-15.  
3787 County-owned motor vehicles operated by a family court established  
3788 pursuant to Section 43-23-1 et seq., shall not be subject to the  
3789 provisions of this section.

3790       State-owned or leased motor vehicles operated by the  
3791 Department of Mental Health or by facilities operated by the  
3792 Department of Mental Health and used for transporting patients  
3793 living in group homes or alternative living arrangements shall not  
3794 be subject to the provisions of this section.

3795 Up to four (4) passenger automobiles owned or leased by  
3796 economic development districts or economic development authorities  
3797 shall not be subject to the provisions of this section.

3798 \* \* \*

3799 Up to three (3) motor vehicles owned or leased by the  
3800 Pascagoula Municipal Separate School District for use by district  
3801 security officers shall not be subject to the provisions of this  
3802 section.

3803 Up to three (3) motor vehicles owned or leased by the  
3804 Department of Human Services for use only by the Program Integrity  
3805 Division and the executive director shall not be subject to the  
3806 provisions of this section.

3807 Up to three (3) motor vehicles owned or leased by the  
3808 Department of Insurance for use by the State Fire Marshal's Office  
3809 shall not be subject to the provisions of this section.

3810 The motor vehicles of a public airport shall not be subject  
3811 to the provisions of this section upon a finding by the governing  
3812 authority of such airport that marking a motor vehicle as required  
3813 in this section will compromise security at such airport.

3814 **SECTION 66.** Section 69-29-2, Mississippi Code of 1972, is  
3815 amended as follows:

3816 69-29-2. (1) Every person, firm, association or  
3817 corporation, before seeking to sell or transfer dogs or cats, or  
3818 both, for research, shall obtain a license from the Commissioner  
3819 of Agriculture and Commerce. The fee and requirements for such  
3820 license shall be set by the commissioner. Application for such  
3821 license shall be made on forms prescribed and furnished by the  
3822 commissioner. Such license shall be nontransferable, renewable  
3823 annually. A new license shall be issued if there is any change in  
3824 the location or ownership of the business.

3825 (2) At the time application is made for a license under  
3826 subsection (1) of this section and before the issuance of such  
3827 license by the commissioner, the applicant shall file with the

3828 director a bond in the penal sum of Five Thousand Dollars  
3829 (\$5,000.00) payable to the State of Mississippi with surety to be  
3830 approved by the Secretary of State for the faithful performance of  
3831 the requirements of this section. Evidence shall be supplied to  
3832 the commissioner annually, at the time license is renewed, that  
3833 the bond continues in force and effect. In the event the bond is  
3834 cancelled or will not be renewed, the bonding company shall notify  
3835 the commissioner in writing at least thirty (30) days before the  
3836 cancellation of such bond. If a bond is cancelled or fails to be  
3837 renewed, the license issued under this section shall stand void  
3838 automatically. The license shall not stand void if a new bond as  
3839 required herein is filed with the commissioner before the  
3840 expiration date of the original bond.

3841 (3) The following information shall be recorded by every  
3842 person, firm, association or corporation licensed under this  
3843 section for each dog or cat received, sold or transferred under  
3844 the provisions of this section:

3845 (a) The name, address and telephone number of the  
3846 person, firm, association or corporation from whom each dog or cat  
3847 was received and to whom each dog or cat was delivered.

3848 (b) A complete description of each dog or cat received,  
3849 sold or transferred, including a photograph of each side of the  
3850 animal.

3851 (c) Any other information as required by the  
3852 commissioner.

3853 (4) The commissioner shall promulgate rules and regulations  
3854 necessary to effectuate the provisions of this section.

3855 (5) Any person violating the provisions of this section,  
3856 upon conviction for a first violation, shall be punished by a fine  
3857 of not less than Five Hundred Dollars (\$500.00) nor more than One  
3858 Thousand Dollars (\$1,000.00) or by imprisonment in the county jail  
3859 for not more than six (6) months, or by both. Any person  
3860 violating the provisions of this section, upon conviction for a

3861 second or subsequent violation, shall be punished by imprisonment  
3862 in the Penitentiary for not less than one (1) year or a fine of  
3863 not less than One Thousand Dollars (\$1,000.00), or by both. Any  
3864 person who holds a license issued under this section who is  
3865 convicted of any violation of this section, shall have his license  
3866 revoked for a minimum of one (1) year.

3867       **SECTION 67.** Section 69-29-11, Mississippi Code of 1972, is  
3868 amended as follows:

3869       69-29-11. For any person to haul, transport or carry any  
3870 livestock upon and over the public highways, roads and streets of  
3871 this state by means of a motor vehicle or other vehicle drawn or  
3872 propelled by a motor vehicle, such person shall have in his  
3873 possession a bill of sale showing: (i) from whom such livestock  
3874 was purchased; (ii) description of such livestock, with brands or  
3875 earmarks, if any; (iii) signature and address of the seller; and  
3876 (iv) the date of sale and delivery.

3877       Any sheriff, constable, agricultural \* \* \* investigator or  
3878 police officer shall have the power to inspect any livestock in  
3879 the process of transportation upon the highways of Mississippi.

3880       Any person who shall violate any provisions of this section,  
3881 or Section 69-29-9, shall be deemed guilty of a misdemeanor and,  
3882 upon conviction therefor, shall be punished by a fine of not less  
3883 than One Hundred Dollars (\$100.00) nor more than Five Hundred  
3884 Dollars (\$500.00), and by imprisonment in the county jail not less  
3885 than thirty (30) days nor more than six (6) months. Any person  
3886 convicted of stealing livestock is subject to the penalties  
3887 provided in Section 97-17-53.

3888       **SECTION 68.** Section 69-29-101, Mississippi Code of 1972, is  
3889 amended as follows:

3890       69-29-101. The purpose of this article is to provide a place  
3891 for registration of brands or marks of cattle and other livestock  
3892 with the Department of Agriculture and Commerce \* \* \*, in order to

3893 avoid confusion as to brands or marks of cattle and other  
3894 livestock and to protect the owners against theft \* \* \*.

3895 **SECTION 69.** Section 69-29-103, Mississippi Code of 1972, is  
3896 amended as follows:

3897 69-29-103. The following words, or similar words, when used  
3898 in this article shall have the following meaning unless the  
3899 context clearly indicates otherwise:

3900 (a) "Department" means the Department of Agriculture  
3901 and Commerce \* \* \*, under which the supervision this article is  
3902 placed.

3903 \* \* \*

3904 (b) "Brand" means any recorded identification mark  
3905 applied to any position on the hide of a live animal by means of  
3906 heat, acid or chemical.

3907 (c) "Person" means any individual, partnership,  
3908 association or corporation.

3909 (d) "Livestock" means horses, cattle, swine, sheep,  
3910 poultry and other domestic or exotic animals, birds or fish  
3911 produced for profit.

3912 (e) "Livestock market" means any place at which a  
3913 person assembles livestock either for public or private sale by  
3914 him, such services to be compensated for by the owner on a  
3915 commission basis or otherwise, or where such person purchases  
3916 livestock for resale, except:

3917 (i) Any place other than at a permanently  
3918 established livestock market used solely for the dispersal sale of  
3919 the livestock of a farmer, dairyman, livestock breeder or feeder  
3920 who is discontinuing said business and no other livestock is there  
3921 sold or offered for sale;

3922 (ii) Any farm, ranch, or place where livestock  
3923 either raised or kept thereon for the grazing season or for  
3924 fattening is sold, and no other livestock is brought there for  
3925 sale or offered for sale;

3926 (iii) The premises of any person engaged in the  
3927 raising of livestock for breeding purposes only, who limits his or  
3928 its sale to animals of his or its own production;

3929 (iv) Any place where a breeder or an association  
3930 of breeders of livestock of any class assemble and offer for sale  
3931 and sell under his or their own management any livestock, when  
3932 such breeder or association of breeders shall assume all  
3933 responsibility of such sale and the title of livestock sold.

3934 (f) "Mark" means a distinct marking or device placed on  
3935 a live animal sufficient to distinguish the animal readily if it  
3936 becomes intermixed with other animals, and includes a tattoo.

3937 **SECTION 70.** This act shall take effect and be in force from  
3938 and after July 1, 2005, except for Sections 1 and 2, which shall  
3939 take effect and be in force from and after the passage of this  
3940 act.