

By: Representative Janus

To: Agriculture;  
Appropriations

## HOUSE BILL NO. 1425

1 AN ACT TO CREATE THE MISSISSIPPI DEPARTMENT OF AGRICULTURE,  
 2 FORESTRY AND COMMERCE; TO CREATE SECTION 49-19-2, MISSISSIPPI CODE  
 3 OF 1972, TO DEFINE CERTAIN TERMS; TO PROVIDE FOR THE TRANSFER OF  
 4 PERSONNEL AND RESOURCES OF THE FORESTRY COMMISSION TO THE  
 5 DEPARTMENT OF AGRICULTURE, FORESTRY AND COMMERCE; TO PROVIDE THAT  
 6 THE DEPARTMENT OF AGRICULTURE, FORESTRY AND COMMERCE SHALL  
 7 CONTINUE TO PROVIDE FOR THE DEVELOPMENT OF THE STATEWIDE FOREST  
 8 RESOURCE INVENTORY WHEN THE MISSISSIPPI INSTITUTE FOR FOREST  
 9 INVENTORY SUNSETS; TO AMEND SECTION 69-1-1, MISSISSIPPI CODE OF  
 10 1972, TO CONFORM; TO AMEND SECTION 69-1-203, MISSISSIPPI CODE OF  
 11 1972, TO CREATE THE OFFICE OF FORESTRY WITHIN THE DEPARTMENT OF  
 12 AGRICULTURE, FORESTRY AND COMMERCE AND TO AUTHORIZE THE DEPARTMENT  
 13 TO ADMINISTER THE LAWS PERTAINING TO FORESTRY; TO AMEND SECTION  
 14 49-19-1, MISSISSIPPI CODE OF 1972, TO MAKE THE STATE FORESTRY  
 15 COMMISSION AN ADVISORY BOARD TO THE DEPARTMENT OF AGRICULTURE,  
 16 FORESTRY AND COMMERCE AND TO THE OFFICE OF FORESTRY WITHIN SUCH  
 17 DEPARTMENT; TO AMEND SECTION 49-19-3, MISSISSIPPI CODE OF 1972, TO  
 18 REVISE THE APPOINTMENT OF THE STATE FORESTER AND TO SPECIFY THE  
 19 POWERS AND DUTIES OF THE DEPARTMENT OF AGRICULTURE, FORESTRY AND  
 20 COMMERCE AND THE COMMISSIONER OF SUCH DEPARTMENT RELATING TO  
 21 FORESTRY; TO AMEND SECTIONS 49-19-1 THROUGH 49-19-15, 49-19-21,  
 22 49-19-25, 49-19-65, 49-19-67, 49-19-71, 49-19-73, 49-19-111  
 23 THROUGH 49-19-117, 49-19-205, 49-19-207, 49-19-211 THROUGH  
 24 49-19-227, 49-19-305, 49-19-307, 49-19-351, 51-3-103, 51-3-105,  
 25 51-9-107, 51-11-5, 51-11-9, 51-13-105, 51-13-107, 53-7-11,  
 26 53-7-29, 53-9-11, 55-3-1, 55-3-11, 55-3-19, 55-3-21, 55-3-23,  
 27 29-3-27, 29-3-45, 29-3-47, 29-3-49, 29-3-54, 29-3-85, 29-3-87,  
 28 49-7-203, 69-3-1, 69-15-2, 69-29-1, 69-31-1, 69-37-5, 69-45-5,  
 29 69-46-3, 69-47-1 AND 79-22-5, MISSISSIPPI CODE OF 1972, TO CONFORM  
 30 TO REORGANIZATION NOMENCLATURE AND STRUCTURE; TO REPEAL SECTION  
 31 49-19-19, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR FREE  
 32 COMMERCIAL TREE SEEDLINGS FOR FARM OWNERS; TO REPEAL SECTION  
 33 49-19-27, MISSISSIPPI CODE OF 1972, WHICH CREATES THE TREE  
 34 SEEDLING REVOLVING FUND; TO REPEAL SECTION 49-19-31, MISSISSIPPI  
 35 CODE OF 1972, WHICH CREATED A JOINT FORESTRY STUDY COMMITTEE; AND  
 36 FOR RELATED PURPOSES.

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

38 **SECTION 1.** The following shall be codified as Section  
 39 49-19-2, Mississippi Code of 1972:

40 49-19-2. (1) The Department of Agriculture, Forestry and  
 41 Commerce shall be the Mississippi Forestry Commission and shall  
 42 retain all powers and duties granted by law to the Forestry  
 43 Commission. The Mississippi Department of Agriculture, Forestry  
 44 and Commerce is vested with full power to manage, control,

45 supervise and direct all matters pertaining to forestry under the  
46 jurisdiction of the Forestry Commission. All powers, duties,  
47 employees, equipment, funds and resources of the Forestry  
48 Commission shall be transferred to the Department of Agriculture,  
49 Forestry and Commerce.

50 (2) The Commissioner of the Department of Agriculture,  
51 Forestry and Commerce shall have the authority to internally  
52 reorganize the Department of Agriculture, Forestry and Commerce.  
53 For a period of one (1) year after July 1, 2005, the personnel  
54 actions of the commissioner initiated as a result of the transfer  
55 of the Forestry Commission shall be exempt from State Personnel  
56 Board rules, regulations and procedures in order to give the  
57 commissioner flexibility in making an orderly, effective and  
58 timely reorganization of the Department of Agriculture, Forestry  
59 and Commerce.

60 (3) Whenever the terms "Forestry Commission," "State  
61 Forestry Commission" and "Mississippi Forestry Commission" appear  
62 in any state law, the terms shall mean the "Department of  
63 Agriculture, Forestry and Commerce."

64 (4) Whenever the term "Department of Agriculture and  
65 Commerce" appears in any state law the term shall mean "Department  
66 of Agriculture, Forestry and Commerce." Whenever the term  
67 "Commissioner of Agriculture and Commerce" appears in any state  
68 law the term shall mean "Commissioner of Agriculture, Forestry and  
69 Commerce."

70 (5) For the purposes of Chapter 19 of Title 49 of the  
71 Mississippi Code of 1972, the following terms shall have the  
72 meanings ascribed to them in this section:

73 (a) "Commissioner" means the Commissioner of  
74 Agriculture, Forestry and Commerce.

75 (b) "Department" means the Department of Agriculture,  
76 Forestry and Commerce.

77           **SECTION 2.** Section 69-1-1, Mississippi Code of 1972, is  
78 amended as follows:

79           69-1-1. A Department of Agriculture, Forestry and Commerce  
80 is created and established under the management and control of a  
81 public officer to be known as the Commissioner of Agriculture,  
82 Forestry and Commerce, who shall have competent knowledge of  
83 agriculture, mining, manufacturing, statistics and general  
84 industries, must be an experienced and practical agriculturist;  
85 and shall be elected by the people at the time and in the manner  
86 that other state officers are elected.

87           **SECTION 3.** Section 69-1-203, Mississippi Code of 1972, is  
88 amended as follows:

89           69-1-203. The Department of Agriculture, Forestry and  
90 Commerce shall promote the development of agriculture and  
91 aquaculture for both native and nonnative species and forestry.  
92 The department shall be organized into the Administration Office,  
93 the Regulatory Office, the Forestry Office, and the Marketing,  
94 Agricultural Development and Finance Office. Each office shall  
95 have the duties hereinafter specified in addition to any other  
96 duties assigned to it by the commissioner.

97           The Administration Office shall consist of such employees as  
98 may be assigned to it by the commissioner and shall have exclusive  
99 responsibility for the following functions of the department:

- 100           (a) Accounting;
- 101           (b) Payroll;
- 102           (c) Purchasing;
- 103           (d) Data processing;
- 104           (e) Personnel;
- 105           (f) Motor pool and vehicles;
- 106           (g) Maintenance; and
- 107           (h) Printing and records.

108           The Regulatory Office shall administer those laws relating to  
109 the regulation of the labels of syrup containers; the regulation

110 of the sale of planting seed; the regulation of the sale of  
111 livestock by weight; the protection of the health of swine; the  
112 inspection of grain crops; the testing of the accuracy of  
113 petroleum pumps; the inspection of milk manufacturing plants and  
114 producers; the establishment of standards for frozen desserts sold  
115 in Mississippi; the licensing of exotic bird dealers; the  
116 regulation of the disposition of animal and poultry inedible  
117 waste; the regulation of the labeling of catfish; the adoption of  
118 systems of weights and measures for all commercial purposes in  
119 Mississippi; the inspection of meat and poultry and the licensing  
120 of facilities used for the processing thereof; and the regulation  
121 of the measurement and receiving of pulpwood.

122 The Forestry Office shall administer the laws relating to  
123 forestry, forest fire protection, insect disease control, forestry  
124 management, forestry on public lands, and the statewide forest  
125 resources inventory.

126 The Marketing, Agricultural Development and Finance Office  
127 shall develop direct contact with potential buyers worldwide for  
128 the Mississippi agricultural community to expand domestic and  
129 international markets; develop and regulate aquaculture production  
130 as provided in the Mississippi Aquaculture Act of 1988; and  
131 operate and administer the Mississippi Market Bulletin, the Market  
132 News Service, the Jim Buck Ross Mississippi Agriculture and  
133 Forestry Museum and the Centennial Farm Family Program. This  
134 office shall also be responsible for the collection, analysis and  
135 dissemination of statistical data concerning the production,  
136 supply, price and other aspects of the state's agricultural  
137 economy.

138 **SECTION 4.** Section 49-19-1, Mississippi Code of 1972, is  
139 amended as follows:

140 49-19-1. (1) The powers and duties of the State Forestry  
141 Commission are transferred to the Department of Agriculture,  
142 Forestry and Commerce. The State Forestry Commission is

143 continued, renamed and reconstituted as the State Forestry  
144 Advisory Commission. The duties of the State Forestry Advisory  
145 Commission are to advise the Department of Agriculture, Forestry  
146 and Commerce on all matters relating to forestry. The members of  
147 the Commission serving on July 1, 2005, shall continue to serve  
148 until their term expires.

149       (2) There shall be a State Advisory Forestry Commission  
150 composed of nine (9) members, who shall be qualified electors of  
151 the state. The Dean of the School of Forest Resources at  
152 Mississippi State University shall be an ex officio member of the  
153 commission, with full voting authority. The Governor shall  
154 appoint eight (8) members, with the advice and consent of the  
155 Senate, for a term of six (6) years. The Governor shall appoint  
156 one (1) member from each congressional district as constituted at  
157 the time the appointments are made and shall appoint the remainder  
158 of the members from the state at large. A member from a  
159 congressional district must be a certified tree farmer who owns  
160 eighty (80) or more acres of forest land or a person who derives a  
161 major portion of his personal income from forest-related business,  
162 industry or other related activities. Members of the commission  
163 from the state at large may or may not possess the same  
164 qualifications as members appointed from the congressional  
165 districts.

166       (3) The members of the commission shall receive no annual  
167 salary but each member of the commission shall receive a per diem  
168 plus expenses and mileage as authorized by law for each day  
169 devoted to the discharge of official duties. No member of the  
170 commission shall receive total per diem in excess of twenty-four  
171 (24) days' compensation per annum.

172       (4) If a vacancy occurs in the office of an appointed member  
173 of the commission, the vacancy shall be filled by appointment for  
174 the balance of the unexpired term.

175       (5) The commission shall elect from its membership a  
176 chairman, who shall preside over meetings, and a vice chairman,  
177 who shall preside in the absence of the chairman or when the  
178 chairman is excused.

179       (6) The commission shall adopt rules and regulations  
180 governing times and places for meetings, and governing the manner  
181 of conducting its business. Each member of the commission shall  
182 take the oath prescribed by Section 268 of the Mississippi  
183 Constitution and shall enter into bond in the amount of Thirty  
184 Thousand Dollars (\$30,000.00) to be approved by the Secretary of  
185 State, conditioned according to law and payable to the State of  
186 Mississippi before assuming the duties of office.

187       (7) Any appointment made to the commission contrary to this  
188 section shall be void, and it is unlawful for the State Fiscal  
189 Officer to pay any per diem or authorize the expenses of the  
190 appointee.

191       (8) The powers of the commission are advisory only and it is  
192 the duty of the commission to advise the department on matters  
193 related to forestry.

194       **SECTION 5.** Section 49-19-3, Mississippi Code of 1972, is  
195 amended as follows:

196       49-19-3. (1) The duties and powers of the commissioner  
197 shall be: To appoint a State Forester, who shall serve at the  
198 will and pleasure of the commissioner and who is qualified to  
199 perform the duties as set forth herein; \* \* \* and allow him such  
200 office expenses incidental to the performance of his official  
201 duties as the commissioner, in his discretion, may deem necessary;  
202 and to charge him with the immediate direction and control,  
203 subject to the supervision and approval of the commissioner, of  
204 all matters relating to forestry as authorized herein. The State  
205 Forester shall be the head of the Forestry Office of the  
206 department. Any person appointed \* \* \* as State Forester shall  
207 have received a bachelor's degree in forestry from an accredited

208 school or college of forestry and shall be licensed and registered  
209 under the provisions of the Mississippi Foresters Registration Law  
210 (Section 73-36-1 et seq.) and in addition shall have had at least  
211 five (5) years' administrative experience in a forestry-related  
212 field.

213 (2) The department shall have the following powers and  
214 duties:

215 (a) To take such action and provide and maintain such  
216 organized means as may seem necessary and expedient to prevent,  
217 control and extinguish forest fires, including the enforcement of  
218 any and all laws pertaining to the protection of forests and  
219 woodland.

220 (b) To encourage forest and tree planting for the  
221 production of a wood crop, for the protection of water supply, for  
222 windbreak and shade, or for any other beneficial purposes  
223 contributing to the general welfare, public hygiene and comfort of  
224 the people.

225 (c) To cause to be made such technical investigations  
226 and studies concerning forest conditions, the propagation, care  
227 and protection of forest and shade trees, the care and management  
228 of forests, their growth, yield and the products and by-products  
229 thereof, and any other competent subject, including forest  
230 taxation, bearing on the timber supply and needs of the  
231 state \* \* \*.

232 (d) To assist and cooperate with any federal or state  
233 department or institution, county, town, corporation or  
234 individual, under such terms as in the judgment of the commission  
235 will best serve the public interest, in the preparation and  
236 execution of plans for the protection, management, replacement, or  
237 extension of the forest, woodland and roadside or other ornamental  
238 tree growth in the state.

239 (e) To encourage public interest in forestry by means  
240 of correspondence, the public press, periodicals, the publication

241 of bulletins and leaflets for general distribution, the delivery  
242 of lectures in the schools and other suitable means, and to  
243 cooperate to the fullest extent with the extension department  
244 services of the state colleges in promoting reforestation. It  
245 shall be the duty of the State Forester to cooperate with private  
246 timber owners in laying plans for the protection, management and  
247 replacement of forests and in aiding them to form protection  
248 associations. It shall be his duty to examine all timbered lands  
249 belonging to the state and its institutions and report \* \* \* upon  
250 their timber conditions and actual value, and also whether some of  
251 these lands may not be held as state forests. He shall be  
252 responsible for the protection and management of lands donated,  
253 purchased or belonging to the state or state institutions, and all  
254 other lands reserved by the state as state forests.

255         (f) To control the expenditure of any and all funds  
256 appropriated or otherwise made available for the several purposes  
257 set forth \* \* \*.

258         (g) To submit annually to the Legislature a report of  
259 the expenditures, proceedings and results achieved, together with  
260 such other matters including recommendations concerning  
261 legislation as are germane to the aims and purposes of this  
262 chapter.

263         (h) To create, establish and organize the State of  
264 Mississippi into forestry districts for the most effective and  
265 efficient administration of this chapter.

266         \* \* \*

267         (i) To facilitate the development and implement the  
268 statewide forest resource inventory when the Mississippi Institute  
269 for Forest Inventory dissolves.

270         **SECTION 6.** Section 49-19-5, Mississippi Code of 1972, is  
271 amended as follows:

272         49-19-5. The department may \* \* \* acquire and dispose of  
273 property of all kinds in accordance with the provisions of Section



274 29-1-1, in order to discharge the duties as set forth in Section  
275 49-19-3, and subsequent germane general laws of the State of  
276 Mississippi. It is further authorized to sell, rent, lease, and  
277 dispose of any property acquired \* \* \*, all property to be sold or  
278 disposed of shall be sold or disposed of in the manner provided by  
279 law for the sale or disposition of surplus property by other state  
280 agencies. Any funds received from the sale, rental or lease of  
281 any property herein authorized, to be acquired, shall be paid into  
282 the State Treasury to the credit of a special account, and the  
283 department may \* \* \* use this fund for the replacement, repairs,  
284 and upkeep of any property authorized to be acquired and owned  
285 under this section.

286 **SECTION 7.** Section 49-19-7, Mississippi Code of 1972, is  
287 amended as follows:

288 49-19-7. (1) The department shall keep itself informed as  
289 to the known varieties of pine beetles and other timber insect  
290 pests and diseases, the origin, locality, nature and appearance  
291 thereof, the manner in which they are disseminated, and approved  
292 methods of treatment, control and eradication. The department  
293 shall, from time to time, make rules and regulations for carrying  
294 out the provisions and requirements of this section, including  
295 rules and regulations under which its employees shall (1) inspect  
296 places, timber, and timber products, and other things and  
297 substances used or connected therewith, (2) investigate, control,  
298 eradicate and prevent the dissemination of pine beetles and other  
299 timber insect pests and diseases, and (3) supervise or cause the  
300 treatment, cutting and destruction of timber or timber products  
301 and other things infested or infected therewith. The department's  
302 employees shall have authority to carry out and execute the  
303 regulations and orders of the commissioner and shall have  
304 authority \* \* \* to carry out provisions of this section.

305           (2) The department and its employees shall have the  
306 authority to enter upon any and all timber lands for the purpose  
307 of carrying out the provisions of this section.

308           (3) All known varieties of pine beetles and other insect  
309 pests and diseases infesting or infecting or likely to infest or  
310 infect timber or timber products in this state shall be listed by  
311 the department, and every such variety of pine beetle and every  
312 such insect pest or disease listed and all timber and timber  
313 products infested or infected therewith are hereby declared to be  
314 a public nuisance.

315           (4) Before entering upon any lands for the purpose of  
316 removing any infested or infected timber having a value in excess  
317 of One Hundred Dollars (\$100.00), where the owner of such land  
318 will not cause the removal of such infested or infected timber,  
319 the department shall first secure an order of the chancery court  
320 in termtime or in vacation authorizing the department to effect  
321 such removal. Process on any resident owner in any such  
322 proceeding shall be served as other process, and process on any  
323 non-resident owner shall be had by mailing such process by  
324 registered mail, return receipt requested, to the last known  
325 address of such nonresident or by publication in three (3) weekly  
326 issues of a newspaper published in the county where such timber  
327 land is located if no mailing address is known. Any hearing under  
328 provisions of this section may be set at any time five (5) days  
329 after date of service of process, or in case of publication five  
330 (5) days after completion of such publication.

331           (5) It is the purpose of this section to authorize and  
332 empower the department to control disease or insect infections or  
333 infestations in timber and timber products within this  
334 state. \* \* \* Use of the word "timber" shall be deemed to refer to  
335 such trees as are normally used in the manufacture of lumber and  
336 the term "timber products" shall be deemed to refer to products

337 manufactured from such trees normally used in the manufacture of  
338 lumber.

339 **SECTION 8.** Section 49-19-9, Mississippi Code of 1972, is  
340 amended as follows:

341 49-19-9. (1) The department is hereby authorized to extend  
342 fire protection services to the Choctaw Indian lands located in  
343 Attala, Kemper, Leake, Neshoba, Newton, Jones and Scott Counties,  
344 Mississippi.

345 (2) The department is authorized to accept from the Choctaw  
346 Agency adequate compensation for fire detection and suppression,  
347 which sum may be used by the department in its fire protection  
348 work.

349 **SECTION 9.** Section 49-19-11, Mississippi Code of 1972, is  
350 amended as follows:

351 49-19-11. The department is hereby authorized to protect  
352 intermingled or adjacent state owned lands in the same manner and  
353 form as other lands within the state and the expenses thereof may  
354 be paid out of any appropriation made to the department; provided  
355 such expenditures are not greater per acre in any year than the  
356 expenditures by the department on account of the protection of any  
357 other lands than that owned by the State of Mississippi.

358 \* \* \* This section shall not be applicable to the  
359 protection of established state parks, state forests or other  
360 state owned lands when increased expenditure may be necessary for  
361 the protection thereof in the opinion of the department.

362 It is hereby made the duty of all agents and employees of the  
363 department to report \* \* \* any timber or other trespass discovered  
364 by such agent or employees on state owned lands giving detailed  
365 information thereof in such report.

366 **SECTION 10.** Section 49-19-15, Mississippi Code of 1972, is  
367 amended as follows:

368 49-19-15. The State Forestry Fund when made available by  
369 proper appropriation by the Legislature, shall be expended by the

370 department in carrying out and enforcing all laws pertaining to  
371 the protection of forests as the department may direct, the  
372 vouchers to be drawn and paid as by other departments of the  
373 state.

374 **SECTION 11.** Section 49-19-21, Mississippi Code of 1972, is  
375 amended as follows:

376 49-19-21. All monies received from the United States  
377 government for protection of forest lands, for reforestation of  
378 denuded areas, for extension of national forests, and to promote  
379 the continuous production of timber shall be credited to said  
380 State Forestry Fund, and expended by the department as is directed  
381 by the federal government.

382 **SECTION 12.** Section 49-19-25, Mississippi Code of 1972, is  
383 amended as follows:

384 49-19-25. (1) Any fire on any forested, cutover, brush  
385 lands or grass lands burning uncontrolled is hereby declared a  
386 public nuisance by reason of its menace to life and property. Any  
387 person, firm or corporation negligently or willfully and  
388 maliciously responsible for the starting or the existence of such  
389 fire on land other than his own is hereby required to control or  
390 extinguish it immediately, and if said person, firm or corporation  
391 shall willfully refuse, neglect or fail to do so, any organized  
392 fire suppression agency recognized by the department, may  
393 summarily abate the nuisance thus constituted by controlling or  
394 extinguishing the fire. The cost of abating such nuisance, with  
395 all costs and reasonable attorney's fees to be allowed by the  
396 court, may be recovered from the person, firm or corporation  
397 responsible for such nuisance by civil action in the proper court,  
398 action for said recovery to be filed by the agency abating the  
399 nuisance. This section shall not impair any remedy now allowed by  
400 law.

401 (2) Any open cistern or well, which has been abandoned or is  
402 no longer used for the purpose of a cistern or well is hereby

403 declared to be a public nuisance by reason of its menace to life  
404 and property, and the department is hereby authorized to seal such  
405 cistern or well upon request of the landowner. A reasonable fee  
406 shall be charged for this purpose and all fees collected shall be  
407 handled in the same manner as other service charges collected by  
408 the department.

409 **SECTION 13.** Section 49-19-65, Mississippi Code of 1972, is  
410 amended as follows:

411 49-19-65. It shall be the duty of the department to give  
412 general publicity throughout the state to Sections 49-19-51  
413 through 49-19-75 and post notices covering such sections in at  
414 least three (3) public places in each county, one (1) of which  
415 shall be posted on the bulletin board at the front door of the  
416 courthouse in each of the counties.

417 **SECTION 14.** Section 49-19-67, Mississippi Code of 1972, is  
418 amended as follows:

419 49-19-67. Sections 49-19-51 through 49-19-75 shall not apply  
420 to nor shall it prohibit the clearing of land for bona fide use in  
421 crop production, nor the clearing of land for pasture purposes  
422 where such pasture is enclosed with a standard wire fence of two  
423 (2) or more strands, nor to the clearing for building sites,  
424 right-of-ways for roads, power or communication lines or similar  
425 uses; nor shall such sections apply to individuals cutting timber  
426 from their own lands for their own personal use where there is no  
427 sale, commercial gain or profit involved, nor those special cases  
428 where permission is obtained in writing from the department for  
429 the emergency removal of storm or disease damaged timber.

430 **SECTION 15.** Section 49-19-71, Mississippi Code of 1972, is  
431 amended as follows:

432 49-19-71. It shall be the duty of the department \* \* \* to  
433 enforce the terms and provisions of Sections 49-19-51 through  
434 49-19-75 and to that end the department \* \* \* is authorized to  
435 enter upon any and all forestry lands to make such inspection and

436 investigation as may be necessary for the proper enforcement of  
437 those sections and, in addition to the other remedies, conferred  
438 by such sections or other laws of the state, the department is  
439 hereby authorized to enter suit on behalf of the state to enjoin  
440 any person, partnership, firm, association, or corporation from  
441 violating any of the terms and provisions of such sections and in  
442 such suits the department shall not be required to give bond,  
443 and \* \* \* is also authorized to employ inspectors and such other  
444 help as may be necessary for the effective carrying out of the  
445 intent and purposes of such sections.

446 **SECTION 16.** Section 49-19-73, Mississippi Code of 1972, is  
447 amended as follows:

448 49-19-73. In order to more adequately enforce the provisions  
449 of Sections 49-19-51 through 49-19-75, it is hereby made the duty  
450 of each sheriff, constable, conservation officer, district  
451 attorney and county prosecuting attorney to make, from time to  
452 time, inquiry as to any violation of Sections 49-19-51 through  
453 49-19-75 and to promptly report any violation to the department  
454 and further to assist the department, its officers and employees  
455 in enforcing any of the provisions of such sections and in  
456 prosecuting any violations \* \* \*. It shall be the duty of the  
457 various circuit judges at each convening of the grand jury to call  
458 the grand jurors' attention to such sections and to charge them to  
459 fully investigate any violations thereof.

460 **SECTION 17.** Section 49-19-111, Mississippi Code of 1972, is  
461 amended as follows:

462 49-19-111. For the purpose of providing assistance to all  
463 farm woodland and timber landowners in the state, including  
464 private ownership, and to promote the growing, managing and  
465 harvesting of timber thereon, and to provide organized forest fire  
466 protection in all counties, and to encourage the production and  
467 growth of timber on all lands suitable therefor, and for the  
468 better management thereof, and to encourage greater private

469 ownership and promote forest education and timber management and  
470 forest fire control, the department is hereby authorized to carry  
471 out the provisions of Sections 49-19-111 through 49-19-117.

472 **SECTION 18.** Section 49-19-113, Mississippi Code of 1972, is  
473 amended as follows:

474 49-19-113. In order to carry out further the program herein  
475 authorized, the department \* \* \* is hereby authorized to organize,  
476 divide or set up forest districts and areas throughout the  
477 state. \* \* \* The districts and areas shall be so organized,  
478 divided or set up in accordance with the distribution of forest  
479 land and the location of political boundaries as to best serve the  
480 interest of the state as a whole. The department shall appoint a  
481 district forester and assistant district forester for each  
482 district and shall appoint an area forester for each forest area,  
483 all of whom shall be charged with the duty of directing forestry  
484 education, timber management, forest fire control and other  
485 necessary forestry conservation activities and practices as the  
486 department shall deem necessary.

487 **SECTION 19.** Section 49-19-115, Mississippi Code of 1972, is  
488 amended as follows:

489 49-19-115. (1) The board of supervisors of all counties are  
490 hereby directed to levy a special tax to be known as "the forest  
491 acreage tax." Such tax shall be Two Cents (2¢) per acre on all  
492 timbered and uncultivable lands in the county in order to  
493 receive the financial and supervisory cooperation of the  
494 department in carrying out organized forest fire control and other  
495 provisions of Sections 49-19-111 through 49-19-117.

496 (2) In addition to the tax levied under subsection (1) of  
497 this section, the board of supervisors of all counties are hereby  
498 directed to levy an additional forest acreage tax on all timbered  
499 and uncultivable lands in the county beginning October 1, 1989,  
500 and continuing for three (3) succeeding years in the following  
501 amounts:

	Increase	Total Acreage Tax
502		
503		
504		
505		
506		
507		
508		
509		

510 Upon completion of the third year, the total acreage tax  
511 shall remain at the Nine Cents (9¢) per acre per year, provided  
512 that this subsection shall stand repealed from and after June 30,  
513 2006.

514 (3) Uncultivable lands shall not include bogs, unreclaimed  
515 strip mine areas, coastal beach sands, tidal and freshwater  
516 marshes, beaver ponds and flood or flowage easements.

517 (4) Those homeowners described in Section 27-33-67(2), who  
518 qualify for the exemptions allowed in Article 1, Chapter 33, Title  
519 27, Mississippi Code of 1972, shall be exempt from any forest  
520 acreage tax levied pursuant to this section.

521 (5) The provisions of this section and the tax levy required  
522 herein shall not be applicable to any counties which were not  
523 levying such forest acreage tax on January 1, 1989.

524 (6) This section shall be repealed from and after June 30,  
525 2006.

526 **SECTION 20.** Section 49-19-117, Mississippi Code of 1972, is  
527 amended as follows:

528 49-19-117. (1) All forest acreage taxes assessed and  
529 collected by such levy as provided for in Section 49-19-115 shall  
530 be remitted to the forest acreage account in the State Treasury  
531 and shall be expended by the department \* \* \* in carrying out the  
532 purpose and intent of Sections 49-19-111 through 49-19-117.

533 (2) The department is hereby authorized to use state funds  
534 appropriated for the purpose of Sections 49-19-111 through



535 49-19-117 in addition to any funds made available from county  
536 forest acreage taxes, federal funds and other sources.

537 (3) The department is hereby authorized to expend the funds  
538 herein provided in such manner as to most effectively carry out  
539 the provisions of Sections 49-19-111 through 49-19-117. The  
540 forest acreage tax levied at the rate of Two Cents (2¢) per acre  
541 under Section 49-19-115(1) shall be utilized on an economical and  
542 practical basis in order to foster, encourage, promote and bring  
543 about forestry education, timber management and organized forest  
544 fire control throughout the State of Mississippi. The additional  
545 forest acreage tax levied under Section 49-19-115(2) shall be  
546 utilized by the department to purchase fire support equipment,  
547 including transport trucks, tractors and other related fire  
548 support equipment. The additional forest acreage tax levied under  
549 Section 49-19-115(2) shall be appropriated under the appropriation  
550 process.

551 **SECTION 21.** Section 49-19-205, Mississippi Code of 1972, is  
552 amended as follows:

553 49-19-205. For purposes of Sections 49-19-201 through  
554 49-19-227, the following words shall have the meaning ascribed  
555 herein unless the context requires otherwise:

556 (a) "Department" means the Department of Agriculture,  
557 Forestry and Commerce.

558 (b) "State Forester" means the forester appointed by  
559 the Commissioner of Agriculture, Forestry and Commerce.

560 (c) "Eligible owner" means either (i) a private  
561 individual, group or association, or (ii) an agency of state,  
562 local or municipal government, but the term shall not mean or  
563 include private corporations manufacturing products or providing  
564 public utility services of any type or any subsidiary of such  
565 corporations; provided, however, only one (1) owner of land owned  
566 in joint tenancy or tenancy in common and only one (1) member or  
567 officer of any group or association shall be eligible to apply for

568 or receive cost-share assistance to be expended for development of  
569 any or all lands owned by such owners or group or association.

570 (d) "Eligible lands" means (i) nonindustrial private  
571 lands owned by a private individual, group or association, and  
572 (ii) lands owned by the State of Mississippi or any political  
573 subdivision thereof, but shall not include lands owned by private  
574 corporations which manufacture products or provide public utility  
575 services of any type or any subsidiary of such corporations.

576 (e) "Cost-share assistance" means the partial financial  
577 assistance in such amounts as the department, in its discretion,  
578 shall determine, subject to the limitations of Sections 49-19-201  
579 through 49-19-227.

580 (f) "Approved practice" means and includes planting,  
581 seeding, timber stand improvement, prescribed burning, site  
582 preparation, systematic planting of hardwood trees for game  
583 preservation and development, or such other forest resource  
584 development practice as the department shall approve or determine  
585 proper generally or with regard to any particular applicant.

586 (g) "Forest development fund" means the special fund  
587 established in the State Treasury, designated as the Forest  
588 Resource Development Fund, created by Section 49-19-227.

589 **SECTION 22.** Section 49-19-207, Mississippi Code of 1972, is  
590 amended as follows:

591 49-19-207. The department shall serve as administrator of  
592 the provisions of Sections 49-19-201 through 49-19-227, and shall  
593 serve as the disbursing agency for funds to be expended from and  
594 deposited to the credit of the forest development fund.

595 **SECTION 23.** Section 49-19-211, Mississippi Code of 1972, is  
596 amended as follows:

597 49-19-211. The department shall adopt and promulgate such  
598 rules and regulations as are necessary for the implementation of  
599 Sections 49-19-201 through 49-19-227. The department may conduct  
600 public hearings or otherwise seek the advice, counsel and

601 recommendations of interested owners, associations, industrialists  
602 or other persons or groups. Adequate notice of any public hearing  
603 must be provided within the general area of the site of the  
604 hearing.

605 The department shall publish such rules and regulations and  
606 shall make the same available upon request.

607 **SECTION 24.** Section 49-19-213, Mississippi Code of 1972, is  
608 amended as follows:

609 49-19-213. The department may use the money in the forest  
610 development fund to assist in implementing approved practices, on  
611 a cost-sharing basis as provided in Sections 49-19-201 through  
612 49-19-227, on eligible lands in the State of Mississippi.

613 However, no cost-share assistance shall be provided an eligible  
614 owner to implement any approved practice on any land or lands if  
615 the owner receives federal funds for such practice and is using  
616 such federal funds for any forest resource development practice on  
617 said land or lands. Eligible owners may use federal funds on  
618 other lands.

619 **SECTION 25.** Section 49-19-215, Mississippi Code of 1972, is  
620 amended as follows:

621 49-19-215. (1) The department shall actively and diligently  
622 encourage all eligible owners to use their own resources or to  
623 employ the resources of private vendors to implement approved  
624 practices.

625 (2) The department shall not enter into active competition  
626 with eligible owners or private vendors for the on-the-ground job  
627 of implementing any approved practice as it is the intent of the  
628 Legislature to encourage private business, forest industries and  
629 the forestry community to participate in the economic development  
630 which will be provided by Sections 49-19-201 through 49-19-227.

631 **SECTION 26.** Section 49-19-217, Mississippi Code of 1972, is  
632 amended as follows:

633           49-19-217. If an eligible owner cannot provide his own  
634 resources or procure a private vendor to implement any approved  
635 practice, the department, in its discretion, may act as vendor by  
636 utilizing employees, equipment, materials and supplies of the  
637 department. In such event, the department shall charge the  
638 eligible owner a sum equal to the established rate of the  
639 department for providing such service. Payments for such charge  
640 shall be collected, received, and recorded in the same manner as  
641 other sales and services funds received by the department.

642           **SECTION 27.** Section 49-19-219, Mississippi Code of 1972, is  
643 amended as follows:

644           49-19-219. The department shall have the following powers  
645 and duties to implement the provisions of Sections 49-19-201  
646 through 49-19-227:

647           (a) To determine which approved practices shall be  
648 eligible for cost-share assistance;

649           (b) To establish maximum sums, subject to the  
650 provisions of Section 49-19-221, which any one (1) eligible owner  
651 may receive for implementation of an approved practice;

652           (c) To review periodically the costs of forest  
653 development practices and to make such adjustment as, in the  
654 discretion of the department, is necessary in the Thirty-seven  
655 Dollars and Fifty Cents (\$37.50) per acre assistance allowed in  
656 Section 49-19-221;

657           (d) Upon request of the department, the Attorney  
658 General of the State of Mississippi shall institute proper legal  
659 proceedings to recover any or all of the cost-share assistance  
660 provided an eligible owner if the department shall determine that  
661 the owner failed to implement any portion of or all of the  
662 practice approved by the department for such owner and if the  
663 department determines that legal proceedings are necessary and  
664 proper;

665           (e) To determine, before approving any cost-share  
666 assistance for any eligible owner that such approved practice is  
667 reasonable and is comparable to the actual cost of implementing  
668 such practice in the general area in which the land is located.  
669 Should the department determine that the submitted cost of  
670 implementing the approved practice is not reasonable, the  
671 department shall approve cost-share assistance in an amount which  
672 is determined by the department to be reasonable for the  
673 implementation of the approved practice in the general area in  
674 which the land is located.

675           **SECTION 28.** Section 49-19-221, Mississippi Code of 1972, is  
676 amended as follows:

677           49-19-221. (1) An eligible owner shall receive cost-share  
678 assistance as the department, in its discretion, shall determine  
679 and approve, but the department shall approve no assistance in an  
680 amount which exceeds either (a) a sum equal to seventy-five  
681 percent (75%) of the owner's actual cost incurred in implementing  
682 the approved practice approved by the department for that owner on  
683 a particular tract of land or lands, except that with respect to  
684 sixteenth section school trust lands the department may approve up  
685 to one hundred percent (100%) cost-share for any school district  
686 that has less than Ten Thousand Dollars (\$10,000.00) in its  
687 Forestry Escrow Fund, or (b) a sum equal to Thirty-seven Dollars  
688 and Fifty Cents (\$37.50) per acre of land on which the approved  
689 practice is implemented by the owner; provided, however, that no  
690 eligible owner, in any one (1) fiscal year, shall receive a sum  
691 total for all approved practices implemented by the owner of more  
692 than Ten Thousand Dollars (\$10,000.00); except that with respect  
693 to sixteenth section trust lands the department, at its  
694 discretion, may exceed the monetary limit in order to provide a  
695 total forest improvement program within any county.

696           (2) The limitation of Thirty-seven Dollars and Fifty Cents  
697 (\$37.50) per acre, as set forth in paragraph (b) of subsection (1)

698 of this section, may be changed by the department pursuant to the  
699 authorization of paragraph (c) of Section 49-19-219.

700 (3) During the reforestation of sixteenth section school  
701 trust lands classified as forest lands, no more than an average of  
702 twenty-five percent (25%) of Forest Resource Development Program  
703 funds will be spent on the reforestation of these school trust  
704 lands.

705 (4) It is the intent of this section that the department by  
706 1995 bring to maximum productivity all sixteenth section land.

707 **SECTION 29.** Section 49-19-223, Mississippi Code of 1972, is  
708 amended as follows:

709 49-19-223. (1) Any eligible owner who wishes to receive  
710 cost-share assistance shall file an application with the  
711 department stating the practice to be implemented, the approximate  
712 cost of such practice and a description of the land or lands upon  
713 which the practice is to be implemented. The application shall be  
714 accompanied by a statement of intent stating (a) that the owner  
715 intends to utilize the cost-share assistance for long-range timber  
716 growing and improvement, (b) that the owner is not receiving or  
717 using federal funds for implementation of any approved practice on  
718 the same acre of land or lands described in the application, and  
719 (c) that the owner if an owner in joint tenancy or tenancy in  
720 common or if a member of a group or association owning the lands,  
721 has no knowledge of any application which has been filed for  
722 cost-share assistance to be used on the lands described in the  
723 application.

724 (2) The department, upon completion of the approved  
725 practice, shall tender all approved sums of the cost-share  
726 assistance to the owner.

727 **SECTION 30.** Section 49-19-225, Mississippi Code of 1972, is  
728 amended as follows:

729 49-19-225. Any agency, department, board, commission or  
730 other subdivision of government of the State of Mississippi or any

731 political subdivision thereof is authorized to implement an  
732 approved practice on any lands suitable for forestry purposes  
733 owned by such political entity or owned by the State of  
734 Mississippi and supervised or managed by such entity. The  
735 governing authorities of such entity shall engage the assistance  
736 of the county forester of the county in which the land is located  
737 in the preparation of an application for submission to the  
738 department. The department shall treat any such political entity  
739 as an individual owner for purposes of considering applications,  
740 granting cost-share assistance and approving the practice  
741 implemented.

742       **SECTION 31.** Section 49-19-227, Mississippi Code of 1972, is  
743 amended as follows:

744       49-19-227. There is hereby created in the State Treasury a  
745 special fund to be designated the Forest Resource Development  
746 Fund, fiscal management and responsibility for which is hereby  
747 vested in the department and which shall consist of that portion  
748 of the privilege tax on timber and timber products as authorized  
749 by Section 27-25-11, Mississippi Code of 1972, and any funds  
750 appropriated specifically therefor by the Legislature. The  
751 Legislature shall appropriate such sums as it may deem necessary  
752 including any proceeds of general obligation bonds which may be  
753 authorized by the Legislature for the support of the Forest  
754 Resources Development Program provided for under Sections  
755 49-19-201 through 49-19-227. Those funds appropriated by the  
756 Legislature remaining in the special fund at the end of any fiscal  
757 year shall lapse into the General Fund, but other funds shall  
758 remain in the special fund.

759       **SECTION 32.** Section 49-19-305, Mississippi Code of 1972, is  
760 amended as follows:

761       49-19-305. As used in this section, unless the context  
762 requires otherwise:

763           (a) "Prescribed burning" means the controlled  
764 application of fire to naturally occurring vegetative fuels for  
765 ecological, silvicultural and wildlife management purposes under  
766 specified environmental conditions and the following of  
767 appropriate precautionary measures which cause the fire to be  
768 confined to a predetermined area and accomplishes the planned land  
769 management objectives.

770           (b) "Certified prescribed burn manager" means an  
771 individual or county forester who successfully completes the  
772 certification program approved by the Department of Agriculture,  
773 Forestry and Commerce.

774           (c) "Prescription" means a written plan for starting  
775 and controlling a prescribed burn to accomplish the ecological,  
776 silvicultural and wildlife management objectives.

777           (d) "Department" means the Department of Agriculture,  
778 Forestry and Commerce.

779           **SECTION 33.** Section 49-19-307, Mississippi Code of 1972, is  
780 amended as follows:

781           49-19-307. (1) No property owner or his agent, conducting a  
782 prescribed burn pursuant to the requirements of this section,  
783 shall be liable for damage or injury caused by fire or resulting  
784 smoke unless negligence is proven.

785           (2) Prescribed burning conducted under the provisions of  
786 this section shall:

787           (a) Be accomplished only when at least one (1)  
788 certified prescribed burn manager is supervising the burn or burns  
789 that are being conducted;

790           (b) Require that a written prescription be prepared and  
791 notarized prior to prescribed burning;

792           (c) Require that a burning permit be obtained from the  
793 department; and

794           (d) Be considered in the public interest and shall not  
795 constitute a public or private nuisance when conducted pursuant to



796 state air pollution statutes and rules applicable to prescribed  
797 burning.

798 (3) The department shall have the authority to promulgate  
799 rules for the certification of prescribed burn managers and  
800 guidelines for a prescribed burn prescription.

801 (4) Nothing in this section shall be construed to limit the  
802 civil or criminal liability as provided in Section 97-17-13 and  
803 Section 95-5-25, Mississippi Code of 1972.

804 **SECTION 34.** Section 49-19-351, Mississippi Code of 1972, is  
805 amended as follows:

806 49-19-351. (1) In this section, "department" means the  
807 Department of Agriculture, Forestry and Commerce and "drought or  
808 wildfire conditions" means the existence of a deficit of moisture  
809 creating severe conditions with increased wildfire occurrences as  
810 determined by the department through use of drought indices or  
811 models or the existence of extreme wildfire conditions.

812 (2) If the department determines that drought or wildfire  
813 conditions exist in a county, the department shall notify the  
814 board of supervisors of that county. The department may recommend  
815 that a temporary outdoor burning ban or other restrictions be  
816 adopted by the board of supervisors.

817 (3) The board of supervisors may, by order, prohibit or  
818 restrict outdoor burning in all or part of the unincorporated  
819 parts of the county if drought or wildfire conditions have been  
820 determined to exist by the department. An order must specify the  
821 period during which burning is restricted. The department shall  
822 notify the board of supervisors when the drought or wildfire  
823 conditions no longer exist. Any order issued under this section  
824 shall expire upon the determination that the drought or wildfire  
825 conditions no longer exist.

826 (4) Any person who knowingly and willfully violates an order  
827 under this section is guilty of a misdemeanor and may be fined not

828 less than One Hundred Dollars (\$100.00) nor more than Five Hundred  
829 Dollars (\$500.00).

830 (5) The sheriff of the county shall enforce the order and  
831 may cite persons for violations of an order under this section.

832 **SECTION 35.** Section 51-3-103, Mississippi Code of 1972, is  
833 amended as follows:

834 51-3-103. (1) (a) The council shall consist of the  
835 following members:

836 The executive directors of the following agencies, or their  
837 designees: the Department of Environmental Quality; the  
838 Department of Wildlife, Fisheries and Parks; the State Department  
839 of Health; the Department of Agriculture, Forestry and Commerce;  
840 the Soil and Water Conservation Commission; the Mississippi  
841 Development Authority; the Department of Marine Resources; the  
842 President of the Mississippi Water Resources Association, or his  
843 designee; the Director of the Mississippi State Board of  
844 Registered Professional Geologists, or his designee; and the  
845 Director of the Mississippi Water Resources Research Institute, or  
846 his designee. In addition, the Governor shall appoint one (1)  
847 representative of each of the following organizations: the  
848 Mississippi Association of Supervisors, the Mississippi  
849 Engineering Society, the Mississippi Geological Society, the  
850 Mississippi Economic Council, the Mississippi Farm Bureau  
851 Federation, the Mississippi Manufacturers Association, the  
852 Mississippi Municipal Association, the Delta Council, a regional  
853 water management district, an environmental organization with  
854 statewide membership and one (1) individual from each of the  
855 state's congressional districts.

856 Members of the council not appointed by the Governor as  
857 provided above shall serve a term concurrent with their term of  
858 office in their respective position. Nonappointed members may  
859 designate another member of their respective board, council or  
860 commission to serve as an alternate.

861 Members of the council appointed by the Governor shall serve  
862 staggered four-year terms. The initial terms of appointed members  
863 shall be as follows: Four (4) members shall be appointed for  
864 terms of two (2) years; five (5) members shall be appointed for a  
865 term of three (3) years; and five (5) members shall be appointed  
866 for terms of four (4) years. Thereafter, all terms of the  
867 appointed members of the council shall be for four (4) years. The  
868 terms of members shall begin and end on July 1, of the appropriate  
869 year, regardless of the date of appointment.

870 (b) In addition to the voting members of the council,  
871 as described above, the council may invite, as participating but  
872 nonvoting members, representatives of any other state and federal  
873 organizations, or individuals possessing expertise in the field of  
874 water resources management or who have a viable interest in the  
875 wise management of the water resources of the state.

876 (c) Original appointments to the council shall be made  
877 no later than October 1, 1995. The Governor shall require  
878 adequate disclosure of potential conflicts of interest by members  
879 of the council. Vacancies on the council shall be filled by  
880 appointment in the same manner as the original appointments.

881 (d) The Governor shall appoint from the membership of  
882 the council a chairperson to preside over meetings and vice  
883 chairperson to preside in the absence of the chairperson or when  
884 the chairperson shall be excused. The council shall adopt  
885 procedures governing the manner of conducting its business. A  
886 majority of the members shall constitute a quorum to do business.

887 (e) Members of the council shall serve without  
888 compensation. At the direction of the chairman of the council and  
889 contingent upon the availability of sufficient funds, each member  
890 may receive reimbursement for reasonable expenses, including  
891 travel expenses in accordance with rates established pursuant to  
892 Section 25-3-41, incurred in attending meetings of the council.

893 (2) The council shall convene by November 15, 1995.

894           (3) The Department of Environmental Quality shall provide  
895 any technical, clerical and other support services and personnel  
896 as the council may require in the performance of its functions.  
897 The department shall administer any funds made available to the  
898 council for its use and may at the request and on behalf of the  
899 council, contract for services using any funds available to the  
900 council. The department may provide supplies and office space as  
901 required for the council's routine operations. The council shall  
902 not employ any permanent staff, rent or occupy independent office  
903 space or otherwise establish a full-time office.

904           (4) In conducting its activities under Sections 51-3-101  
905 through 51-3-107, the council may elicit the support of and  
906 participation by any state agency as may be necessary or  
907 appropriate. All state agencies shall provide support or  
908 participation as requested.

909           (5) The council may exercise those duties and powers  
910 necessary to carry out the purposes of Sections 51-3-101 through  
911 51-3-105, including, but not limited to, the following functions:

912                 (a) Conduct, or cause to be conducted any studies,  
913 analyses or evaluations related to the state water management  
914 plan.

915                 (b) Apply and contract for and accept any grants,  
916 public or private funds, gifts or proceeds in furtherance of the  
917 activities of the council.

918                 (c) Authorize the Executive Director of the Department  
919 of Environmental Quality to enter into all contracts or execute  
920 all instruments, on behalf of the council, and do all acts  
921 necessary, desirable or convenient to carry out any power  
922 expressly granted to the council in this chapter.

923                 (d) Expend or distribute any funds or assets in its  
924 custody or under its control appropriate in carrying out the  
925 purposes of Sections 51-3-101 through 51-3-105.

926           **SECTION 36.** Section 51-3-105, Mississippi Code of 1972, is  
927 amended as follows:

928           51-3-105. (1) The council shall meet at least semiannually  
929 for the purpose of reviewing the implementation of the state water  
930 management plan and shall:

931                   (a) Recommend any amendments necessary to update the  
932 plan; or

933                   (b) Recommend that no amendments are necessary and the  
934 reasons supporting the determination.

935           The review shall be conducted as the council determines  
936 appropriate, and shall include the participation of the Department  
937 of Environmental Quality; Department of Wildlife, Fisheries and  
938 Parks; Mississippi Development Authority; Department of Marine  
939 Resources; Department of Agriculture, Forestry and Commerce; Soil  
940 and Water Conservation Commission; and the State Department of  
941 Health \* \* \*. Any joint water management district or other  
942 regional organization that provides the duties of a joint water  
943 management district shall be notified and may participate in this  
944 review. Any interested person may, upon written application to  
945 the council, seek an amendment to the state water management plan.  
946 The first review of the state water management plan shall be  
947 completed by January 1, 1999.

948                   (2) (a) Before January 1 of each year, the council shall  
949 submit to the Governor, the Commission on Environmental Quality,  
950 the Senate Environmental Protection, Conservation and Water  
951 Resources Committee and the House Conservation and Water Resources  
952 Committee, a report on the status of the state's water resources.

953                           (b) The report may contain recommendations regarding  
954 the functions and programs of each of the agencies with  
955 water-related programs, including, but not limited to:

956                                   (i) Operations of each of these programs;

957                                   (ii) Duplications or omissions in the programs

958 and/or missions of the agencies;

959 (iii) Changes in the organizational concepts,  
960 institutions, laws and management resources necessary to properly  
961 regulate and manage the state's water resources;

962 (iv) Methods to better coordinate activities of  
963 the various local, state and federal agencies;

964 (v) Activities that do not conform with the state  
965 water management plan;

966 (vi) Methods or ways to increase the efficiency of  
967 the state's management of its water resources; and

968 (vii) Other actions that should be considered to  
969 ensure the continued availability and quality of abundant surface  
970 water and groundwater necessary for the future growth and  
971 environmental enhancement of the state.

972 **SECTION 37.** Section 51-9-107, Mississippi Code of 1972, is  
973 amended as follows:

974 51-9-107. All powers of the district shall be exercised by a  
975 board of directors, to be composed of the following:

976 (a) Each member of the Pearl River Industrial  
977 Commission whose county becomes a part of the Pearl River Valley  
978 Water Supply District shall be a member of the Board of Directors  
979 of the Pearl River Valley Water Supply District. Such directors  
980 shall serve on this board during their term of office on the Pearl  
981 River Industrial Commission. In addition, the board of  
982 supervisors of each county which becomes a part of the district  
983 shall appoint one (1) additional member.

984 (b) The Mississippi Commission on Environmental  
985 Quality, the Mississippi Commission on Wildlife, Fisheries and  
986 Parks, the Department of Agriculture, Forestry and Commerce, and  
987 the State Board of Health of the State of Mississippi shall each  
988 appoint one (1) director from that department to serve on the  
989 Board of Directors of the Pearl River Valley Water Supply District  
990 to serve at the pleasure of the respective board appointing him.

991           (c) Each director shall take and subscribe to the oath  
992 of office required by Section 268 of the Constitution of the State  
993 of Mississippi before a chancery clerk, that he will faithfully  
994 discharge the duties of the office, which oath shall be filed with  
995 the said clerk and by him preserved.

996           (d) Each director shall receive per diem compensation  
997 in the amount as provided in Section 25-3-69 for attending each  
998 meeting of the board and for each day spent in attending to the  
999 necessary business of the district and shall be reimbursed for  
1000 actual expenses thus incurred upon express authorization of the  
1001 board, including travel expenses, as provided in Section 25-3-41.

1002           (e) The board of directors shall annually elect from  
1003 its number a president and a vice president of the district, and  
1004 such other officers as in the judgment of the board are necessary.  
1005 The president shall be the chief executive officer of the district  
1006 and the presiding officer of the board, and shall have the same  
1007 right to vote as any other director. The vice president shall  
1008 perform all duties and exercise all powers conferred by this  
1009 article upon the president when the president is absent or fails  
1010 or declines to act, except the president's right to vote. The  
1011 board shall also appoint a secretary and a treasurer who may or  
1012 may not be members of the board, and it may combine those offices.  
1013 The treasurer shall give bond in the sum of not less than Fifty  
1014 Thousand Dollars (\$50,000.00) as set by the board of directors and  
1015 each director shall give bond in the sum of not less than Ten  
1016 Thousand Dollars (\$10,000.00), and the premiums on said bonds  
1017 shall be an expense of the district. The condition of each such  
1018 bond shall be that the treasurer or director will faithfully  
1019 perform all duties of office and account for all money which shall  
1020 come into his custody as treasurer or director of the district.

1021           **SECTION 38.** Section 51-11-5, Mississippi Code of 1972, is  
1022 amended as follows:

1023           51-11-5. (1) All powers of the Pearl River Basin  
1024 Development District, hereinafter referred to in this chapter as  
1025 the district, shall be exercised by a board of directors to be  
1026 selected and composed as follows:

1027           (a) The Mississippi Commission on Environmental  
1028 Quality, the Mississippi Commission on Wildlife, Fisheries and  
1029 Parks, the Department of Agriculture, Forestry and Commerce, and  
1030 the State Board of Health of the State of Mississippi shall each  
1031 appoint one (1) director to serve on the board of directors of the  
1032 district, each such director to serve at the pleasure of the  
1033 respective state agency appointing him but not to exceed a  
1034 six-year term.

1035           (b) The board of supervisors of each county which  
1036 elects to become a member of the district shall appoint two (2)  
1037 directors from that county, each of whom shall serve for a term of  
1038 six (6) years or until his successor is appointed by the board of  
1039 supervisors of that county and qualified. In making its initial  
1040 appointment of directors, the board of supervisors of each member  
1041 county shall appoint one (1) of its two (2) directors to serve for  
1042 a term of three (3) years or until his successor is appointed and  
1043 qualified.

1044           (c) In addition to the two (2) directors in paragraph  
1045 (b), each county shall be entitled to additional representation on  
1046 the board based on its annual contribution for the support of the  
1047 district required under Section 51-11-31. If the annual  
1048 contribution of a county as certified under Section 51-11-31 is  
1049 more than One Hundred Thousand Dollars (\$100,000.00), the county  
1050 may appoint one (1) additional director for each increment of One  
1051 Hundred Thousand Dollars (\$100,000.00), to be contributed. Each  
1052 additional director shall serve a term of six (6) years. If, in  
1053 subsequent years, a county's contribution is reduced below One  
1054 Hundred Thousand Dollars (\$100,000.00), or a multiple thereof, a  
1055 county's additional representation shall be reduced



1056 correspondingly. If a county's contribution representation is  
1057 reduced, the board of supervisors of the county shall designate  
1058 the director to be removed. No member county shall be entitled to  
1059 more than three (3) additional directors under this paragraph.

1060 (d) The Governor of the State of Mississippi shall  
1061 appoint one (1) director residing within the district, who shall  
1062 serve for a term of six (6) years or until his successor is  
1063 appointed by the Governor and qualified.

1064 (2) Each director shall take and subscribe to the general  
1065 oath of office required by Section 268 of the Constitution of the  
1066 State of Mississippi before a chancery clerk, that he will  
1067 faithfully discharge the duties of the office, which oath shall be  
1068 filed with the said clerk and by him preserved.

1069 (3) Each director shall receive a per diem in the amount as  
1070 provided in Section 25-3-69 for attending each day's meeting of  
1071 the board of directors and for each day spent in attending to the  
1072 necessary business of the district and, in addition, he shall  
1073 receive reimbursement for actual expenses, including travel  
1074 expenses, as provided in Section 25-3-41.

1075 (4) The board of directors shall annually elect from its  
1076 number a president and vice president of the district and such  
1077 other officers as, in the judgment of the board of directors, are  
1078 necessary. The president shall be the chief executive officer of  
1079 the district and the presiding officer of the board of directors,  
1080 and shall have the same right to vote as any other director. The  
1081 vice president shall perform all duties and exercise all powers  
1082 conferred by this chapter upon the president when the president is  
1083 absent or fails or declines to act, except the president's right  
1084 to vote. The board of directors shall also appoint a secretary  
1085 and a treasurer who shall be members of the board of directors,  
1086 and it may combine those officers. The treasurer shall give bond  
1087 in the sum of not less than Fifty Thousand Dollars (\$50,000.00) as  
1088 set by the board of directors, and each director may be required

1089 to give bond in the sum of not less than Ten Thousand Dollars  
1090 (\$10,000.00), with sureties qualified to do business in this  
1091 state, and the premiums on said bonds shall be an expense of the  
1092 district. Each such bond shall be payable to the State of  
1093 Mississippi; the condition of each such bond shall be that the  
1094 treasurer or director will faithfully perform all duties of his  
1095 office and account for all money or other assets which shall come  
1096 into his custody as treasurer or director of the district.

1097 (5) A majority of the total membership of the board of  
1098 directors shall constitute a quorum at a regular meeting, or at  
1099 any special meeting duly called and held for a specific purpose.  
1100 All business of the district shall be transacted by the  
1101 affirmative vote of a majority of the total membership of the  
1102 board of directors.

1103 (6) The State Auditor of Public Accounts shall annually  
1104 audit the books and records of the district and make a report  
1105 thereof to the Governor and the Legislature.

1106 **SECTION 39.** Section 51-11-9, Mississippi Code of 1972, is  
1107 amended as follows:

1108 51-11-9. (1) Within twenty (20) days after the passage of  
1109 this chapter, the Mississippi Commission on Environmental Quality,  
1110 the Mississippi Commission on Wildlife, Fisheries and Parks, the  
1111 Department of Agriculture, Forestry and Commerce, and the State  
1112 Board of Health of the State of Mississippi shall appoint their  
1113 respective members to the proposed district board of directors as  
1114 provided in Section 51-11-5. These four (4) appointive members,  
1115 upon taking the oath as provided, shall meet in the Office of the  
1116 Mississippi Department of Environmental Quality in Jackson,  
1117 Mississippi, within ten (10) days, and adopt by a majority vote a  
1118 resolution setting forth their intentions of creating the district  
1119 and shall forthwith send a certified copy of said resolution to:

1120 (a) The Governor;

1121           (b) Executive Officers of the Mississippi Commission on  
1122 Environmental Quality, Mississippi Commission on Wildlife,  
1123 Fisheries and Parks, Department of Agriculture, Forestry and  
1124 Commerce, and State Board of Health; and

1125           (c) The president of the board of supervisors and the  
1126 chancery clerk of each county which is part of the Pearl River  
1127 Basin. After receipt of said resolution, each of the four (4)  
1128 state agencies hereinabove named may adopt its own resolution  
1129 favorable or unfavorable to the creation of said district; and the  
1130 respective boards of supervisors may, at their next regular  
1131 meeting or at any subsequent meeting, likewise adopt a resolution  
1132 favorable or unfavorable to creating said district. All said  
1133 resolutions adopted shall be certified by adopting body's  
1134 secretary, clerk, or executive officer, and certified copies shall  
1135 be filed with each state agency and political subdivision named in  
1136 this section.

1137           (2) The board of supervisors of any county which is part of  
1138 the Pearl River Basin and which desires to become a member of the  
1139 district shall, upon receipt of the certified resolution to be  
1140 adopted by the four (4) initial directors, declare said board's  
1141 intentions by adopting a resolution expressing its desire to have  
1142 said district created and stating that its county desires to be a  
1143 member thereof and that said board desires and intends to levy a  
1144 special ad valorem tax not to exceed one-half (1/2) mill on all  
1145 taxable property within said county for the use and benefit of the  
1146 Pearl River Basin Development District, if and in the event that  
1147 other funds of that county are not available and appropriated to  
1148 pay for that county's required contribution to said district. The  
1149 said resolution shall be published once each week for three (3)  
1150 consecutive weeks in some newspaper published in the county and  
1151 having a general circulation therein. If within twenty-one (21)  
1152 days after the date of the first publication of said resolution,  
1153 no petition signed by twenty percent (20%) of the qualified

1154 electors of the county is filed with the board of supervisors  
1155 requesting the calling of an election on the question of the  
1156 county's participation in the district and the levying of the  
1157 special ad valorem tax not to exceed one-half (1/2) mill as  
1158 aforesaid, then the board of supervisors may proceed to have the  
1159 county made a member of said district and to levy the special ad  
1160 valorem tax not to exceed one-half (1/2) mill if and when  
1161 required; but if within twenty-one (21) days after the date of the  
1162 first publication of said resolution a petition is filed, signed  
1163 by at least twenty percent (20%) of the qualified electors of said  
1164 county, requesting an election on the proposition of said county's  
1165 becoming a member of the proposed district and the levying of the  
1166 special ad valorem tax not to exceed one-half (1/2) mill as herein  
1167 provided, then said election shall be held and conducted as now  
1168 provided by law for such election. If such an election is held  
1169 and a majority of those voting therein vote for the proposition,  
1170 the board shall, by appropriate resolution, bring the county into  
1171 the district and levy the special ad valorem tax not to exceed  
1172 one-half (1/2) mill as provided by this chapter, if required. If  
1173 the majority of those voting in such election shall vote against  
1174 the proposition, then the county shall not become a member of the  
1175 district nor levy the one-half (1/2) mill tax, and no further  
1176 election shall be so conducted until the lapse of two (2) years  
1177 after the last election.

1178 (3) Whenever an aggregate of six (6) counties shall have  
1179 become members of the Pearl River Basin Development District in  
1180 the manner provided in this section, the said district shall be  
1181 created as an agency of the state and a body politic and corporate  
1182 with all the powers granted to it by statute; at which time the  
1183 Governor shall appoint the four (4) directors \* \* \*.

1184 (4) Any eligible county may become a member of the district  
1185 subsequent to its creation, in the manner that the original  
1186 counties became members. New member counties shall have the same

1187 power and authority and be entitled to equal consideration of the  
1188 district's board of directors, not inconsistent with the purpose  
1189 of this chapter.

1190 **SECTION 40.** Section 51-13-105, Mississippi Code of 1972, is  
1191 amended as follows:

1192 51-13-105. All powers of the district shall be exercised by  
1193 a board of directors, to be composed of the following:

1194 (a) Each member of the Tombigbee Valley Authority as  
1195 created by virtue of Sections 51-13-1 through 51-13-9, whose  
1196 county becomes a part of the Tombigbee River Valley Water  
1197 Management District shall be a member of the Board of Directors of  
1198 the Tombigbee River Valley Water Management District, and each  
1199 state-at-large member of the Tombigbee Valley Authority shall  
1200 become a member of the Board of Directors of the Tombigbee River  
1201 Valley Water Management District when one or more entire counties  
1202 become members of the Tombigbee River Valley Water Management  
1203 District. Such directors shall serve on this board during their  
1204 term of office on the Tombigbee Valley Authority. In addition,  
1205 the board of supervisors of each county within the Tombigbee River  
1206 Basin which elects to become a member of the district shall  
1207 appoint one (1) board member to serve for a term of four (4) years  
1208 or until his successor is named. The Governor shall appoint one  
1209 (1) member from each county added to the Tombigbee River Valley  
1210 Water Management District which county is not now a member of the  
1211 Tombigbee Valley Authority, and such member shall serve for a  
1212 four-year term or until his successor is appointed.

1213 (b) The Department of Environmental Quality, the  
1214 Department of Wildlife, Fisheries and Parks, the Department of  
1215 Agriculture, Forestry and Commerce, and the State Board of Health  
1216 of the State of Mississippi shall each appoint one (1) director  
1217 from that department to serve on the Board of Directors of the  
1218 Tombigbee River Valley Water Management District, to serve at the

1219 pleasure of the entity appointing him but not to exceed four-year  
1220 terms.

1221 (c) Each director shall take and subscribe to the  
1222 general oath of office required by Section 268 of the Constitution  
1223 of the State of Mississippi before a chancery clerk that he will  
1224 faithfully discharge the duties of the office, which oath shall be  
1225 filed with the said clerk and by him preserved.

1226 (d) Each director shall receive compensation at a per  
1227 diem rate as provided in Section 25-3-69 for each day or fraction  
1228 thereof spent in actual discharge of his official duties and shall  
1229 be reimbursed for mileage and actual expenses incurred in the  
1230 performance of his official duties in accordance with the  
1231 requirements of Section 25-3-41.

1232 (e) The board of directors shall annually elect from  
1233 its number a president and a vice president of the district and  
1234 such other officers as in the judgment of the board are necessary.  
1235 The president shall be the chief executive officer of the district  
1236 and the presiding officer of the board, and shall have the same  
1237 right to vote as any other director. The vice president shall  
1238 perform all duties and exercise all powers conferred by this  
1239 article upon the president when the president is absent or fails  
1240 or declines to act, except the president's right to vote. The  
1241 board shall also appoint a secretary and a treasurer who may or  
1242 may not be members of the board, and it may combine those offices.  
1243 The treasurer shall give bond in the sum of not less than Fifty  
1244 Thousand Dollars (\$50,000.00) as set by the board of directors,  
1245 and each director shall give bond in the sum of not less than Ten  
1246 Thousand Dollars (\$10,000.00) with sureties qualified to do  
1247 business in this state, and the premiums on said bonds shall be an  
1248 expense of the district. The condition of each such bond shall be  
1249 that the treasurer or director will faithfully perform all duties  
1250 of his office and account for all money or other assets which

1251 shall come into his custody as treasurer or director of the  
1252 district.

1253 **SECTION 41.** Section 51-13-107, Mississippi Code of 1972, is  
1254 amended as follows:

1255 51-13-107. (1) Within twenty (20) days after the passage of  
1256 this article, the Mississippi Commission on Environmental Quality,  
1257 State Board of Health, Mississippi Commission on Wildlife,  
1258 Fisheries and Parks, and the Department of Agriculture, Forestry  
1259 and Commerce of the State of Mississippi shall appoint their  
1260 respective members to the proposed district board of directors as  
1261 provided in Section 51-13-105. The four (4) appointive members,  
1262 upon taking the oath as provided, shall meet in the Office of the  
1263 Mississippi Department of Environmental Quality in Jackson,  
1264 Mississippi, within ten (10) days and adopt by a majority vote a  
1265 resolution setting forth their intentions of creating the district  
1266 and shall forthwith send a certified copy of said resolution to:

1267 (a) each member of the Tombigbee Valley Authority as now  
1268 constituted, (b) the Governor, (c) executive officers of the  
1269 Mississippi Commission on Environmental Quality, Board of Health,  
1270 Mississippi Commission on Wildlife, Fisheries and Parks, and  
1271 Department of Agriculture, Forestry and Commerce, and (d) the  
1272 president of the board of supervisors and chancery clerk of each  
1273 county through which any part of the Tombigbee River or any of its  
1274 tributaries lie. The four (4) state agencies herein named and the  
1275 Tombigbee Valley Authority may, within ten (10) days from receipt  
1276 of said resolution, adopt its own resolution favorable or  
1277 unfavorable to the creation of said district; and the respective  
1278 boards of supervisors may at their next regular meeting likewise  
1279 adopt a resolution favorable or unfavorable to creating said  
1280 district. All of said resolutions adopted shall be certified by  
1281 its secretary, clerk, or executive officer and shall be filed with  
1282 each state agency, political subdivision, or other agency named in  
1283 Section 55-13-105.

1284           (2) Every board of supervisors of those counties desiring to  
1285 become members of the district, through which the Tombigbee River  
1286 or any of its tributaries lie, shall, upon receipt of the  
1287 certified resolutions mentioned in this section, declare said  
1288 board's intentions by adopting a resolution expressing its desire  
1289 to have said district created and to levy an ad valorem tax not to  
1290 exceed one-half (1/2) mill on all the taxable property within the  
1291 Tombigbee Watershed area of said county for the use and benefit of  
1292 the Tombigbee River Valley Water Management District. The said  
1293 resolution shall be published once each week for three (3)  
1294 consecutive weeks in some newspaper published in the county and  
1295 having a general circulation therein, and if no petition signed by  
1296 twenty percent (20%) of the qualified electors of the county is  
1297 filed with the board requesting the calling of an election on the  
1298 question of the county's participation in the district and the  
1299 levying of the one-half (1/2) mill tax levy aforesaid, the board  
1300 may proceed to have the county become a member of said district  
1301 and to levy the one-half (1/2) mill tax levy but if, within  
1302 twenty-one (21) days after the date of the first publication of  
1303 said resolution, a petition signed by at least twenty percent  
1304 (20%) of the qualified electors of said county, requesting an  
1305 election on the proposition of said county becoming a member of  
1306 the proposed district and the levying of the one-half (1/2) mill  
1307 tax as herein provided, is filed, said election shall be held and  
1308 conducted as now provided by law for such elections. If such an  
1309 election is held and a majority of those voting therein vote for  
1310 the proposition, the board shall, by appropriate resolution, bring  
1311 the county into the district and levy the one-half (1/2) mill tax  
1312 as otherwise provided by law. If the majority of those voting in  
1313 such election shall vote against the proposition, then the county  
1314 shall not become a member of the district nor levy the one-half  
1315 (1/2) mill tax; and no further election shall be so conducted  
1316 until the lapse of two (2) years after the last election.



1317           (3) Whenever an aggregate of six (6) counties have become  
1318 members of the Tombigbee River Valley Water Management District in  
1319 the manner provided in this section, the said district shall be  
1320 created as an agency of the state and a body politic and corporate  
1321 with all of the powers granted it by statute.

1322           **SECTION 42.** Section 53-7-11, Mississippi Code of 1972, is  
1323 amended as follows:

1324           53-7-11. (1) The commission may adopt, modify, repeal,  
1325 after due notice and hearing, and where not otherwise prohibited  
1326 by federal or state law, make exceptions to and grant exemptions  
1327 and variances from and may enforce rules and regulations  
1328 pertaining to surface mining and reclamation operations to  
1329 implement the provisions of this chapter.

1330           (2) Adopting rules and regulations, the commission shall  
1331 comply with the Mississippi Administrative Procedures Law, and in  
1332 addition, may hold a public hearing. Notice of the date, time,  
1333 place and purpose of the hearing shall be given thirty (30) days  
1334 before the scheduled date of the hearing as follows:

1335           (a) By mail to:

1336                   (i) All operators known by the commission to be  
1337 actively engaged in surface mining in the state;

1338                   (ii) Persons who request notification of proposed  
1339 actions regarding rules and regulations and any other person the  
1340 commission deems appropriate; and

1341                   (iii) The Mississippi Soil and Water Conservation  
1342 Commission, the Mississippi Department of Environmental Quality,  
1343 Mississippi Department of Wildlife, Fisheries and Parks, \* \* \*  
1344 Mississippi Department of Archives and History, Mississippi  
1345 Department of Transportation and the Mississippi Department of  
1346 Agriculture, Forestry and Commerce.

1347           (b) By publication once weekly for three (3)  
1348 consecutive weeks in a newspaper having general circulation in the  
1349 State of Mississippi.

1350 (3) Any person may submit written comments or appear and  
1351 offer oral comments at the public hearing. The commission shall  
1352 consider all comments and relevant data presented at the hearing  
1353 before final adoption of rules and regulations under this chapter.  
1354 The failure of any person to submit comments within a time period  
1355 as established by the commission shall not preclude action by the  
1356 commission.

1357 **SECTION 43.** Section 53-7-29, Mississippi Code of 1972, is  
1358 amended as follows:

1359 53-7-29. (1) The department shall file a copy of each  
1360 permit application for public inspection with the chancery clerk  
1361 of the county where any portion of the operation is proposed to  
1362 occur after deleting the confidential information according to  
1363 Section 53-7-75.

1364 (2) The department shall submit copies, excluding all  
1365 confidential information, of the permit application as soon as  
1366 possible to: (a) the Mississippi Soil and Water Conservation  
1367 Commission, Mississippi Department of Wildlife, Fisheries and  
1368 Parks, \* \* \* Mississippi Department of Environmental Quality,  
1369 Mississippi Department of Archives and History, Mississippi  
1370 Department of Transportation, Mississippi State Oil and Gas Board  
1371 and Mississippi Department of Agriculture, Forestry and Commerce;  
1372 (b) any other state agency whose jurisdiction the department  
1373 believes the particular mining operation may affect; and (c) any  
1374 person who requests in writing a copy of the application; and (d)  
1375 the owner of the land. The department shall require payment of a  
1376 reasonable fee established by the commission for reimbursement of  
1377 the costs of reproducing and providing the copy.

1378 (3) Each agency shall review the permit application and  
1379 submit, within fifteen (15) days of receipt of the application,  
1380 any comments, recommendations and evaluations as the agency deems  
1381 necessary and proper based only upon the effect of the proposed  
1382 operation on matters within the agency's jurisdiction. The

1383 comments shall include a listing of permits or licenses required  
1384 under the agency's jurisdiction. Comments and recommendations  
1385 shall be made a part of the record and one (1) copy shall be  
1386 furnished to the applicant. All comments and recommendations  
1387 shall be considered by, but shall not be binding upon, the Permit  
1388 Board. The failure of any agency to submit comments shall not  
1389 preclude action by the Permit Board.

1390       **SECTION 44.** Section 53-9-11, Mississippi Code of 1972, is  
1391 amended as follows:

1392       53-9-11. (1) The commission may adopt, modify, repeal and  
1393 promulgate, after due notice and hearing and in accordance with  
1394 the Mississippi Administrative Procedures Law, and where not  
1395 otherwise prohibited by federal or state law, may make exceptions  
1396 to and grant exemptions and variances from and may enforce rules  
1397 and regulations necessary or appropriate to carry out this  
1398 chapter. Those rules and regulations shall be consistent with  
1399 rules and regulations promulgated by the United States Secretary  
1400 of the Interior under the federal act. No exceptions, exemptions  
1401 or variances shall be less stringent than rules and regulations  
1402 promulgated under the federal act. Any rules and regulations  
1403 adopted by the commission may be more stringent than those  
1404 promulgated by the United States Secretary of the Interior as long  
1405 as they are not otherwise inconsistent with this chapter. A rule  
1406 or regulation adopted by the commission may differ in its terms  
1407 and provisions regarding particular conditions, particular mining  
1408 techniques, particular areas of the state, or any other conditions  
1409 that appear relevant and necessary as long as the action taken is  
1410 consistent with this chapter. Before adopting any rules and  
1411 regulations under this chapter, the commission shall hold a public  
1412 hearing. Notice of the date, time, place and purpose of the  
1413 hearing shall be given thirty (30) days before the scheduled date  
1414 of the hearing as follows:

1415       (a) By mail:

1416 (i) To all operators known by the commission to be  
1417 actively engaged in surface coal mining operations in the state;

1418 (ii) To persons who make written request for  
1419 notification of the proposed regulations;

1420 (iii) To the Mississippi Soil and Water  
1421 Conservation Commission, and to each local soil and water  
1422 conservation district;

1423 (iv) To the Mississippi Department of Wildlife,  
1424 Fisheries and Parks, \* \* \* the Mississippi Department of Archives  
1425 and History, the Mississippi Department of Transportation, the  
1426 Mississippi Department of Agriculture, Forestry and Commerce, the  
1427 Mississippi State Oil and Gas Board, the Mississippi Department of  
1428 Marine Resources, and the Mississippi State Department of Health;  
1429 and

1430 (v) To any other state agency whose jurisdiction  
1431 the commission feels the surface coal mining operations may  
1432 affect;

1433 (b) To other interested parties by publication of the  
1434 notice once a week for three (3) consecutive weeks in one (1)  
1435 newspaper having general circulation in the state.

1436 (2) Any person may submit written comments or appear and  
1437 offer oral comments at the public hearing. The commission shall  
1438 consider all comments and relevant data presented at the public  
1439 hearing before final adoption of rules and regulations under this  
1440 chapter. The failure of any person to submit comments within a  
1441 time period as established by the commission shall not preclude  
1442 action by the commission.

1443 **SECTION 45.** Section 55-3-1, Mississippi Code of 1972, is  
1444 amended as follows:

1445 55-3-1. The Governor of the state is authorized to accept  
1446 gifts of land to the state, not to exceed ten percent (10%) of the  
1447 area of any county, to be held, protected, and administered by the  
1448 Department of Agriculture, Forestry and Commerce as state forests

1449 and parks and to be used to demonstrate their practical utility  
1450 for reforestation and as breeding places for wild game, and he is  
1451 authorized to accept gifts of land to be used and administered by  
1452 the commission as state parks. Such gifts must be absolute,  
1453 except for the reservation of any or all mineral rights, and in no  
1454 case shall exceed ten percent (10%) of the area of any county  
1455 wherein such lands may be situated. The Attorney General is  
1456 directed to see that all deeds to the state are properly executed  
1457 and that the titles thereto are free and clear of all encumbrances  
1458 before the gift is accepted. When any donation exceeding six  
1459 hundred (600) acres is made, the name of the donor or any name he  
1460 may suggest, on the approval of the commission, shall be given  
1461 such donation as the designation of such forest or park.

1462 **SECTION 46.** Section 55-3-11, Mississippi Code of 1972, is  
1463 amended as follows:

1464 55-3-11. The Department of Agriculture, Forestry and  
1465 Commerce shall have the control and management of any and all  
1466 forests or public parks set aside and dedicated as provided for in  
1467 Section 55-3-7, and shall have authority to issue grazing or  
1468 farming permits or leases on said parks, and to make sales of  
1469 timber and other forest products of the soil from same. The  
1470 Mississippi Commission on Wildlife, Fisheries and Parks shall have  
1471 the control and management of any and all lands set aside and  
1472 dedicated for a fish and game refuge and/or preserve. The  
1473 Department of Agriculture, Forestry and Commerce and the  
1474 Mississippi Commission on Wildlife, Fisheries and Parks shall  
1475 cooperate in the utilization of any lands so dedicated both for  
1476 forestry and game and fish conservation purposes.

1477 In the case of state forests and/or state parks the  
1478 Department of Agriculture, Forestry and Commerce, and, in the case  
1479 of fish and game preserves, the Mississippi Commission on  
1480 Wildlife, Fisheries and Parks, is hereby vested with authority to  
1481 institute proceedings against trespassers and others in the name

1482 of the State of Mississippi, and to do all things necessary and  
1483 proper to obtain the most complete and advantageous developments  
1484 of state forests, parks, and fish and game preserves.

1485         **SECTION 47.** Section 55-3-19, Mississippi Code of 1972, is  
1486 amended as follows:

1487         55-3-19. Where the federal government and the state  
1488 government or any subdivision thereof are cooperating in the  
1489 establishment of a major park and forest and game reserve, and  
1490 where the property owners in the territory therein involved have  
1491 agreed to convey as much as fifty percent (50%) of the area  
1492 required for said purposes, the Department of Agriculture,  
1493 Forestry and Commerce, together with the Mississippi Commission on  
1494 Wildlife, Fisheries and Parks or any subdivision of the state, are  
1495 hereby empowered to exercise the right of eminent domain in the  
1496 manner now provided by law to obtain the necessary lands needed.

1497         **SECTION 48.** Section 55-3-21, Mississippi Code of 1972, is  
1498 amended as follows:

1499         55-3-21. There is hereby established in the State Treasury a  
1500 revolving fund to be used by the Department of Agriculture,  
1501 Forestry and Commerce to carry out the provisions of the will of  
1502 William W. Kurtz, dated July 12, 1940, which donated one thousand  
1503 seven hundred sixty (1,760) acres of forestland in Greene County  
1504 to the State of Mississippi to be held, protected, administered  
1505 and improved by the Department of Agriculture, Forestry and  
1506 Commerce as a state forest. The fund shall be called the Kurtz  
1507 State Forest Revolving Fund, and money for the fund shall accrue  
1508 from any revenues derived from the Kurtz State Forest including,  
1509 but not limited to, timber sales, hunting leases, permit fees, and  
1510 stump and naval stores operations. The Department of Agriculture,  
1511 Forestry and Commerce is authorized to expend a portion of the  
1512 monies in the fund to purchase in the name of the State of  
1513 Mississippi other lands, not to exceed five hundred (500) acres,  
1514 which are contiguous to or located near the lands donated by the

1515 Kurtz will, for the purpose of expanding the Kurtz State Forest.  
1516 The Department of Agriculture, Forestry and Commerce also may  
1517 expend monies in the fund for the purposes described in Section  
1518 55-3-23. The State Treasurer shall invest all monies in the fund,  
1519 and interest earned on the investments shall be paid back into the  
1520 fund and not into the General Fund. The fund shall be audited  
1521 annually by the State Auditor.

1522 **SECTION 49.** Section 55-3-23, Mississippi Code of 1972, is  
1523 amended as follows:

1524 55-3-23. The Department of Agriculture, Forestry and  
1525 Commerce is authorized, annually, to pay to the State Line  
1526 Cemetery Association, out of the proceeds and receipts derived  
1527 from timber sales in the Kurtz State Forest, an amount not to  
1528 exceed Two Hundred Dollars (\$200.00) for the upkeep of the  
1529 cemetery in which W.W. Kurtz and wife, the donors of Kurtz State  
1530 Forest, are buried.

1531 **SECTION 50.** Section 29-3-27, Mississippi Code of 1972, is  
1532 amended as follows:

1533 29-3-27. No sixteenth section lands or lands granted in lieu  
1534 thereof, in whole or in part, situated within the school district  
1535 holding or owning the same shall ever be sold, except that the  
1536 board of education may, under the procedures hereinafter provided,  
1537 sell such lands for industrial development thereon, therein, or  
1538 thereunder to any persons, firms, or corporations in fee simple,  
1539 or any lesser estate therein, for a purchase price not less than  
1540 the fair market value thereof; and when any such sale is made, the  
1541 deed shall be executed in the name of the State of Mississippi by  
1542 the superintendent of the said board of education.

1543 As used in this section and in Sections 29-3-29 and 29-3-61,  
1544 the term "industrial development" shall include restoration as a  
1545 tourist attraction the place where an organization was founded,  
1546 which said organization has since been expanded to be national or  
1547 international in its membership, scope, and influence.

1548           The proceeds of the sale in fee simple of any sixteenth  
1549 section, or lands granted in lieu thereof, in whole or in part, or  
1550 such part of said proceeds as may be required to purchase acreage  
1551 of equivalent fair market value, shall be used by the board of  
1552 education, to purchase other land in the county, which land shall  
1553 be held and reserved by the State of Mississippi for the support  
1554 of the township schools in lieu of the land thus sold, as other  
1555 sixteenth section lieu land is held, and shall be subject to all  
1556 laws applicable thereto. Every such sale and every such purchase  
1557 of land in lieu thereof shall be reported by the secretary of the  
1558 board of education to the State Land Commissioner and to the  
1559 Department of Agriculture, Forestry and Commerce within ninety  
1560 (90) days after the consummation of each such sale and purchase.  
1561 Any funds from a sale in fee simple of any sixteenth section land,  
1562 or land granted in lieu thereof, in excess of any amount used to  
1563 purchase said land in lieu thereof, shall be treated as corpus and  
1564 shall be invested by the board of education as provided by law.  
1565 Only the income from such investment shall be expended for current  
1566 operating expenses of the schools.

1567           **SECTION 51.** Section 29-3-45, Mississippi Code of 1972, is  
1568 amended as follows:

1569           29-3-45. (1) (a) The board of education shall by order  
1570 placed upon its minutes, enter into an agreement with the  
1571 Department of Agriculture, Forestry and Commerce for the general  
1572 supervision and management of all lands classified as forest  
1573 lands, as hereinabove provided, and of all timber or other forest  
1574 products under the control of the board on sixteenth section  
1575 lands, and lieu lands which have not been so classified; however,  
1576 any school board may contract with private persons or businesses  
1577 for the reforestation of sixteenth section lands. When such  
1578 agreement has been entered into, no timber or other forest  
1579 products shall be sold from any of said sixteenth section lands or  
1580 lieu lands except such as have been marked for cutting by the



1581 Department of Agriculture, Forestry and Commerce's employees, and  
1582 the department, or its designated employee, shall fix the minimum  
1583 total cash price or minimum price per unit, one thousand (1,000)  
1584 feet or other measure, at which the marked timber or other forest  
1585 products shall be sold. The sales may be made for a lump sum or  
1586 upon a unit price as in the opinion of the board may be calculated  
1587 to bring the greatest return. Sales shall be made upon such other  
1588 terms and conditions as to manner of cutting, damages for cutting  
1589 of unmarked trees, damages to trees not cut and other pertinent  
1590 matters as the board of education shall approve.

1591 (b) The Department of Agriculture, Forestry and  
1592 Commerce shall have the sole authority and control in prescribing  
1593 the forestry management practices and scheduling of all cutting  
1594 and harvesting of timber or other forest products when such timber  
1595 stands or other forest products are determined by the Department  
1596 of Agriculture, Forestry and Commerce to be economically ready for  
1597 cutting and harvesting; however, any school board may contract  
1598 with private persons or businesses for the reforestation of  
1599 sixteenth section lands.

1600 (c) Should a school board disagree with the Department  
1601 of Agriculture, Forestry and Commerce concerning the time of  
1602 cutting and harvesting, the board may make an appeal to the  
1603 department \* \* \*. If the school board is not satisfied after the  
1604 appeal to the department, the board may then appeal to the  
1605 Secretary of State who will make the final decision as to the time  
1606 for cutting and harvesting. In the event, the local school board  
1607 is divested of its management authority under subsection (2) of  
1608 this section, the Secretary of State after due consultation with  
1609 the department shall retain the right to make final decisions  
1610 concerning the management and sale of timber and other forest  
1611 products.

1612 (d) It is hereby made the duty of the department, from  
1613 time to time, to mark timber which should be cut from said lands,

1614 to determine what planting, deadening or other forestry  
1615 improvements should be made, giving due consideration to food and  
1616 habitat for wildlife, and to report to the appropriate board of  
1617 education. The department and the board of education shall  
1618 supervise the cutting of any timber or harvesting of other forest  
1619 products sold from said lands herein designated and shall have  
1620 authority to require any timber-cutting operations on said lands  
1621 to cease until proper adjustment is made, whenever it shall appear  
1622 that timber is being cut in violation of the terms of the sale.  
1623 In the event that it is desired to lease any of such lands or  
1624 standing timber for turpentine purposes, such lease shall only  
1625 cover such trees as the department shall designate, and the  
1626 department through its employees shall approve the number of  
1627 faces, method of chipping and boxing of such timber, and shall fix  
1628 a minimum total cash price or minimum price per unit.

1629 (e) No sale of any timber, turpentine or other forest  
1630 products lease shall be made until notice of same shall have been  
1631 published once a week for three (3) consecutive weeks in at least  
1632 one (1) newspaper published in such county. The first publication  
1633 of such notice shall be made not less than twenty-one (21) days  
1634 prior to the date fixed for said sale, and the last publication  
1635 shall be made not more than seven (7) days prior to such date. If  
1636 no newspaper is published in such county, then such notice shall  
1637 be given by publishing the same for the required time in some  
1638 newspaper having a general circulation in such county and, in  
1639 addition thereto, by posting a copy of such notice for at least  
1640 twenty-one (21) days next preceding such sale at three (3) public  
1641 places in such county.

1642 (f) Provided, however, in the case of damage by fire,  
1643 windstorm or other natural causes which would require immediate  
1644 sale of the timber, because the time involved for advertisement as  
1645 prescribed herein would allow decay, rot or destruction  
1646 substantially decreasing the purchase price to be received had not

1647 such delay occurred, the advertisement provisions of this section  
1648 shall not apply. The board of education, with a written  
1649 recommendation from a designated employee of the department filed  
1650 in the minutes of the board of education, shall determine when  
1651 immediate sale of the timber is required. When the board of  
1652 education shall find an immediate sale necessary for the causes  
1653 stated herein, it shall, in its discretion, set the time for  
1654 receipt of bids on the purchase of said timber, but shall show due  
1655 diligence in notifying competitive bidders so that a true  
1656 competitive bid shall be received.

1657       (2) (a) In the event that any member of a local board of  
1658 education may have a personal interest, either direct or indirect,  
1659 in the decisions regarding the management or sale of timber or  
1660 other forest products or in a contract for the sale of timber or  
1661 other forest products from sixteenth section school lands under  
1662 the jurisdiction and control of said board, then said board of  
1663 education shall automatically be divested of all authority and  
1664 power to manage and sell timber or other forest products on  
1665 sixteenth section lands under its control and jurisdiction. Said  
1666 divestiture shall extend for the period of service, and for one  
1667 (1) year thereafter, of the board member having a direct or  
1668 indirect personal interest in the sale or decision to sell timber  
1669 or other forest products.

1670       (b) During the time in which any local board of  
1671 education may be divested of authority and power to manage and  
1672 sell timber and other forest products, such authority and power  
1673 shall be vested in the Secretary of State, as supervisory trustee  
1674 of sixteenth section lands. Upon the appointment or election of a  
1675 member of a local board of education who may have such an  
1676 appointment or election of a member of a local board of education  
1677 who may have such an interest in decisions and contracts regarding  
1678 the management and sale of timber or other forest products, said  
1679 board of education shall immediately notify the Secretary of State

1680 in writing. Likewise, said board shall give written notification  
1681 to the Secretary of State within thirty (30) days prior to the  
1682 expiration of any such divestiture period. Any contractor with a  
1683 local board of education or the Secretary of State shall be  
1684 entitled to rely on representations by such board or the Secretary  
1685 of State as to who has authority to enter contracts for the  
1686 management or sale of timber or other forest products, and  
1687 reliance on such representations shall not be grounds for voiding  
1688 any contract.

1689 (c) The laws providing for the management and sale of  
1690 timber and other forest products by local boards of education  
1691 shall apply to the management and sale of timber and other forest  
1692 products by the Secretary of State. The department shall provide  
1693 the Secretary of State with advice and services in the same manner  
1694 as provided to local boards of education.

1695 (d) The Secretary of State shall be paid all monies  
1696 derived from the sale of timber or other forest products and shall  
1697 promptly forward the same to the superintendent of education for  
1698 such school district with instructions for the proper settlement,  
1699 deposit and investment of said monies. Such local school board  
1700 shall reimburse the Secretary of State for all direct costs  
1701 relating to the management and sale of timber or other forest  
1702 products, and in the case of a sale of timber or other forest  
1703 products, the Secretary of State may deduct such direct cost from  
1704 the proceeds of sale. The Secretary of State shall furnish an  
1705 itemized listing of all direct cost charged to the local school  
1706 district.

1707 **SECTION 52.** Section 29-3-47, Mississippi Code of 1972, is  
1708 amended as follows:

1709 29-3-47. For its services the Department of Agriculture,  
1710 Forestry and Commerce shall be entitled to receive its actual  
1711 expenses incurred in the discharge of the duties herein imposed.  
1712 In order to provide funds with which to pay for the general

1713 supervision and sale of forest products, fifteen percent (15%) of  
1714 all receipts from the sales of forest products shall be placed by  
1715 the board in a forestry escrow fund and reserved to pay for work  
1716 performed by the department. Such payments shall be equal to the  
1717 actual expenses incurred by the department as substantiated by  
1718 itemized bills presented to the board.

1719 Money in the forestry escrow fund may be used to pay for any  
1720 forestry work authorized during the period of the agreement and  
1721 shall not be subject to lapse by reason of county budget  
1722 limitations.

1723 In each school district having need of tree planting and  
1724 timber stand improvement, the board of education is authorized to  
1725 place additional amounts in the forestry escrow fund to reimburse  
1726 the department for actual expenses incurred in performing this  
1727 work, or to pay for any work done under private contract under the  
1728 supervision of the department. Such additional amounts may be  
1729 made available from forest products sales receipts, funds borrowed  
1730 from the sixteenth section principal fund as is provided for in  
1731 Section 29-3-113, or any other funds available to the board of  
1732 education excluding minimum foundation program funds.

1733 Expenditures from the forestry escrow fund for tree planting,  
1734 timber stand improvement, and other forestry work will be limited  
1735 to payment for work recommended by the department and agreed to by  
1736 the board of education.

1737 When it becomes evident that the amount of money in the  
1738 forestry escrow fund is in excess of the amount necessary to  
1739 accomplish the work needed to achieve the goals set by the board  
1740 of education and the department, the department shall advise said  
1741 board to release any part of such funds as will not be needed,  
1742 which may then be spent for any purpose authorized by law.

1743 **SECTION 53.** Section 29-3-49, Mississippi Code of 1972, is  
1744 amended as follows:

1745           29-3-49. It shall be the duty of the Department of  
1746 Agriculture, Forestry and Commerce, in the manner hereinabove  
1747 provided in Section 29-3-45, to enter into agreements for timber  
1748 improvement purposes with the board of education upon the request  
1749 of said board. Said contract shall provide for the carrying out  
1750 of a long-term program of timber improvement, including any or all  
1751 of the following: The deadening of undesirable hardwoods, the  
1752 planting of trees, the cutting and maintaining of fire lanes, and  
1753 the establishment of marked boundaries on all lands classified as  
1754 forest lands in said agreements, which provide for the  
1755 reimbursement of all current costs incurred by the department and  
1756 the carrying out of the duties required by such agreements. In  
1757 the alternative, the department, in its discretion, may have the  
1758 option to contract with a private contractor, subject to the  
1759 approval of said board, to perform this work under the supervision  
1760 of the department. Payment of the reimbursements as hereinabove  
1761 set forth to the department, or of compensation due under any such  
1762 contract with private contractors shall be made upon presentation  
1763 of itemized bills therefor by the department or \* \* \* private  
1764 contractors, as the case may be, and may be made out of any  
1765 sixteenth section funds to the credit of, or accruing to, any  
1766 school district in which such work shall be done, or out of any  
1767 other funds available to such district, excluding minimum  
1768 foundation program funds.

1769           **SECTION 54.** Section 29-3-54, Mississippi Code of 1972, is  
1770 amended as follows:

1771           29-3-54. Any leaseholder of sixteenth section land, or land  
1772 granted in lieu thereof, shall be authorized to post such land  
1773 against trespassers; provided that such posting shall not prohibit  
1774 the inspection of said lands by individuals responsible for the  
1775 management or supervision thereof acting in their official  
1776 capacity. In the event hunting or fishing rights have been leased  
1777 on lands classified as forest land, the holder of such rights and

1778 the Department of Agriculture, Forestry and Commerce shall be  
1779 authorized to post such land against trespassers.

1780 **SECTION 55.** Section 29-3-85, Mississippi Code of 1972, is  
1781 amended as follows:

1782 29-3-85. In all surface leases of sixteenth section land  
1783 made by the board of education, whether such leases be original  
1784 leases or extensions of existing leases, title to all timber,  
1785 minerals, oil, and gas on such lands shall be reserved, together  
1786 with the right of ingress and egress to remove same, whether such  
1787 provisions be included in the terms of any such lease or not; and  
1788 no timber shall be cut and used by the lessees except for fuel and  
1789 necessary repairs and improvements on the leased premises. The  
1790 board of education, notwithstanding the fact that such land may  
1791 have been leased for other purposes, shall have the right, from  
1792 time to time, to sell all merchantable timber on such lands in the  
1793 manner hereinabove provided. In all cases where surface leases  
1794 were outstanding on June 28, 1958, and have at least five (5)  
1795 years remaining of the term thereof wherein the right to sell  
1796 timber has not been reserved, either expressly or by operation of  
1797 law, the board may, by agreement with the lessee, sell such timber  
1798 under the procedure herein set out. In all such cases the  
1799 Department of Agriculture, Forestry and Commerce shall only cause  
1800 to be marked for cutting such timber as, in its judgment, should  
1801 be harvested in the best interest of the reversionary estate, and  
1802 the board may agree to pay to the lessee a portion of the proceeds  
1803 of such sales from time to time, not to exceed fifty percent (50%)  
1804 thereof after the deduction of the fifteen percent (15%) escrow  
1805 money, hereinbefore mentioned, and all other costs of the sale.  
1806 In any surface lease, the board of education shall reserve the  
1807 right to grant or sell rights-of-way across any of said land for a  
1808 road, highway, railroad, or any public utility line, provided only  
1809 that the leaseholder be paid a reasonable rental for the unexpired  
1810 term of his lease by the grantee of such right-of-way. If any

1811 surface lessee of any such sixteenth section land shall commit,  
1812 cause to be committed, or permit the commission of any act of  
1813 waste on any sixteenth section lands under lease to such lessee,  
1814 then such lease shall thereupon, as to such lessee, cease and  
1815 terminate and shall thenceforth be null and void; and the board of  
1816 education shall have the right to institute an action in any court  
1817 of competent jurisdiction to secure the cancellation of same of  
1818 record, to recover damages for such waste, and to maintain an  
1819 action in ejectment to recover possession of the same. To this  
1820 end, the board of education is hereby authorized and empowered to  
1821 employ competent counsel to institute and maintain any such action  
1822 or actions on behalf of the board.

1823       **SECTION 56.** Section 29-3-87, Mississippi Code of 1972, is  
1824 amended as follows:

1825       29-3-87. Notwithstanding the provisions of this or any other  
1826 statute, the several boards of education are hereby authorized and  
1827 empowered, in their discretion and by resolution spread upon the  
1828 minutes, to set aside, reserve and dedicate any available  
1829 sixteenth section lands or lands in lieu thereof for use by such  
1830 school district as a site for school buildings, which such  
1831 dedication and reservation shall be for such length of time, not  
1832 exceeding fifty (50) years, and upon such terms and conditions as  
1833 the board of education, in its discretion, shall deem proper. Any  
1834 such reservation or dedication of sixteenth section lands shall  
1835 automatically cease and terminate if, at any time, the land  
1836 involved shall cease to be used for the purpose for which the  
1837 dedication or reservation is made. The reservation or dedication  
1838 shall cover the surface of said lands only and shall not prevent  
1839 the board of education from leasing said lands for oil, gas, and  
1840 mineral exploration and development in a manner otherwise provided  
1841 by law.

1842       In the same manner and subject to the same provisions  
1843 hereinabove set forth, the board of education having a timber



1844 management and marketing agreement with the Department of  
1845 Agriculture, Forestry and Commerce or National Forest Service, may  
1846 set-aside, reserve and dedicate any available sixteenth section  
1847 lands or lands granted in lieu thereof, which has been classified  
1848 as forest land under the provisions of Section 29-3-31 et seq.,  
1849 Mississippi Code of 1972, to be utilized for public parks and  
1850 recreation areas. The board of supervisors or the governing  
1851 authorities of any municipality wherein such lands or any portion  
1852 thereof lie may expend any funds otherwise available for park or  
1853 recreational areas in the construction and maintenance of  
1854 improvements to be located thereon.

1855         The setting aside, reservation and dedication of any such  
1856 sixteenth section lands, or lands granted in lieu thereof by a  
1857 board of education to the state park commission for the purpose of  
1858 locating a state park thereon may be for a length of time not  
1859 exceeding ninety-nine (99) years.

1860         No sixteenth section or lieu land which is subject to an  
1861 existing lease shall be set-aside, dedicated and reserved as a  
1862 school building site or for public park or recreational purposes  
1863 under the provisions of this section unless the school district  
1864 involved shall acquire the unexpired leasehold interest from the  
1865 leaseholder, or unless such lease and leasehold interest shall be  
1866 surrendered and relinquished by the leaseholder.

1867         **SECTION 57.** Section 49-7-203, Mississippi Code of 1972, is  
1868 amended as follows:

1869         49-7-203. (1) There is hereby created the Beaver Control  
1870 Advisory Board which shall be composed of the administrative heads  
1871 of the Mississippi Department of Wildlife, Fisheries and  
1872 Parks, \* \* \* Department of Agriculture, Forestry and Commerce,  
1873 Mississippi Department of Transportation and Mississippi State  
1874 Cooperative Extension Services, the Executive Director of the  
1875 Mississippi Association of Supervisors, the Executive Vice

1876 President of Delta Council and the President of the Mississippi  
1877 Farm Bureau Federation.

1878 (2) The Executive Director of the Mississippi Department of  
1879 Wildlife, Fisheries and Parks shall be the chairman of the board  
1880 and shall preside over meetings.

1881 (3) The members of the board shall serve without  
1882 compensation but all members of the board shall be entitled to  
1883 reimbursement for all actual and necessary expenses incurred in  
1884 the discharge of their duties, including mileage as authorized by  
1885 law.

1886 (4) The board shall have the following duties and  
1887 responsibilities:

1888 (a) To adopt rules and regulations governing times and  
1889 places for meetings and governing the manner of conducting its  
1890 business;

1891 (b) To develop a beaver control program to be  
1892 administered by the Mississippi Department of Wildlife, Fisheries  
1893 and Parks or by a federal agency pursuant to an agreement with the  
1894 commission for such purpose;

1895 (c) To designate the areas of the state having the  
1896 greatest need for beaver control or eradication and establish a  
1897 list of priority areas on an annual basis;

1898 (d) To recommend to the Mississippi Commission on  
1899 Wildlife, Fisheries and Parks such fees as may be necessary to  
1900 charge participating landowners; and

1901 (e) To function in an advisory capacity to the  
1902 Mississippi Commission on Wildlife, Fisheries and Parks regarding  
1903 the implementation of the beaver control program.

1904 **SECTION 58.** Section 69-3-1, Mississippi Code of 1972, is  
1905 amended as follows:

1906 69-3-1. Wherever the following terms or similar terms are  
1907 used in this article, they shall have the following meanings,  
1908 unless the context clearly indicates otherwise:

1909           (a) "Advertisement" means all representations made by  
1910 the labeler, other than those on the label, disseminated in any  
1911 manner or by any means, relating to seed within the scope of this  
1912 article.

1913           (b) "Agricultural seeds" means the seed of grass,  
1914 forage, cereal and fiber crops, lawn seed, and any other kinds of  
1915 seed, including transgenic seeds, recognized within this state as  
1916 agricultural or field seeds, and mixtures of such seeds.

1917           (c) "Bulk" or "in bulk" means seed when loose either in  
1918 vehicles of transportation, bins, cribs or tanks, and not seed in  
1919 bags, boxes, cartons, bulk/super bags or other containers.

1920           (d) "Certified seed," "registered seed" and "foundation  
1921 seed" mean seed that has been produced and labeled in accordance  
1922 with the procedures and in compliance with the rules and  
1923 regulations of an official certifying agency authorized by the  
1924 laws of this state or the laws of another state or country.

1925           (e) "Commercial grower" means a person, firm or  
1926 corporation engaged primarily in the production of seed for  
1927 planting purposes for sale or trade.

1928           (f) "Commissioner" means the Commissioner of  
1929 Agriculture, Forestry and Commerce of the State of Mississippi.

1930           (g) "Commission merchant" or "agent" means a person,  
1931 firm or corporation engaged in the selling of packet seed of less  
1932 than four (4) ounces to consumers.

1933           (h) "Consumer" means any person who purchases or  
1934 otherwise obtains seed for sowing but not for resale.

1935           (i) "Council" means the seed arbitration council  
1936 created under Section 63-3-20.

1937           (j) "Date of test" means the month and year the  
1938 percentage of germination appearing on the label was obtained by  
1939 laboratory test.

1940           (k) "Department" means the Mississippi Department of  
1941 Agriculture, Forestry and Commerce.

1942                   (1) "Federal Seed Act" means the laws codified at 7  
1943 USCS 1551 et seq., and all regulations promulgated thereunder.

1944                   (m) "Firm ungerminated seed" means live seed, other  
1945 than hard seed, which neither germinate nor decay during the  
1946 period and under the conditions prescribed for germination of such  
1947 seed by the rules and regulations promulgated pursuant to  
1948 provisions of this article.

1949                   (n) "Flower seed" means the seeds of herbaceous plants  
1950 grown for their blooms, ornamental foliage or other ornamental  
1951 parts, including transgenic seeds, and commonly known and sold  
1952 under the name of flower seeds in this state.

1953                   (o) "Hybrid" means the first generation seed of a cross  
1954 produced by controlling the pollination and combining: (i) two  
1955 (2) or more inbred lines; or (ii) one (1) inbred line or a single  
1956 cross with an open-pollinated variety; or (iii) two (2) varieties  
1957 or species, except open-pollinated varieties of corn. The second  
1958 generation and subsequent generations of such crosses shall not be  
1959 regarded as hybrids.

1960                   (p) "Kind" means one or more related species or  
1961 subspecies which singly or collectively is known by one (1) common  
1962 name; for example: soybeans, crimson clover, striate lespedeza,  
1963 tall fescue.

1964                   (q) "Label" means the display or displays of written,  
1965 printed or graphic matter upon or attached to the container of  
1966 seed pertaining to the contents of the container.

1967                   (r) "Labeler" means the person, firm, corporation or  
1968 the registered code number whose name appears on the label or  
1969 container of seed.

1970                   (s) "Labeling" includes all labels and other written,  
1971 printed or graphic representations made by the labeler  
1972 accompanying and pertaining to the seed product whether in bulk or  
1973 in containers, and any product use guides for the technology of  
1974 the seed, that may be distributed in any manner including

1975 representations on invoices except for current official  
1976 publications of the United States Department of Agriculture, state  
1977 extension services, state experiment stations, state agricultural  
1978 colleges and other similar federal or state institutions or  
1979 agencies authorized by law to conduct research.

1980 (t) "Lot of seed" means a definite quantity of seed  
1981 identified by a lot number or other identification mark, every  
1982 portion or bag of which is uniform for the factors which appear on  
1983 the label, within permitted tolerances.

1984 (u) "Mixed" or "mixture" means seeds consisting of more  
1985 than one (1) kind, or kind and variety, or strain, each present in  
1986 excess of five percent (5%) of the whole.

1987 (v) "Official certifying agency" means an agency  
1988 authorized or recognized and designated as a certifying agency by  
1989 the laws of a state, the United States, a province of Canada, or  
1990 the government of a foreign country.

1991 (w) "Origin" means the state, District of Columbia,  
1992 Puerto Rico, or possessions of the United States, or the foreign  
1993 country where the seeds were grown.

1994 (x) "Processing" means cleaning, scarifying, blending  
1995 or treating to obtain uniform quality and other operations which  
1996 would change the purity or germination of the seed and therefore  
1997 require retesting to determine the quality of the seed.

1998 (y) "Product use guide" means any written information  
1999 prepared by the labeler and distributed to the consumer,  
2000 containing specific information concerning a seed product or a  
2001 technology.

2002 (z) "Prohibited noxious weed seed" means the seeds of  
2003 weeds that reproduce by seed, and/or spread by underground roots  
2004 or stems, and which, when established, are highly destructive and  
2005 difficult to control in this state by ordinary good cultural  
2006 practice, or constitute a peculiar hazard to the agriculture of  
2007 this state.

2008                   (aa) "Pure seed," "germination," "other crop seed,"  
2009 "inert matter" and other seed labeling and testing terms in common  
2010 usage not defined herein are defined as in the Federal Seed Act  
2011 and the rules and regulations promulgated under that act.

2012                   (bb) "Recognized professional" means a person who is a  
2013 licensed consultant, a certified crop advisor or any other person  
2014 recognized by the arbitration council to be qualified to provide  
2015 expert advise and opinion on seed performances.

2016                   (cc) "Restricted noxious weed seed" means the seeds of  
2017 weeds that are particularly objectionable in fields, lawns or  
2018 gardens of this state, but which can ordinarily be controlled by  
2019 good cultural practice.

2020                   (dd) "Seed record" means information which relates to  
2021 the origin, treatment, germination and purity of each lot of  
2022 agricultural seed sold, offered or exposed for sale in this state,  
2023 or which relates to the treatment, germination and variety of each  
2024 lot of vegetable, flower, or tree and shrub seed sold, offered or  
2025 exposed for sale in this state. Such information includes seed  
2026 samples and records of declarations, labels, purchases, sales,  
2027 cleaning, bulking, handling, storage, analyses, tests and  
2028 examinations.

2029                   (ee) "Seedsman" means a person, firm or corporation  
2030 engaged in the buying, selling or exchanging, offering or exposing  
2031 for sale agricultural seeds or mixtures thereof, vegetable,  
2032 flower, tree and shrub seeds as defined in this article.

2033                   (ff) "Stop sale order" means any written or printed  
2034 notice or order given or issued by the commissioner or his  
2035 authorized agents to the owner or custodian of any lot of  
2036 agricultural, vegetable, flower, or tree and shrub seeds in this  
2037 state, directing such owner or custodian not to sell, offer or  
2038 expose such seeds for sale for planting purposes within this state  
2039 until requirements of this article shall have been complied with  
2040 and a written release has been issued.

2041 (gg) "Strain" means the subdivision of a variety; for  
2042 example: Clemson nonshattering soybeans, Strain 4.

2043 (hh) "Treated" means that the seed has been given an  
2044 application of a substance or subjected to a process designed to  
2045 control or repel certain disease organisms, insects or other pests  
2046 attacking such seeds or seedlings grown therefrom to improve its  
2047 planting value or to serve any other purpose.

2048 (ii) "Tree and shrub seeds" means the seeds of woody  
2049 plants, including transgenic seeds, commonly known and sold as  
2050 tree and shrub seeds in this state.

2051 (jj) "Tolerance" means the allowance for sampling  
2052 variation specified under rules and regulations promulgated  
2053 pursuant to the provisions of this article.

2054 (kk) "Transgenic seed" means seed from a plant whose  
2055 genetic composition has been altered by methods other than those  
2056 used in conventional plant breeding to produce seed that contains  
2057 selected genes from other plants or species that will produce  
2058 results such as herbicide tolerance, or resistance, insect  
2059 tolerance, or resistance, or other traits derived from  
2060 biotechnology.

2061 (ll) "Variety" means a subdivision of a kind which is  
2062 characterized by growth, plant, fruit, seed or other  
2063 characteristics by which it can be differentiated in successive  
2064 generations from other sorts of the same kind; for example: Lee  
2065 soybeans, Frontier crimson clover, Kobe striate lespedeza,  
2066 Kentucky 31 tall fescue.

2067 (mm) "Vegetable seeds" means the seeds of those crops  
2068 which are grown in gardens or on truck farms, including transgenic  
2069 seeds, and are generally known and sold under the name of  
2070 vegetable seeds in this state.

2071 (nn) "Weed seed" means the seeds, bulblets or tubers of  
2072 all plants generally recognized as weeds within the state and  
2073 includes noxious weed seeds.

2074 (oo) "Wholesale distributor" means a person, firm or  
2075 corporation engaged in the selling of seed to a seedsman holding a  
2076 permit as required by subsection (1)(c) of Section 69-3-3.

2077 **SECTION 59.** Section 69-15-2, Mississippi Code of 1972, is  
2078 amended as follows:

2079 69-15-2. (1) The Mississippi Board of Animal Health is to  
2080 be composed of the Commissioner of Agriculture, Forestry and  
2081 Commerce, the Dean of the College of Veterinary Medicine and the  
2082 heads of the Animal and Dairy Science and Poultry Science  
2083 Departments at Mississippi State University of Agriculture and  
2084 Applied Science and one (1) person appointed by the President of  
2085 Alcorn State University from its land grant staff as five (5) ex  
2086 officio members with full voting rights, and eleven (11) other  
2087 members of the board to be appointed by the Governor as  
2088 hereinafter provided. The board shall select annually a chairman  
2089 and vice chairman from any members of the board.

2090 (2) The Governor, with the advice and consent of the Senate,  
2091 shall appoint eleven (11) other members from the following groups  
2092 or associations from a written list of three (3) recommendations  
2093 from such groups or associations:

2094 One (1) licensed and practicing veterinarian who holds a  
2095 Doctor of Veterinary Medicine Degree, from a written list of three  
2096 (3) recommendations submitted by the Mississippi State Veterinary  
2097 Medical Association;

2098 One (1) general farmer from a written list of three (3)  
2099 recommendations submitted by the Mississippi Farm Bureau  
2100 Federation;

2101 One (1) poultry breeder and producer from a written list of  
2102 three (3) recommendations submitted by the Mississippi Poultry  
2103 Improvement Association;

2104 One (1) sheep breeder and producer from a written list of  
2105 three (3) recommendations submitted by the Mississippi Sheep  
2106 Producers' Association;



2107           One (1) beef cattle breeder and producer from a written list  
2108 of three (3) recommendations submitted by the Mississippi  
2109 Cattlemen's Association;

2110           One (1) swine breeder and producer from a written list of  
2111 three (3) recommendations submitted by the Mississippi Pork  
2112 Producers' Association;

2113           One (1) dairy breeder and producer from a written list of  
2114 three (3) recommendations submitted by the American Dairy  
2115 Association of Mississippi;

2116           One (1) horse breeder and producer from a written list of  
2117 three (3) recommendations submitted by the Mississippi Horse  
2118 Council;

2119           One (1) catfish breeder and producer from a written list of  
2120 three (3) recommendations submitted by the Mississippi Catfish  
2121 Association;

2122           One (1) member of the Mississippi Independent Meat Packers'  
2123 Association from a written list of three (3) recommendations  
2124 submitted by the Mississippi Independent Meat Packers'  
2125 Association; and

2126           One (1) member of the Mississippi Livestock Auction  
2127 Association from a written list of three (3) recommendations  
2128 submitted by the Mississippi Livestock Auction Association.

2129           All members shall take and subscribe to the general oath of  
2130 office as provided in Section 268, Mississippi Constitution of  
2131 1890, and file the same with the Commissioner of Agriculture,  
2132 Forestry and Commerce.

2133           (3) Effective August 1, 1968, the dairy producer member  
2134 shall be appointed for a one-year term; the Livestock Auction  
2135 Association member shall be appointed for a two-year term; and the  
2136 meatpacker member shall be appointed for a three-year term; the  
2137 catfish producer member shall be appointed for a four-year term;  
2138 and the horse producer member shall be appointed for a five-year  
2139 term.

2140           Effective August 1, 1969, the poultry producer member shall  
2141 be appointed for a two-year term; on August 1, 1970, the sheep  
2142 producer member shall be appointed for a three-year term; on  
2143 August 1, 1971, the swine producing member shall be appointed for  
2144 a four-year term; on August 1, 1972, the general farmer member  
2145 shall be appointed for a five-year term; on August 1, 1973, the  
2146 veterinarian member shall be appointed for a six-year term; and on  
2147 August 1, 1974, the beef cattle producer member shall be appointed  
2148 for a seven-year term.

2149           All subsequent appointments shall be for four-year terms,  
2150 except for appointments to fill vacancies which shall be for the  
2151 unexpired term only.

2152           (4) (a) "Commissioner" means the Commissioner of  
2153 Agriculture, Forestry and Commerce.

2154           (b) "Department" means the Department of Agriculture,  
2155 Forestry and Commerce.

2156           (5) On or before July 1, 1998, the board shall appoint, from  
2157 a written list of not less than three (3) licensed veterinarians  
2158 submitted by the commissioner, the State Veterinarian.

2159           (6) There is created an advisory council to advise the Board  
2160 of Animal Health on matters concerning the board. The council  
2161 shall be composed of the Chairman of the Senate Agriculture  
2162 Committee, the Chairman of the House Agriculture Committee, and  
2163 one (1) appointee of the Lieutenant Governor and one (1) appointee  
2164 of the Speaker of the House of Representatives. The members of  
2165 the advisory council shall serve in an advisory capacity only.  
2166 For attending meetings of the council, such legislators shall  
2167 receive per diem and expenses which shall be paid from the  
2168 contingent expense funds of their respective houses in the same  
2169 amounts provided for committee meetings when the Legislature is  
2170 not in session; however, no per diem or expenses for attending  
2171 meetings of the council shall be paid while the Legislature is in  
2172 session. No per diem and expenses shall be paid except for

2173 attending meetings of the council without prior approval of the  
2174 proper committee in their respective houses.

2175         **SECTION 60.** Section 69-29-1, Mississippi Code of 1972, is  
2176 amended as follows:

2177         69-29-1. (1) (a) There is established the Mississippi  
2178 Agricultural and Livestock Theft Bureau.

2179                 (b) The Commissioner of Agriculture, Forestry and  
2180 Commerce shall appoint a director of the Mississippi Agricultural  
2181 and Livestock Theft Bureau. Such director shall have at least  
2182 five (5) years of law enforcement experience. Such director  
2183 shall be responsible solely to the supervision of the Commissioner  
2184 of Agriculture and to no other person or entity. Such director  
2185 may be discharged only for just cause shown.

2186                 (c) The director may employ nine (9) agricultural and  
2187 livestock theft investigators, one (1) from each highway patrol  
2188 district, and each investigator is required to reside within the  
2189 highway patrol district from which he or she is selected. Each  
2190 investigator shall be certified as a law enforcement officer,  
2191 successfully completing at least a nine-week training course, in  
2192 accordance with Section 45-6-11. The curriculum for the training  
2193 of constables shall not be sufficient for meeting the  
2194 certification requirements of this paragraph. In the selection of  
2195 investigators under this section, preference shall be given to  
2196 persons who have previous law enforcement experience.

2197                 (d) The director appointed under this section, under  
2198 the direction, control and supervision of the commissioner, and  
2199 the investigators employed under this section shall perform only  
2200 the duties described in subsection (2) of this section and shall  
2201 not be assigned any other duties.

2202                 (2) The director appointed under this section and the  
2203 investigators employed under this section shall have the following  
2204 powers, duties and authority:

2205           (a) To enforce all of the provisions of Sections  
2206 69-29-9 and 69-29-11, and particularly those portions requiring  
2207 persons transporting livestock to have a bill of sale in their  
2208 possession; to make investigations of violations of such sections  
2209 and to arrest persons violating same;

2210           (b) To enforce all of the laws of this state enacted  
2211 for the purpose of preventing the theft of livestock, poultry,  
2212 timber and agricultural, aquacultural and timber products and  
2213 implements; to make investigations of violations thereof and to  
2214 arrest persons violating same;

2215           (c) To cooperate with all regularly constituted law  
2216 enforcement officers relative to the matters herein set forth;

2217           (d) To serve warrants and other process emanating from  
2218 any court of lawful jurisdiction, including search warrants, in  
2219 all matters herein set forth;

2220           (e) To carry proper credentials evidencing their  
2221 authority, which shall be exhibited to any person making demand  
2222 therefor;

2223           (f) To make arrests without warrant in all matters  
2224 herein set forth in cases where same is authorized under the  
2225 constitutional and general laws of this state;

2226           (g) To handle the registration of brands of cattle and  
2227 livestock;

2228           (h) To investigate, prevent, apprehend and arrest those  
2229 persons anywhere in the state who are violating any of the laws  
2230 administered by the Department of Agriculture, Forestry and  
2231 Commerce, including, but not limited to, all agriculture-related  
2232 and woods arson crimes.

2233           (i) To access and examine records of any person,  
2234 business or entity that harvests, loads, carries, receives or  
2235 manufactures timber products as defined in this section. Each  
2236 such person or entity shall permit the director or any  
2237 investigator of the Mississippi Agricultural and Livestock Theft

2238 Bureau to examine records of the sale, transfer or purchase of  
2239 timber or timber products, including, but not limited to,  
2240 contracts, load tickets, settlement sheets, drivers' logs,  
2241 invoices, checks and any other records or documents related to an  
2242 ongoing investigation of the Mississippi Agricultural and  
2243 Livestock Theft Bureau.

2244 (3) The Commissioner of Agriculture, Forestry and Commerce  
2245 shall furnish such investigators with such vehicles, equipment and  
2246 supplies as may be necessary. All expenses of same, and all other  
2247 expenses incurred in the administration of this section, shall be  
2248 paid from such appropriation as may be made by the Legislature.

2249 (4) The State Tax Commission and its agents and employees  
2250 shall cooperate with such investigators by furnishing to them  
2251 information as to any possible or suspected violations of any of  
2252 the laws mentioned herein, including specifically Section  
2253 69-29-27, and in any other lawful manner.

2254 (5) The conservation officers of the Department of Wildlife,  
2255 Fisheries and Parks are authorized to cooperate with and assist  
2256 the agricultural and livestock theft investigators in the  
2257 enforcement and apprehension of violators of laws regarding  
2258 agricultural and livestock theft.

2259 \* \* \*

2260 (6) For the purposes of this section, "timber product" means  
2261 timber of all kinds, species or sizes, including, but not limited  
2262 to, logs, lumber, poles, pilings, posts, blocks, bolts, cordwood  
2263 and pulpwood, pine stumpwood, pine knots or other distillate wood,  
2264 crossties, turpentine (crude gum), pine straw, firewood and all  
2265 other products derived from timber or trees that have a sale or  
2266 commercial value.

2267 **SECTION 61.** Section 69-31-1, Mississippi Code of 1972, is  
2268 amended as follows:

2269 69-31-1. As used in this chapter, unless the context  
2270 requires otherwise:

2271 (a) "Agricultural products" means any product of  
2272 agriculture which is tested for moisture content when offered for  
2273 sale, processing or storage.

2274 (b) "Commissioner" means the Commissioner of the  
2275 Mississippi Department of Agriculture, Forestry and Commerce.

2276 (c) "Department" means the Department of Agriculture,  
2277 Forestry and Commerce.

2278 (d) "Moisture-measuring devices" means any device or  
2279 instrument used by any person in proving or ascertaining the  
2280 moisture content of agricultural products.

2281 (e) "Person" means any individual, corporation,  
2282 partnership, cooperative association, or two (2) or more persons  
2283 having a joint or common interest in the same venture.

2284 **SECTION 62.** Section 69-37-5, Mississippi Code of 1972, is  
2285 amended as follows:

2286 69-37-5. As used in this chapter, the following words shall  
2287 have the meanings ascribed herein unless the context clearly  
2288 requires otherwise:

2289 (a) "Assessment" means the amount per acre to be  
2290 charged each cotton grower to finance, in whole or part, a boll  
2291 weevil suppression, pre-eradication or eradication program in  
2292 various cotton growing regions within this state. Such  
2293 assessments would be based on scientifically sound data regarding  
2294 the level of boll weevil infestation within each region and the  
2295 anticipated cost of conducting the proposed program.

2296 (b) "Boll weevil" means *Anthonomus grandis* Boheman in  
2297 any stage of development.

2298 (c) "Bureau" means the Bureau of Plant Industry within  
2299 the regulatory office of the Mississippi Department of  
2300 Agriculture, Forestry and Commerce.

2301 (d) "Certificate" means a document issued or authorized  
2302 by the Bureau of Plant Industry indicating that a regulated  
2303 article is not contaminated with the boll weevils.

2304           (e) "Certified Cotton Growers Organization" means a  
2305 statewide organization with membership open to all Mississippi  
2306 cotton growers and having a board of directors elected in  
2307 accordance with the bylaws of the organization. This Certified  
2308 Cotton Growers Organization shall serve to represent the interest  
2309 and concerns of Mississippi cotton growers with respect to the  
2310 planning and implementation of boll weevil management programs.

2311           (f) "Commissioner" means the Commissioner of  
2312 Agriculture, Forestry and Commerce.

2313           (g) "Cotton" means any cotton plant or cotton plant  
2314 products upon which the boll weevil is dependent for completion of  
2315 any portion of its life cycle.

2316           (h) "Cotton grower" means any person who under the  
2317 rules and regulations of the United States Department of  
2318 Agriculture is actively engaged in cotton farming.

2319           (i) "Department" means the Mississippi Department of  
2320 Agriculture, Forestry and Commerce.

2321           (j) "Eradication program" means any unified regional or  
2322 statewide program designed to eliminate the boll weevil as an  
2323 economic pest within the specified area.

2324           (k) "Host" means any plant or plant product upon which  
2325 the boll weevil is dependent for completion of any portion of its  
2326 life cycle.

2327           (l) "Infested" means actually infested with a boll  
2328 weevil or so exposed to infestation that it would be considered  
2329 infested according to criteria established by the Technical  
2330 Advisory Committee of the Certified Cotton Growers Organization.

2331           (m) "Information gathering program" means any unified  
2332 regional or statewide program designed to gather information that  
2333 will be used in planning or implementing a boll weevil management  
2334 program.

2335           (n) "Management program" means any unified regional or  
2336 statewide program designed to suppress or eradicate the boll

2337 weevil or to gather information that will be used in planning or  
2338 implementing such suppression or eradication programs.

2339           (o) "Permit" means a document issued or authorized by  
2340 the Bureau of Plant Industry to provide for the movement of  
2341 regulated articles to restricted designations for limited  
2342 handling, utilization or processing.

2343           (p) "Person" means any individual, partnership,  
2344 corporation, company, society, association or other business  
2345 entity.

2346           (q) "Pest" means any species of plant, animal, or  
2347 microbe that adversely affects cotton production; including, but  
2348 not limited to: insects, weeds, nematodes, bacteria, fungi, and  
2349 viruses.

2350           (r) "Pre-eradication program" means any unified  
2351 regional or statewide program designed to reduce overall boll  
2352 weevil populations prior to entering a full scale eradication  
2353 program.

2354           (s) "Region" means a specific cotton growing area  
2355 within the state as defined by the Technical Advisory Committee of  
2356 the Certified Cotton Growers Organization. Such regions will be  
2357 defined according to the bylaws of the Certified Cotton Growers  
2358 Organization based on similarities in boll weevil populations,  
2359 cotton cultural practices, national topography and climate. All  
2360 cotton growers within a region will collectively vote on and  
2361 participate in any boll weevil management program proposed for  
2362 that particular region.

2363           (t) "Regulated article" means any article of any  
2364 character carrying or capable of carrying the boll weevil,  
2365 including cotton plants, seed cotton, cottonseed, other hosts, gin  
2366 trash, gin equipment, mechanical cotton pickers and other  
2367 equipment associated with cotton production, harvesting or  
2368 processing.



2369 (u) "Suppression" means any unified regional or  
2370 statewide program designed to reduce overall boll weevil  
2371 populations throughout the specified area.

2372 (v) "Technical advisory committee" means a group of  
2373 professional scientists in the fields of entomology, agronomy,  
2374 agricultural economics and other appropriate disciplines appointed  
2375 by the Certified Cotton Growers Organization to provide technical  
2376 guidance in developing and conducting effective boll weevil  
2377 management programs.

2378 **SECTION 63.** Section 69-45-5, Mississippi Code of 1972, is  
2379 amended as follows:

2380 69-45-5. For the purposes of this chapter, the following  
2381 terms shall have the following meanings:

2382 (a) "Commissioner" means the Commissioner of  
2383 Agriculture, Forestry and Commerce.

2384 (b) "Department" means the Department of Agriculture, Forestry  
2385 and Commerce.

2386 (c) "Person" means an individual, firm, partnership,  
2387 corporation, association, business, trust, legal representative or  
2388 any other business unit.

2389 (d) "Reproduce" means to stencil, emboss, print,  
2390 engrave, impress, imprint, lithograph or duplicate in any manner  
2391 or to cause any such acts to be done.

2392 (e) "Agricultural product" means any product that is at  
2393 least fifty-one percent (51%) grown, processed or manufactured in  
2394 the State of Mississippi.

2395 (f) "Division" means the Division of Market Development  
2396 within the Department of Agriculture, Forestry and Commerce.

2397 **SECTION 64.** Section 69-46-3, Mississippi Code of 1972, is  
2398 amended as follows:

2399 69-46-3. (1) There is created the Mississippi Land, Water  
2400 and Timber Resources Board, hereinafter referred to as "the  
2401 board," for the purpose of assisting Mississippi agricultural

2402 industry in the development, marketing and distribution of  
2403 agricultural products.

2404 (2) The board shall be composed of the following members:

2405 (a) The Chairman of the Senate Agriculture Committee,  
2406 or a member of the Senate Agriculture Committee designated by the  
2407 chairman, as a nonvoting member;

2408 (b) The Chairman of the House of Representatives  
2409 Agriculture Committee or a member of the House of Representatives  
2410 Agriculture Committee designated by the chairman, as a nonvoting  
2411 member;

2412 (c) The Chairman of the Senate Forestry Committee, or a  
2413 member of the Senate Forestry Committee designated by the  
2414 chairman, as a nonvoting member;

2415 (d) The Executive Director of the Mississippi  
2416 Development Authority, or his designee;

2417 (e) The Commissioner of the Mississippi Department of  
2418 Agriculture, Forestry and Commerce, or his designee;

2419 (f) The President of the Mississippi Farm Bureau  
2420 Federation, or his designee;

2421 (g) The Director of the Cooperative Extension Service  
2422 at Mississippi State University, or his designee;

2423 (h) The Executive Director of the Agribusiness and  
2424 Natural Resource Development Center at Alcorn State University, or  
2425 his designee;

2426 (i) The Director of the Agricultural Finance Division  
2427 of the Mississippi Development Authority, or his designee;

2428 (j) The Director of the Agriculture Marketing Division  
2429 of the Mississippi Department of Agriculture and Commerce, or his  
2430 designee;

2431 (k) The State Forester, or his designee; and

2432 (l) Three (3) individuals appointed by the Governor who  
2433 are active producers of Mississippi land, water or timber

2434 commodities. The Governor shall appoint one (1) such person from  
2435 each Supreme Court district.

2436 (3) The Executive Director of the Mississippi Development  
2437 Authority and the Commissioner of the Mississippi Department of  
2438 Agriculture, Forestry and Commerce shall serve as co-chairmen of  
2439 the board.

2440 (4) The board shall meet at least once each calendar quarter  
2441 at the call of the co-chairmen. A majority of the members of the  
2442 board shall constitute a quorum at all meetings. An affirmative  
2443 vote of a majority of the members present and voting is required  
2444 in the adoption of any actions taken by the board. All members  
2445 must be notified, in writing, of all regular and special meetings  
2446 of the board, which notices must be mailed at least ten (10) days  
2447 before the dates of the meetings. All meetings shall take place  
2448 at the State Capitol in Jackson, Mississippi. The board shall  
2449 provide a copy of the minutes of each of its meetings to the  
2450 Chairman of the Senate Agriculture Committee and the Chairman of  
2451 the House of Representatives Agriculture Committee.

2452 (5) Members of the board shall not receive compensation.  
2453 However, each member may be paid travel expenses and meals and  
2454 lodging expenses as provided in Section 25-3-41, for such expenses  
2455 incurred in furtherance of their duties. Travel expenses and  
2456 meals and lodging expenses and other necessary expenses incurred  
2457 by the board shall be paid out of funds appropriated to the  
2458 Mississippi Development Authority.

2459 (6) In carrying out the provisions of the Mississippi Land,  
2460 Water and Timber Resources Act, the board may utilize the  
2461 services, facilities and personnel of all departments, agencies,  
2462 offices and institutions of the state, and all such departments,  
2463 agencies, offices and institutions shall cooperate with the board  
2464 in carrying out the provisions of such act.

2465 **SECTION 65.** Section 69-47-1, Mississippi Code of 1972, is  
2466 amended as follows:

2467           69-47-1. For the purpose of this chapter, the following  
2468 terms shall have the following meanings:

2469           (a) "Agricultural product" means any agricultural  
2470 commodity or product, whether raw or processed, that is marketed  
2471 for human consumption.

2472           (b) "Certified organic farm" means a farm or portion of  
2473 a farm or a site where agricultural products are produced that is  
2474 certified by the department as utilizing a system of organic  
2475 farming.

2476           (c) "Commissioner" means the Commissioner of the  
2477 Mississippi Department of Agriculture, Forestry and Commerce.

2478           (d) "Department" means the Mississippi Department of  
2479 Agriculture, Forestry and Commerce.

2480           (e) "EPA" means the United States Environmental  
2481 Protection Agency.

2482           (f) "Farm plan" means a plan of management of an  
2483 organic farm that has been agreed to by the producer or handler  
2484 and the department and that includes written plans concerning all  
2485 aspects of agricultural production or handling, including all  
2486 practices required under this chapter.

2487           (g) "FDA" means the United States Food and Drug  
2488 Administration.

2489           (h) "Greenhouse unit" or "unit" means a structure  
2490 intended or used for the production of agricultural products.

2491           (i) "Handler" means any person engaged in the business  
2492 of handling agricultural products, except such term shall not  
2493 include final retailers of agricultural products that do not  
2494 process agricultural products.

2495           (j) "Mississippi organic materials and practices  
2496 (MOMP)" means a list of approved and prohibited substances and  
2497 practices as adopted.

2498           (k) "Organic farming" means a food production system  
2499 based on farm management methods or practices that rely on

2500 building soil fertility by utilizing crop rotation, recycling of  
2501 organic wastes, application of unsynthesized minerals and, when  
2502 necessary, mechanical, botanical or biological pest control.

2503           (l) "Organic food" means a food which is labeled as  
2504 organic or organically grown and which has been produced,  
2505 transported, distributed, processed and packaged without the use  
2506 of synthetic pesticides, synthetically compounded fertilizers,  
2507 synthetic growth hormones, genetically modified organisms or  
2508 artificial radiation and which has been verified by the department  
2509 as complying with all provisions of this chapter.

2510           (m) "Organically managed or produced" means an  
2511 agricultural product that is produced and handled in accordance  
2512 with all the provisions of this chapter and any regulations  
2513 adopted thereunder.

2514           (n) "Person" means an individual, group of individuals,  
2515 corporation, association, organization, cooperative or other  
2516 entity.

2517           (o) "Pesticide" means any substance or mixture of  
2518 substances intended for preventing, destroying, repelling or  
2519 mitigating any pest and any substance or combination of substances  
2520 intended for use as a plant regulator, defoliant, desiccant or any  
2521 substance the commissioner determines to be a pesticide.

2522           (p) "Processing" means cooking, baking, heating,  
2523 drying, mixing, grinding, churning, separating, extracting,  
2524 cutting, fermenting, preserving, dehydrating, freezing or  
2525 otherwise manufacturing and includes the packaging, canning,  
2526 jarring or otherwise enclosing food in a container.

2527           (q) "Producer" means a person who engages in the  
2528 business of growing or producing food, feed and ornamental plants.

2529           (r) "Prohibited substances, fertilizers, materials,  
2530 pesticides" mean those substances, fertilizers, materials,  
2531 pesticides or practices prohibited by this chapter or regulations  
2532 from use in a certified organic farming operation.

2533 (s) "Restricted" means substances and practices which  
2534 use is limited or qualified by the commissioner.

2535 (t) "Tolerance" means the amount of a pesticide  
2536 permitted on raw or processed agricultural commodities.

2537 **SECTION 66.** Section 79-22-5, Mississippi Code of 1972, is  
2538 amended as follows:

2539 79-22-5. For the purpose of this chapter unless the context  
2540 clearly requires otherwise:

2541 (a) "Aquaculture" means any form of agriculture that  
2542 includes the process of growing, farming, cultivating and/or  
2543 harvesting cultured aquatic products in marine or freshwaters and  
2544 includes management by an aquaculturist.

2545 (b) "Aquaculturist" is a person who is engaged in the  
2546 cultivating of cultured aquatic products.

2547 (c) "Aquaculture facility" means any facility or  
2548 resources that are used for aquaculture activities and operations  
2549 in Mississippi.

2550 (d) "Cultured aquatic products" are marine or  
2551 freshwater plants and animals that are propagated, farmed or  
2552 cultivated in an aquaculture facility under the supervision and  
2553 management of an aquaculturist or that are naturally produced in  
2554 an aquaculture facility which at the time of production are under  
2555 the active supervision and management of an aquaculturist.

2556 (e) "Department" means the Department of Agriculture,  
2557 Forestry and Commerce.

2558 (f) A "cultivation permit" is a permit issued by the  
2559 department applicable to design criteria to prevent release of  
2560 certain cultured aquatic products from an aquaculture facility  
2561 into the environment.

2562 (g) A "marketing permit" is a permit issued by the  
2563 department to provide a mechanism for tracing certain marketed and  
2564 cultured aquatic products to verify that they were cultured in an  
2565 aquaculture facility and were not harvested from wild stocks and

2566 to prevent the release of undesirable species into the  
2567 environment.

2568         **SECTION 67.** Section 49-19-19, Mississippi Code of 1972,  
2569 which provides for free commercial tree seedlings for farm owners  
2570 is repealed.

2571         **SECTION 68.** Section 49-19-27, Mississippi Code of 1972,  
2572 which creates the tree seedling revolving fund is repealed.

2573         **SECTION 69.** Section 49-19-31, Mississippi Code of 1972 which  
2574 created a joint forestry study committee is repealed.

2575         **SECTION 70.** This act shall take effect and be in force from  
2576 and after July 1, 2005.