

By: Representative Baker

To: Judiciary A

HOUSE BILL NO. 555

1 AN ACT TO AMEND SECTIONS 7-5-1 AND 7-5-8, MISSISSIPPI CODE OF
2 1972, TO REQUIRE APPROVAL OF THE OUTSIDE COUNSEL OVERSIGHT
3 COMMISSION IN CERTAIN ACTIONS BROUGHT BY THE ATTORNEY GENERAL; TO
4 AMEND SECTIONS 1-1-9, 1-1-11, 1-1-103, 5-3-57, 7-1-5, 7-3-47,
5 7-5-5, 7-5-7, 7-5-9, 7-5-21, 7-5-35, 7-5-37, 7-5-39, 7-5-41,
6 7-5-43, 7-5-45, 7-5-47, 7-5-51, 7-5-54 AND 7-5-55, MISSISSIPPI
7 CODE OF 1972; TO BRING FORWARD SECTION 7-5-59, MISSISSIPPI CODE OF
8 1972, WHICH PROVIDES FOR THE AUTHORITY OF THE ATTORNEY GENERAL FOR
9 PURPOSES OF AMENDMENT; TO AMEND SECTIONS 7-5-66, 7-7-204, 7-7-211
10 AND 7-9-51, MISSISSIPPI CODE OF 1972; TO BRING FORWARD SECTION
11 7-11-15, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR CERTAIN
12 AUTHORITY OF THE ATTORNEY GENERAL, FOR PURPOSES OF AMENDMENT; TO
13 AMEND SECTION 9-3-17, MISSISSIPPI CODE OF 1972, TO CONFORM TO
14 PRECEDING AMENDMENTS; TO BRING FORWARD SECTIONS 11-17-19, 11-43-3,
15 11-45-3, 13-7-41 AND 17-13-11, MISSISSIPPI CODE OF 1972, WHICH
16 PROVIDES FOR CERTAIN AUTHORITY OF THE ATTORNEY GENERAL, FOR
17 PURPOSE OF AMENDMENT; TO AMEND SECTIONS 19-2-12, 23-15-813,
18 25-4-21 AND 25-4-113, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
19 PRECEDING SECTIONS; TO BRING FORWARD SECTIONS 25-7-7, 25-9-127 AND
20 25-31-11, MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN
21 AUTHORITY OF THE ATTORNEY GENERAL TO FILE CERTAIN ACTIONS; TO
22 AMEND SECTIONS 25-31-19 AND 25-31-25, MISSISSIPPI CODE OF 1972, TO
23 CONFORM TO THE PRECEDING SECTIONS; TO BRING FORWARD SECTION
24 25-31-27, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR CERTAIN
25 DUTIES OF THE ATTORNEY GENERAL, FOR PURPOSES OF AMENDMENT; TO
26 AMEND SECTIONS 27-3-73, 27-7-83 AND 27-9-39, MISSISSIPPI CODE OF
27 1972, TO CONFORM TO THE PRECEDING SECTIONS; TO BRING FORWARD
28 SECTIONS 27-9-55, 27-13-27 AND 27-13-57, MISSISSIPPI CODE OF 1972,
29 WHICH PROVIDES CERTAIN AUTHORITY FOR THE ATTORNEY GENERAL TO FILE
30 CERTAIN ACTIONS; TO AMEND SECTIONS 27-17-499, 27-19-155 AND
31 27-33-61, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
32 AMENDMENTS; TO BRING FORWARD SECTION 27-35-309, MISSISSIPPI CODE
33 OF 1972, WHICH PROVIDES CERTAIN AUTHORITY TO THE ATTORNEY GENERAL
34 TO FILE CERTAIN ACTIONS, FOR PURPOSES OF AMENDMENT; TO AMEND



SECTIONS 27-35-325, 27-41-83 AND 27-41-85, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTIONS; TO BRING FORWARD SECTION 27-41-87, MISSISSIPPI CODE OF 1972, WHICH PROVIDES CERTAIN AUTHORITY TO THE ATTORNEY GENERAL TO FILE SUIT; TO AMEND SECTIONS 27-45-21 AND 27-65-81, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTIONS; TO BRING FORWARD SECTION 27-73-1, MISSISSIPPI CODE OF 1972, WHICH PROVIDES CERTAIN AUTHORITY TO THE ATTORNEY GENERAL TO FILE CERTAIN ACTIONS, FOR PURPOSES OF AMENDMENT; TO AMEND SECTIONS 27-75-13 AND 27-75-15, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING AMENDMENTS; TO BRING FORWARD SECTION 27-77-15, MISSISSIPPI CODE OF 1972, WHICH PROVIDES CERTAIN AUTHORITY TO THE ATTORNEY GENERAL TO FILE CERTAIN ACTIONS, FOR PURPOSES OF AMENDMENT; TO BRING FORWARD SECTION 29-1-7, MISSISSIPPI CODE OF 1972, WHICH PROVIDES CERTAIN AUTHORITY TO THE ATTORNEY GENERAL TO FILE CERTAIN ACTIONS; TO AMEND SECTIONS 29-1-137, 29-3-9, 27-104-29, 27-105-25, 31-7-127, 31-17-59, 31-19-25, 37-37-21, 37-41-25, 37-43-45, 37-51-17, 37-101-241, 37-101-279, 37-101-291, 37-101-292, 37-101-293, 37-151-107, 39-3-201, 39-7-37, 41-7-79, 41-9-35, 41-51-33, 41-71-21, 43-11-27 AND 43-13-145, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTIONS; TO BRING FORWARD SECTIONS 37-135-31, 43-13-221, 43-25-101 AND 71-5-529, MISSISSIPPI CODE OF 1972, WHICH PROVIDES CERTAIN AUTHORITY TO THE ATTORNEY GENERAL TO BRING CERTAIN ACTIONS, FOR PURPOSES OF AMENDMENT; TO AMEND SECTIONS 43-15-6, 43-15-121, 43-16-21, 43-20-21, 45-9-53, 45-12-11, 45-14-27 AND 47-5-75, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTIONS; TO BRING FORWARD SECTIONS 47-5-901, 47-5-903, 47-5-1219, 57-64-23, 75-24-27 AND 75-75-19, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR CERTAIN AUTHORITY OF THE ATTORNEY GENERAL TO FILE CERTAIN ACTIONS, FOR PURPOSES OF AMENDMENT; TO AMEND SECTIONS 49-4-21, 49-17-71, 49-27-51, 53-3-19, 53-9-67, 55-13-21, 57-1-29, 63-17-85, 63-21-39, 67-1-89, 69-2-15, 69-23-11, 69-35-27, 71-5-17, 73-6-29, 73-15-35, 73-25-101, 75-15-11, 75-21-1, 75-21-7, 75-21-37, 75-24-9, 75-24-15, 75-24-19, 75-24-21, 75-24-29, 75-24-59, 75-24-355, 75-60-21, 75-76-87, 75-76-145, 75-76-147, 75-91-7, 77-1-43, 77-2-11, 77-3-611, 79-11-133, 79-11-509, 79-11-519, 79-13-1105, 79-14-1012, 79-29-1017, 81-1-67, 81-19-9, 81-22-17, 83-29-45, 83-37-31, 83-49-31, 83-69-1, 85-11-19, 91-8-1014, 95-3-5, 95-3-13 AND 97-21-101, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTIONS; TO BRING FORWARD SECTIONS 97-32-5 AND 97-37-7, MISSISSIPPI CODE OF 1972, WHICH PROVIDES CERTAIN AUTHORITY FOR THE ATTORNEY GENERAL TO FILE CERTAIN ACTIONS, FOR PURPOSES OF AMENDMENT; TO AMEND SECTIONS 97-33-109, 97-43-9, 97-44-5, 97-45-2, 99-27-31, 99-29-9 AND 99-38-11, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF AMENDMENT; TO BRING FORWARD SECTION 99-41-13, MISSISSIPPI CODE OF 1972, WHICH PROVIDES CERTAIN AUTHORITY FOR THE ATTORNEY GENERAL TO FILE CERTAIN ACTIONS, FOR PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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



85 **SECTION 1.** Section 7-5-1, Mississippi Code of 1972, is
86 amended as follows:

87 7-5-1. The Attorney General provided for by Section 173 of
88 the Mississippi Constitution shall be elected at the same time and
89 in the same manner as the Governor is elected. His term of office
90 shall be four (4) years and his compensation shall be fixed by the
91 Legislature. He shall be the chief legal officer and advisor for
92 the state, both civil and criminal, and is charged with managing
93 all litigation on behalf of the state, except as otherwise
94 specifically provided by law. No arm or agency of the state
95 government shall bring or defend a suit against another arm or
96 agency without prior written approval of the Attorney General. He
97 shall have the powers of the Attorney General at common law and,
98 except as otherwise provided by law, is given the sole power to
99 bring or defend a lawsuit on behalf of a state agency, the subject
100 matter of which is of statewide interest, except that in matters
101 wherein the amount reasonably sought to be recovered by the state
102 or arm or agency thereof exceeds the sum of Two Hundred Fifty
103 Thousand Dollars (\$250,000.00) inclusive of attorney's fees,
104 interest and costs, the Attorney General shall not file suit or
105 otherwise assert such a claim or cause of action or employ special
106 or outside counsel to file such suit or otherwise assert such a
107 claim or cause or action, without the prior written approval of
108 the Outside Counsel Oversight Commission. He shall intervene and
109 argue the constitutionality of any statute when notified of a



challenge thereto, pursuant to the Mississippi Rules of Civil Procedure. His qualifications for office shall be as provided for chancery and circuit judges in Section 154 of the Mississippi Constitution.

SECTION 2. Section 7-5-8, Mississippi Code of 1972, is amended as follows:

7-5-8. (1) Before entering into a contingency fee contract with outside counsel, the state, an arm or agency of the state, or a statewide elected officer acting in his official capacity must first make a written determination that contingency fee representation is both cost-effective and in the public interest. The required written determination shall include specific findings for each of the following factors:

(a) Whether there exist sufficient and appropriate legal and financial resources within the Attorney General's office to handle the matter.

(b) The time and labor required; the novelty, complexity, and difficulty of the questions involved; and the skill requisite to perform the attorney services properly.

(c) The geographic area where the attorney services are to be provided.

(d) The amount of experience desired for the particular kind of attorney services to be provided and the nature of the outside attorney's experience with similar issues or cases.



134 (2) (a) The state, an arm or agency of the state, or a
135 statewide elected officer acting in his official capacity may not
136 enter into a contingency fee contract that provides for the
137 outside attorney to receive a contingency fee, exclusive of
138 reasonable costs and expenses incurred in connection with the
139 case, which is in excess of the following:

140 (i) Twenty-five percent (25%) of any recovery of
141 up to Ten Million Dollars (\$10,000,000.00); plus

142 (ii) Twenty percent (20%) of any portion of such
143 recovery between Ten Million Dollars (\$10,000,000.00) and Fifteen
144 Million Dollars (\$15,000,000.00); plus

145 (iii) Fifteen percent (15%) of any portion of such
146 recovery between Fifteen Million Dollars (\$15,000,000.00) and
147 Twenty Million Dollars (\$20,000,000.00); plus

148 (iv) Ten percent (10%) of any portion of such
149 recovery between Twenty Million Dollars (\$20,000,000.00) and
150 Twenty-five Million Dollars (25,000,000.00); plus

151 (v) Five percent (5%) of any portion of such
152 recovery exceeding Twenty-five Million Dollars (\$25,000,000.00).

153 (b) Except as provided in subsection (3) of this
154 section, a contingency fee shall not exceed an aggregate of Fifty
155 Million Dollars (\$50,000,000.00), exclusive of reasonable costs
156 and expenses incurred in connection with the case, and
157 irrespective of the number of lawsuits filed or the number of
158 attorneys retained to achieve the recovery.



159 (c) A contingency fee shall not be based on penalties
160 or civil fines awarded or any amounts attributable to penalties or
161 civil fines.

162 (3) The limits on fees set forth in subsection (2) of this
163 section shall not apply if:

164 (a) The state, an arm or agency of the state, or a
165 statewide elected officer acting in his official capacity makes a
166 written determination stating the reasons why a greater fee is
167 necessary, proper, and in the best interests of the state in a
168 particular case; and

169 (b) The Outside Counsel Oversight Commission approves
170 any terms of the contingency contract that exceed the limits set
171 forth in subsection (2) of this section.

172 (4) The Outside Counsel Oversight Commission shall consist
173 of the Governor, the Lieutenant Governor, and the Secretary of
174 State; actions of the commission shall be taken by majority vote.
175 Appeal from a decision of the Outside Counsel Oversight Commission
176 shall be to any court of competent jurisdiction.

177 (5) (a) Copies of any executed contingency fee contract and
178 the applicable written determination to enter into a contingency
179 fee contract with the outside attorney shall be posted on the
180 Attorney General's website for public inspection within five (5)
181 business days after the date the contract is executed unless the
182 state, arm or agency of the state, or statewide elected officer
183 retaining outside counsel makes a determination, subject to the



184 approval of the Outside Counsel Oversight Commission, that to do
185 so would negatively affect the state's interest, and shall remain
186 posted on the website for the duration of the contingency fee
187 contract, including any extensions or amendments to the contract.

188 (b) If the determination is made and duly approved that
189 posting the contract will negatively affect the interests of the
190 state, the contract will be posted on the Attorney General's
191 website within five (5) days of the occurrence of the earliest of
192 the following:

193 (i) Filing of the lawsuit for which the contract
194 was executed;

195 (ii) Entry of appearance for any pending matter
196 for which the contract was executed; or

197 (iii) From the time the outside attorney engages
198 in any substantive action on behalf of the state relative to the
199 subject matter for which the contract was executed.

200 (c) Any payment of contingency fees shall be posted on
201 the Attorney General's website within fifteen (15) days after the
202 payment of the contingency fees to the outside attorney and shall
203 remain posted on the website for at least one (1) year after the
204 date payment is made.

205 (6) An outside attorney under contract to provide services
206 to the state on a contingency fee basis shall, from the inception
207 of the contract until not less than four (4) years after the
208 contract expires or is terminated, maintain detailed current



records, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that concern the providing of attorney services. In addition, the outside attorney shall maintain detailed contemporaneous time records for the attorneys and paralegals working on the matter in increments of no greater than one-tenth (1/10) of an hour, and shall promptly provide these records to the Attorney General upon request.

(7) (a) If an arm or agency of the state or a statewide elected officer contracts for outside legal counsel pursuant to Section 7-5-39(3) on a contingency fee basis, the arm or agency of the state or the statewide elected officer shall provide complete and timely information to the Office of the Attorney General as to every requirement of this section for inclusion in the report under this section. The Office of the Attorney General shall post the information as received on its website within five (5) days of receipt.

(b) The arm or agency of the state or statewide elected official responsible for retaining outside counsel shall provide complete and timely information to the Office of the Attorney General as to every requirement of Section 7-5-21 for inclusion in the docket required by that section.

(8) Approval of the Outside Counsel Oversight Commission is required for any claim or cause of action where the amount sought, inclusive of attorney's fees, cost and interest, exceeds Two



Hundred Fifty Thousand Dollars (\$250,000.00) as required in
Section 7-5-1.

SECTION 3. Section 1-1-9, Mississippi Code of 1972, is
amended as follows:

1-1-9. (1) Copyrights of the Mississippi Code of 1972 and
the notes, annotations, and indexes thereof, shall be taken by and
in the name of the publishers of the compilation who shall
thereafter promptly assign the same to the State of Mississippi
and be owned by it.

(2) All parts of any act passed by the Mississippi
Legislature, or of any code published or authorized to be
published by the Joint Committee on Compilation, Revision and
Publication of Legislation, including, without limitation,
catchlines or frontal analyses; numbers assigned to sections,
articles, chapters and titles; historical citations or source
lines; editor's notes; amendment notes; cross references;
annotations; and summaries of judicial decisions and Attorney
General's opinions, shall become and remain the exclusive property
of the State of Mississippi, to be used only as the joint
committee may direct.

(3) (a) If any person or entity uses any part of any act
passed by the Mississippi Legislature, or any part of any code
published or authorized to be published by the joint committee, in
any manner other than as authorized by the committee, the person
or entity shall be subject to a civil penalty of not less than One



259 Thousand Dollars (\$1,000.00) for each violation, and each day upon
260 which a violation occurs shall be deemed a separate and additional
261 violation.

262 (b) If the joint committee suspects that any person or
263 entity is violating or has violated this section, the Attorney
264 General shall investigate the matter upon the request of the joint
265 committee. If the Attorney General determines, after
266 investigation, that the person or entity is violating or has
267 violated this section, the Attorney General shall institute an
268 action, subject to the provisions of Sections 1 and 2 of this act,
269 to impose a civil penalty against the person or entity, or seek
270 injunctive relief against the person or entity to prevent further
271 violations of this section, or both, as requested by the joint
272 committee.

273 (c) Civil penalties may be recovered in a civil action
274 brought by the Attorney General in the Chancery Court of the First
275 Judicial District of Hinds County, Mississippi, or in the chancery
276 court of the county of residence of the person or entity against
277 whom the penalty is sought. If the person or entity is a
278 nonresident of the State of Mississippi, the action shall be
279 brought in the Chancery Court of the First Judicial District of
280 Hinds County, Mississippi.

281 (d) All civil penalties recovered shall be deposited
282 into the State General Fund.



283 **SECTION 4.** Section 1-1-11, Mississippi Code of 1972, is
284 amended as follows:

285 1-1-11. (1) Except as provided in subsection (2) of this
286 section, the Joint Committee on Compilation, Revision and
287 Publication of Legislation shall distribute or provide for the
288 distribution of the sets of the compilation of the Mississippi
289 Code of 1972 purchased by the state as follows:

290 Fifty-seven (57) sets to the Mississippi House of
291 Representatives and forty (40) sets to the Mississippi Senate for
292 the use of the Legislative Reference Bureau, Legislative Services
293 Offices, staffs and committees thereof.

294 Ten (10) sets to the Governor's Office; nine (9) sets to the
295 Secretary of State; and twenty (20) sets to the Auditor's Office.

296 One (1) set to each of the following: the Lieutenant
297 Governor; each member of the Legislature; the Treasurer; each
298 district attorney; each county attorney; each judge of the Court
299 of Appeals and each judge of the Supreme, circuit, chancery,
300 county, family, justice and municipal courts; each Mississippi
301 Senator and Mississippi Representative in Congress; State
302 Superintendent of Education; Director of the Department of Finance
303 and Administration; six (6) sets to the Performance Evaluation and
304 Expenditure Review (PEER) Committee; three (3) sets to the
305 Director of the Legislative Budget Office; the Commissioner of
306 Agriculture and Commerce; each Mississippi Transportation
307 Commissioner; six (6) sets to the Department of Corrections; the



308 Insurance Commissioner; the Clerk of the Supreme Court; the State
309 Board of Health; each circuit clerk; each chancery clerk in the
310 state for the use of the chancery clerk and the board of
311 supervisors; each sheriff in the state for the use of his office
312 and the county officers; and each county for the county library
313 (and an additional set shall be given to each circuit clerk,
314 chancery clerk, sheriff and county library in counties having two
315 (2) judicial districts).

316 Two (2) sets to the Department of Archives and History; two
317 (2) sets to the State Soil and Water Conservation Commission;
318 sixty-eight (68) sets to the Attorney General's office; six (6)
319 sets to the Public Service Commission; four (4) sets to the Public
320 Utilities Staff; thirty-five (35) sets to the Department of
321 Revenue; one (1) set to the Board of Tax Appeals; two (2) sets to
322 the State Personnel Board; six (6) sets to the State Law Library;
323 one (1) set to the Library of Congress; ten (10) sets to the
324 University of Mississippi Law School; one (1) set each to the
325 Mississippi School for the Deaf and the Mississippi School for the
326 Blind; one (1) set each to the University of Mississippi,
327 Mississippi State University, Mississippi University for Women,
328 University of Southern Mississippi, Delta State University, Alcorn
329 State University, Jackson State University, Mississippi Valley
330 State University, and the Board of Trustees of State Institutions
331 of Higher Learning; and one (1) set to the Supreme Court judges'
332 conference room. In furtherance of the State Library's reciprocal



333 program of code exchange with libraries of the several states, the
334 joint committee shall, at the direction and only upon the written
335 request of the State Librarian, distribute or provide for the
336 distribution of sets of the code to such libraries.

337 One (1) set to each state junior or community college; three
338 (3) sets to the Department of Wildlife, Fisheries and Parks; two
339 (2) sets to the Department of Environmental Quality; two (2) sets
340 to the Department of Marine Resources; two (2) sets to the
341 Mississippi Ethics Commission; six (6) sets to the Mississippi
342 Workers' Compensation Commission; four (4) sets to the State
343 Department of Rehabilitation Services; and seven (7) sets to the
344 Department of Human Services. One (1) set to each of the
345 following: State Textbook Procurement Commission; University
346 Medical Center; State Library Commission; Department of
347 Agriculture and Commerce; Forestry Commission; and seventeen (17)
348 sets to the Department of Public Safety. Also, one (1) set to
349 each of the following: Adjutant General, Mississippi Development
350 Authority, Department of Banking and Consumer Finance, Bureau of
351 Building, Grounds and Real Property Management, the State
352 Educational Finance Commission, the Mississippi Board of
353 Vocational and Technical Education, Division of Medicaid, State
354 Board of Mental Health, and Department of Youth Services.

355 The joint committee is authorized to distribute or provide
356 for the distribution of additional sets of the Mississippi Code,



not to exceed three (3) sets, to the office of each district attorney for the use of his assistants.

The joint committee shall provide to the Mississippi House of Representatives and the Mississippi Senate the annual supplements to the Mississippi Code of 1972 for each set of the code maintained by the House and Senate.

The set of the Mississippi Code of 1972 to be provided to each member of the Legislature shall be provided unless specifically waived by such legislator in writing.

An elected or appointed officeholder in the State of Mississippi, except for a member of the Legislature, shall deliver to his successor in office, or to the joint committee if there is no successor, the set of the Mississippi Code of 1972 provided the officeholder under this section.

Before the joint committee delivers or provides for delivery of a copy of the Mississippi Code of 1972 to an individual officeholder, the joint committee shall prepare and submit a written agreement to the officeholder. The agreement shall, among other provisions, state that the code is the property of the State of Mississippi, that it shall be transferred to the officeholder's successor in office, that the officeholder has an obligation to make such transfer and that the officeholder shall be responsible for the failure to deliver the code and for any damage or destruction to the code, normal wear and tear excepted. The joint committee shall execute the agreement and forward it to the



officeholder for execution. The joint committee shall not deliver or provide for delivery of the code to the officeholder until the executed agreement is received by the committee. The joint committee may include in the agreement such other provisions as it may deem reasonable and necessary. In addition to damages or any other remedy for not transferring a set of the code to his successor, an officeholder who does not transfer his set of the code shall be guilty of a misdemeanor and shall, upon conviction, pay a fine of One Thousand Dollars (\$1,000.00). Upon request of the joint committee, the Attorney General shall assist the joint committee in taking such actions as necessary, subject to the provisions in Sections 1 and 2 of this act, to require an officeholder to transfer the set of code provided under this section to his successor, or to the joint committee if there is no successor, and to recover reimbursement or damages from any officeholder for the loss of or damage or destruction to any volumes of the set of the code provided under this section, other than normal wear and tear.

Replacement of missing, damaged or destroyed sets or volumes of the code provided by this chapter may be obtained from the code publisher through the joint committee at the established state cost, the cost to be borne by the recipient.

No more than one (1) set of the Mississippi Code of 1972 shall be furnished to any one (1) individual, regardless of the office or offices he may hold.



(2) (a) The joint committee, in its discretion, may determine whether electronic access to the Mississippi Code of 1972 is available and a sufficient substitute for actual bound volumes of the code and, if so, may omit furnishing any one or more sets otherwise required by this section.

(b) Each elected state official, elected state district official and member of the Legislature shall receive a CD-ROM version of the Mississippi Code of 1972 in lieu of bound volumes of the Mississippi Code of 1972 unless the official or member of the Legislature makes a request in writing to the Joint Committee on Compilation, Revision and Publication of Legislation that he receive bound volumes of the Mississippi Code of 1972.

SECTION 5. Section 1-1-103, Mississippi Code of 1972, is amended as follows:

1-1-103. (1) There is created the Joint Legislative Committee on Compilation, Revision and Publication of Legislation, which is hereinafter referred to as the "joint committee." The joint committee shall be composed of the Speaker of the House of Representatives, the Lieutenant Governor of the State of Mississippi, the Speaker Pro Tempore of the House of Representatives, the President Pro Tempore of the Mississippi State Senate, the Chairman of the Rules Committee of the House of Representatives, the Chairman of the Senate Rules Committee, four (4) members of the House of Representatives to be named by the Speaker of the House, and four (4) members of the Senate to be



432 named by the Lieutenant Governor. If any ex officio member of the
433 joint committee holds two (2) positions entitling him to
434 membership on the committee, the Speaker of the House or the
435 Lieutenant Governor, as the case may be, shall appoint another
436 member of the respective house to membership on the committee.
437 The chairmanship of the committee shall alternate for twelve-month
438 periods, beginning on May 1 of each year, between the Speaker of
439 the House of Representatives and the Lieutenant Governor, with the
440 Speaker of the House of Representatives serving as the first
441 chairman. In the absence of the Chairman of the House Rules
442 Committee or of the Senate Rules Committee, the vice chairman of
443 that committee shall be entitled to attend; if the vice chairman
444 is unable to attend or if an appointed member is unable to attend,
445 another legislator may be designated to attend by the Speaker of
446 the House or the Lieutenant Governor, as the case may be. If the
447 Speaker of the House or the Lieutenant Governor is unable to
448 attend a meeting, he may designate a legislator to substitute for
449 him at that meeting. Any person serving as such a designated
450 proxy shall have a vote at the meeting he was selected to attend
451 and also when attending, shall receive compensation and expenses
452 in the same manner and amount as regular members of the joint
453 committee.

454 There shall be no business transacted, including adoption of
455 rules of procedure, without the presence of a quorum of the joint
456 committee. A quorum shall be eight (8) members, to consist of



457 four (4) members from the House of Representatives and four (4)
458 members from the Senate. No action shall be valid unless approved
459 by the majority of those members present and voting, entered upon
460 the minutes of the joint committee and signed by the chairman and
461 vice chairman.

462 (2) In addition to their legislative salaries as provided by
463 law, the members of the committee shall receive per diem as
464 authorized by law for their services in carrying out the duties of
465 the committee and, in addition thereto, shall receive a daily
466 expense allowance equal to the maximum daily expense rate
467 allowable to employees of the federal government for travel in the
468 high rate geographical area of Jackson, Mississippi, as may be
469 established by federal regulations, including mileage as
470 authorized by Section 25-3-41. However, in no case shall the
471 members of the committee draw per diem while the Legislature is in
472 regular or special session, except that members may receive the
473 per diem and expenses authorized by this section when the
474 Legislature is in session but in recess under the terms of a
475 concurrent resolution, or in recess during a special session.

476 (3) The committee shall meet at least one (1) time during
477 the interim that the Legislature is not in regular session, and
478 the chairman may call additional meetings at such times as he
479 deems necessary or advisable.

480 (4) All expenses incurred by and on behalf of the committee
481 shall be paid from funds appropriated therefor, or from a sum to



be provided in equal portion from the contingency funds of the House of Representatives and the Senate.

(5) Upon the request of the joint committee, the Attorney General shall provide legal assistance or legal representation to the committee on any matter within the jurisdiction of the committee, including bringing suits on behalf of the committee, subject to the provisions of Sections 1 and 2 of this act, and representing the committee in any suits brought against the committee.

SECTION 6. Section 5-3-57, Mississippi Code of 1972, is amended as follows:

5-3-57. The committee shall have the following powers:

(a) To conduct, in any manner and at any time deemed appropriate, a performance evaluation of all agencies. It may examine or investigate the budget, files, financial statements, records, documents or other papers of the agency deemed necessary by the committee.

(b) To conduct, in any manner and at any time deemed appropriate, a review of the budget, files, financial statements, records, documents or other papers, as deemed necessary by the committee, of any agency; to make selected review of any funds expended and programs previously projected by such agency; to investigate any and all salaries, fees, obligations, loans, contracts, or other agreements or other fiscal function or activity of any official or employee thereof (including



independent contractors where necessary); and to do any and all things necessary and incidental to the purposes specifically set forth in this section.

(c) To conduct an investigation of all agencies which are, in whole or in part, operated or supported by any appropriation or grant of state funds, or which are, in whole or in part, supported or operated by any funds derived from any statewide tax, license fee, or permit fee or which collects or administers any statewide tax, license fee, or permit fee by whatever name called; such committee shall also have full and complete authority to investigate all laws administered and enforced by any such offices, departments, agencies, institutions and instrumentalities, and the manner and method of the administration and enforcement of such laws; to investigate any evasion of any statewide tax, privilege fee or license fee; to investigate all disbursements of public funds by any office, agency, department, institution or instrumentality specified herein; to study the present laws relative to such agencies, offices, departments, institutions and instrumentalities, and the laws providing for the levying or imposition and collection of any state tax, privilege fee or license fee; to make recommendations to the Legislature as to the correction of any imperfections, inequalities or injustices found to exist in any of such laws, and to do any and all things necessary and incidental to the purposes herein specifically set forth. Provided further that the



532 committee shall upon petition by one-half (1/2) the elected
533 membership of either the Senate or House of Representatives
534 perform a complete investigation and audit of any agency, entity
535 or group subject to investigation or audit by passage of Sections
536 5-3-51 through 5-3-69.

537 (d) The committee, in its discretion, if it determines
538 that such action is necessary to carry out the responsibilities of
539 Sections 5-3-51 through 5-3-69, may employ an attorney or
540 attorneys to file or subject to the provisions of Sections 1 and 2
541 of this act, assist the Attorney General's office in filing
542 actions for the recovery of any funds discovered to have been
543 misused or misappropriated and to prosecute or assist in
544 prosecution of criminal violations, if any, revealed or discovered
545 in the discharging of their duties and responsibilities.

546 **SECTION 7.** Section 7-1-5, Mississippi Code of 1972, is
547 amended as follows:

548 7-1-5. In addition to the powers conferred and duties
549 imposed on the Governor by the Constitution and by the laws as
550 elsewhere provided, he shall have the powers and perform the
551 duties following:

552 (a) He is the supreme executive officer of the state.

553 (b) He is the commander in chief of the militia of the
554 state and may call out the militia to execute the laws, to
555 suppress insurrections or riots, and to repel invasions.

556 (c) He shall see that the laws are faithfully executed.



(d) He is to supervise the official conduct of all executive and ministerial officers.

(e) He is to see that all offices are filled and the duties of the offices are performed or, in default thereof, apply such remedy as the law allows; and if the remedy is inadequate, he shall inform the Legislature at its next session.

(f) He shall make appointments and fill vacancies as prescribed by law.

(g) Whenever any suit or legal proceeding is pending that affects the title of the state to any property, or that may result in any claim against the state, he may direct the Attorney General to appear on behalf of the state and protect its interest, subject to the provisions of Sections 1 and 2 of this act.

(h) He may require the Attorney General, or district attorney of any district, to inquire into the affairs or management of any corporation existing under the laws of this state, or doing business in this state under the laws of the state.

(i) He may require the Attorney General to aid any district attorney in the discharge of his duties.

(j) He may offer rewards, not exceeding Two Hundred Dollars (\$200.00), for persons with mental illness who have escaped and are dangerous, and such other rewards as are authorized by law.



(k) He may require any officer or board to make special reports to him upon demand in writing.

(l) He shall transact all necessary business with state officers, shall require them to be present at their respective offices at all reasonable business hours, and may require information, in writing, from any such officer relating to the duties of his office.

(m) When deemed advisable upon proceedings for the arrest in this state of fugitives from justice from other states or countries, he may commission a special officer to arrest the fugitive in any part of the state.

(n) He may bring any proper suit affecting the general public interests, in his own name for the State of Mississippi, if after first requesting the proper officer so to do, the officer refuses or neglects to do the same.

SECTION 8. Section 7-3-47, Mississippi Code of 1972, is amended as follows:

7-3-47. (1) On or before April 20 of each year, the Secretary of State shall notify by mail every constable being compensated in whole or in part on a fee basis who has failed to file the report required by Section 7-3-45; and on or before May 15 of each year, he will notify the Attorney General of the ones of same by name who still have not filed such report, and the Attorney General shall thereupon prosecute such delinquent officers. If such report is not made by July 1 of the year,



606 injunctive action and discovery in the chancery court of the
607 residence of any such delinquent officer shall lie, and the
608 Attorney General shall prosecute an action or actions in such
609 court to obtain the proper information for each delinquent report,
610 subject to the provisions of Sections 1 and 2 of this act.

611 (2) Failure on the part of any such officer to file such
612 report by May 15 or evasion of the cited section, either by
613 failure to report properly or by false entry, shall constitute a
614 misdemeanor and shall be punishable by a fine of not less than One
615 Hundred Dollars (\$100.00) nor more than Five Hundred Dollars
616 (\$500.00), or by imprisonment for not less than thirty (30) days
617 nor more than six (6) months, or by both such fine and
618 imprisonment as the court may direct.

619 (3) If any such constable compensated by fees shall fail to
620 file such report by May 1 in any year, all fees, salaries, and
621 other remuneration collected by such official from May 1 until the
622 date when such report is filed shall be forfeited to the general
623 fund of the county. Any such official going out of office at the
624 end of his or her term shall be liable on his or her official bond
625 for the refund of all allowances, fees, salaries, or other
626 remuneration received by him or her from the county treasury
627 during the last year of his or her term of office, if such report
628 is not filed with the Secretary of State by May 1 of the following
629 year.



630 **SECTION 9.** Section 7-5-5, Mississippi Code of 1972, is
631 amended as follows:

632 7-5-5. (1) The Attorney General shall appoint nine (9)
633 competent attorneys, each of whom shall be designated as an
634 assistant Attorney General. The assistants shall each possess all
635 of the qualifications required by law of the Attorney General and
636 shall have power and authority under the direction and supervision
637 of the Attorney General to perform all of the duties required by
638 law of that officer; and each shall be liable to the pains and
639 penalties to which the Attorney General is liable. The assistants
640 shall serve at the will and pleasure of the Attorney General, and
641 they shall devote their entire time and attention to the duties
642 pertaining to the department of justice as required by the general
643 laws. The compensation of all assistants authorized by law shall
644 be fixed by the Attorney General not to exceed the compensation
645 fixed by law.

646 (2) (a) The Attorney General shall designate three (3) of
647 the assistant attorneys general authorized under subsection (1) of
648 this section to devote their time and attention primarily to
649 defending and aiding in the defense in all courts of any suit,
650 filed or threatened, against the State of Mississippi, against any
651 subdivision thereof, or against any agency or instrumentality of
652 the state or subdivision, including all elected officials and any
653 other officer or employee thereof, subject to the provisions of
654 Sections 1 and 2 of this act. When the circumstances permit, the



655 assistants may perform any of the Attorney General's powers and
656 duties, including, but not limited to, engaging in lawsuits
657 outside the state when in his opinion this would help bring about
658 the equal application of federal laws and court decisions in every
659 state and guaranteeing equal protection of the laws as guaranteed
660 every citizen by the United States Constitution.

661 (b) The Attorney General may employ outside counsel as
662 special assistant attorneys general on a fee or contract basis;
663 the Attorney General shall be the sole judge of the compensation
664 in such cases except as otherwise provided in Section 7-5-8.

665 (i) Any contract for services of outside counsel
666 shall require current and complete written time and expense
667 records that describe in detail the time, in increments of no
668 greater than one tenth (1/10) of an hour, and money spent each day
669 in performance of the contract.

670 (ii) On conclusion of the matter for which the
671 outside legal services were obtained, outside counsel shall
672 provide a complete written statement of all fees and expenses, and
673 the final complete time and expense records.

674 (3) The Attorney General may discharge any assistant
675 Attorney General or special assistant Attorney General at his
676 pleasure and appoint another in his stead. The assistant
677 attorneys general shall devote their entire time and attention to
678 the duties pertaining to the Department of Justice under the
679 control and supervision of the Attorney General.



680 **SECTION 10.** Section 7-5-7, Mississippi Code of 1972, is
681 amended as follows:

682 7-5-7. (1) The Governor may engage outside counsel on a
683 noncontingent fee basis to assist the Attorney General in cases to
684 which the state is a party when, in his opinion, the interest of
685 the state requires it, subject to the action of the Legislature in
686 providing compensation for such services not to exceed recognized
687 bar rates for similar services.

688 (2) (a) The Attorney General is hereby authorized and
689 empowered to appoint and employ outside counsel, on a fee or
690 salary basis not to exceed recognized bar rates for similar
691 services, subject to the provisions of Sections 1 and 2 of this
692 act, to assist the Attorney General in the preparation for,
693 prosecution, or defense of any litigation in the state or federal
694 courts or before any federal commission or agency in which the
695 state is a party or has an interest. The Attorney General may
696 designate the outside counsel as special assistant Attorney
697 General.

698 (b) If the compensation agreed upon will be governed by
699 a contingency fee contract, that contract must conform with the
700 requirements of Section 7-5-8.

701 (3) The Attorney General may also employ special
702 investigators on a per diem or salary basis, to be agreed upon at
703 the time of employment, for the purpose of interviewing witnesses,
704 ascertaining facts, or rendering any other services that may be



needed by the Attorney General in the preparation for and prosecution of suits by or against the State of Mississippi, or in suits in which the Attorney General is participating on account of same being of statewide interest.

(4) The Attorney General may pay travel and other expenses of employees and appointees under this chapter in the same manner and amount as authorized by law for the payment of travel and expenses of state employees and officials.

(5) The compensation of appointees and employees under this chapter shall be paid out of the Attorney General's contingent fund, or out of any other funds appropriated to the Attorney General's office.

SECTION 11. Section 7-5-9, Mississippi Code of 1972, is amended as follows:

7-5-9. The Attorney General shall have the power to employ a suitable and competent person or persons who possess professional skill and/or expert knowledge when such employment shall be necessary in order to enable him to efficiently perform the official duties imposed upon him by law, and he may pay such person or persons reasonable compensation as may be agreed upon, provided such compensation shall not exceed the compensation usually paid for similar services by private employers of such persons, subject to the provisions of Sections 1 and 2 of this act. The compensation and necessary expenses of such employees



shall be paid out of the Attorney General's contingent fund or out of funds especially appropriated for such purposes.

SECTION 12. Section 7-5-21, Mississippi Code of 1972, is brought forward as follows:

7-5-21. The Attorney General shall keep a docket of all causes in which he is required to appear, whether through his office or through outside counsel, which is a public record and must show the full style of the case, the cause number of the action, the county, district and court in which the causes have been instituted and tried, and whether the case is civil or criminal. If civil, the docket must show the nature of the demand, the stage of the proceedings, the name and address of any outside counsel, a description of the fee arrangement with any outside counsel, a memorandum of the judgment when prosecuted to judgment, any process issued thereon, whether satisfied or not, and if not satisfied, the return of the sheriff. If criminal, the docket must show the nature of the crime, the mode of prosecution, the stage of the proceedings, a memorandum of the sentence when prosecuted to a sentence, the execution thereof, if executed, and, if not executed, the reasons of delay or prevention.

SECTION 13. Section 7-5-35, Mississippi Code of 1972, is amended as follows:

7-5-35. When it may be necessary or proper for the enforcement or collection of any judgment or debt in favor of the state, or any officer thereof in his official capacity, or of any



county, the Attorney General, subject to the provisions of
Sections 1 and 2 of this act, shall institute and prosecute in
behalf of the creditor a suit or suits to set aside and annul any
conveyance or other device fraudulently made by the debtor, or
anyone for him, to hinder, delay, or defraud the creditor.

SECTION 14. Section 7-5-37, Mississippi Code of 1972, is
amended as follows:

7-5-37. The Attorney General shall, at the request of the
Governor or other state officer, in person or by his assistant,
prosecute suit on any official bond, or any contract in which the
state is interested, upon a breach thereof, and prosecute or
defend for the state all actions, civil or criminal, relating to
any matter connected with either of the state offices, subject to
the provisions of Sections 1 and 2 of this act. He may require
the service or assistance of any district attorney in and about
such matters or suits.

SECTION 15. Section 7-5-39, Mississippi Code of 1972, is
amended as follows:

7-5-39. (1) Except as otherwise provided by law, the
Attorney General shall represent the state, subject to the
provisions of Sections 1 and 2 of this act, in person or by his
assistant, as counsel in all suits against the state in other
courts or the Supreme Court at the seat of government, and he
shall, in like manner, act as counsel for any of the state



officers in suits brought by or against them in their official capacity, touching any official duty or trust.

(2) No civil legal action on behalf of the state, any arm or agency of the state, or any statewide elected officer acting in his official capacity may be taken until seven (7) working days' written notice of the proposed legal action is given to the statewide elected officer or proper person in charge of the arm or agency unless irreparable injury to the state would result by waiting for the expiration of the seven-day period.

(3) (a) The Attorney General shall authorize retention of independent counsel from outside his office by an arm or agency of the state or a statewide elected officer acting in his official capacity if the Attorney General declines representation when requested.

(b) (i) The Attorney General shall authorize retention of independent counsel from outside his office by an arm or agency of the state or a statewide elected officer acting in his official capacity and shall withdraw from representation of the arm or agency of the state or the statewide elected officer if there is a significant disagreement with the Attorney General as to the legal strategy to be used in the matter, and the Outside Counsel Oversight Commission has first approved the retention of outside counsel.

(ii) If an arm or agency of the state or statewide elected officer acting in his official capacity retains outside



counsel under this subsection (3), the counsel shall be selected by the arm or agency of the state or the statewide elected officer. Fees of counsel employed on a fee basis shall not exceed recognized bar rates for similar services; any contract for outside counsel employed on a contingency fee basis shall conform to the provisions of Section 7-5-8.

(4) The Attorney General may pursue the collection of any claim or judgment in favor of the state outside of the state.

SECTION 16. Section 7-5-41, Mississippi Code of 1972, is brought forward as follows:

7-5-41. In all suits against the state of Mississippi, any board, bureau, commission, or department thereof required to be defended by the Attorney General, a completed copy of the bill of complaint, declaration, or other original pleading shall be mailed by the plaintiff or complainant to the Attorney General, postage prepaid, properly addressed to him; and such original pleading shall bear a proper certificate to such effect when it is filed. No decree pro-confesso or default judgment shall be taken against such defendant.

SECTION 17. Section 7-5-43, Mississippi Code of 1972, is amended as follows:

7-5-43. (1) In addition to all power and authority vested in the Attorney General of the State of Mississippi by its constitution and statutes and all common law power and authority which may be invested in or exercised by such Attorney General as



828 such, the Attorney General of the State of Mississippi and his
829 assistants and representatives are hereby authorized upon request
830 made of him to, * * * render such services, subject to the
831 provisions of Sections 1 and 2 of this act, as the Attorney
832 General may deem necessary to assist in advising and in
833 representing, either or both, all officers or employees of any
834 county district, county, or municipality of the State of
835 Mississippi, or of the State of Mississippi, or of any board,
836 agency, or commission thereof, as the case may be, or any circuit
837 clerk or county registrar, should they or any of them be
838 investigated or called as a witness by the federal Civil Rights
839 Commission, be sued in an action at law or in equity, be
840 prosecuted or cited to show cause or charged with contempt, civil
841 or criminal, or proceeded against in any manner, either or all, in
842 any state or federal court by the United States government, by any
843 agency, officer, department, or representative of the United
844 States government, or by any other person, either or all, as a
845 result of the discharge by any of said Mississippi county
846 district, county, municipal, or State of Mississippi officers or
847 employees, boards, agencies, or commissions and the members
848 thereof, or by the said circuit clerk or county registrar of their
849 official duties under the Constitution and other laws of the State
850 of Mississippi, or growing out of such official action or
851 nonaction, as the case may be.



852 The foregoing authority vested in the Attorney General as
853 above set out shall not apply to or with respect to any suit,
854 action, hearing, or controversy which may arise between two (2) or
855 more of the aforesaid officers or employees, circuit clerks or
856 county registrars, such commissions, boards, or agencies or
857 members thereof, or said county districts, counties, or
858 municipalities of the State of Mississippi, or between them or by
859 any of them and an agency or officer of the State of Mississippi
860 which, under existing laws of the State of Mississippi, the
861 Attorney General is otherwise authorized or required to represent.

862 (2) Any request made of the Attorney General for the
863 assistance above referred to shall be made in writing and, if by
864 an individual, shall be signed by him or her. If by a board or
865 commission or agency as such, there shall be entered upon its
866 minutes an order making such request, and the request from and on
867 behalf of said board, commission, or agency to the Attorney
868 General for said assistance shall be accompanied by a certified
869 copy of said order.

870 **SECTION 18.** Section 7-5-45, Mississippi Code of 1972, is
871 amended as follows:

872 7-5-45. (1) In addition to all power and authority vested
873 in the Attorney General of the State of Mississippi by its
874 constitution and statutes and all common law power and authority
875 which may be vested in or exercised by such Attorney General as
876 such, the Attorney General of the State of Mississippi and his



877 assistants and representatives are hereby authorized upon request
878 made of him to * * *, subject to the provisions of Sections 1 and
879 2 of this act, render such services as the Attorney General may
880 deem necessary to assist in advising and in representing, either
881 or both, any officer or employee of any school district, any
882 agricultural high school and junior college, or any institution of
883 higher learning, the respective boards of trustees thereof, the
884 members of said boards of trustees, any school district, junior
885 college district, institution of higher learning, and any state
886 officer, should they or any of them be sued, prosecuted, or
887 proceeded against in any manner in any action in any state or
888 federal court which, or the ultimate purpose of which, challenges
889 or seeks to invalidate any statute or provision of the
890 Constitution of the State of Mississippi dealing with the
891 establishment, maintenance, operation, control, financing, or
892 determining what persons or pupils shall attend or be enrolled in
893 any or all of said schools or colleges or institutions of higher
894 learning, as violative of the constitution and laws of the United
895 States of America or the State of Mississippi, or should such
896 officers, employees, and members of such boards of trustees be
897 investigated or called as a witness by the federal Civil Rights
898 Commission, cited to show cause, or charged with contempt, civil
899 or criminal, by any officer, agent, department, or court of the
900 United States government.



901 The foregoing authority vested in the Attorney General as
902 above set out shall not apply to or with respect to any suit,
903 action, hearing, or controversy which may arise between two (2) or
904 more of the aforesaid officers or employees, boards or members
905 thereof, school districts, colleges or institutions of higher
906 learning, or between them or any of them and an agency or officer
907 of the State of Mississippi which, under existing laws of the
908 State of Mississippi, the Attorney General is otherwise authorized
909 or required to represent.

910 (2) Any request made of the Attorney General for the
911 assistance above referred to shall be made in writing and, if by
912 an individual, shall be signed by him or her. If by a board as
913 such, there shall be entered upon the minutes of such board an
914 order making such request, and the request from or on behalf of
915 said board to the Attorney General for said assistance shall be
916 accompanied by a certified copy of said order.

917 **SECTION 19.** Section 7-5-47, Mississippi Code of 1972, is
918 amended as follows:

919 7-5-47. The Attorney General or his assistant, when required
920 by the Governor, shall institute suits, subject to the provisions
921 of Sections 1 and 2 of this act, for the benefit of the state on
922 the bond of any state officer in any case in which said officer
923 has been guilty of any neglect or violation of his official
924 duties.



925 **SECTION 20.** Section 7-5-51, Mississippi Code of 1972, is
926 amended as follows:

927 7-5-51. The Attorney General, as well as the several
928 district attorneys, is hereby authorized to institute or defend
929 any suits arising out of any act or order of the * * * Department
930 of Revenue or the Public Service Commission affecting the laws and
931 revenues of the state, subject to the provisions of Sections 1 and
932 2 of this act.

933 **SECTION 21.** Section 7-5-54, Mississippi Code of 1972, is
934 amended as follows:

935 7-5-54. (1) In addition to the authority granted in Section
936 7-5-53, Mississippi Code of 1972, the Attorney General shall
937 prosecute subject to the provisions of Sections 1 and 2 of this
938 act, in person or by his designated staff attorney, criminal
939 matters and cases investigated by him pursuant to the provisions
940 of Section 7-5-59, and he may request the services or assistance
941 of any district attorney in and about such matters or suits. When
942 requested by a district attorney and in the public interest, the
943 Attorney General may, in person or by his designated staff
944 attorney, assist the district attorney in the discharge of his
945 duties. The Attorney General or his designated staff attorney
946 shall have the same right as the district attorney to enter the
947 grand jury room while the grand jury is in session and to perform
948 such services with reference to the work of the grand jury as the
949 district attorney is authorized by law to perform.



(2) The powers of the Attorney General under this section shall not diminish the powers of local authorities to investigate or prosecute any type of white-collar crime violation or any other criminal conduct within their respective jurisdictions, and the provisions of this section shall be in addition to the powers and authority previously granted the Attorney General by common, constitutional, statutory or case law.

SECTION 22. Section 7-5-55, Mississippi Code of 1972, is amended as follows:

7-5-55. The Attorney General, or any district attorney or county attorney at his request, may bring and prosecute any action, subject to the provisions of Sections 1 and 2 of this act, in the name of the state to recover the amount of any past due income, inheritance, and privilege taxes and penalties thereon, but any such action shall be brought in the county or district where the taxpayer resides. In case of a nonresident or foreign corporation, the action may be brought in any county where said nonresident or foreign corporation may now be sued in other cases.

SECTION 23. Section 7-5-59, Mississippi Code of 1972, is brought forward as follows:

7-5-59. (1) The following terms shall have the meanings ascribed to them herein unless the context requires otherwise:

(a) "Computer crimes" means those crimes defined in Chapter 45 of Title 97 and sex offenses involving a computer affecting children as defined in Chapter 5 of Title 97.



975 (b) "White-collar crime and official corruption"
976 includes crimes chargeable under the following provisions of law:
977 (i) Paragraphs (b) and (c) of Section 7-5-59(4),
978 which relates to obstruction of white-collar crime investigations.
979 (ii) Section 97-7-10, which relates to the
980 defrauding of state and local governments.
981 (iii) Section 97-19-73, which relates to fraud by
982 mail, wire, radio or television.
983 (iv) Section 97-9-10, which relates to commercial
984 bribery.
985 (v) Section 97-45-3, which relates to computer
986 fraud.
987 (vi) Sections 97-11-25 through 97-11-31, which
988 relate to embezzlement by public officials.
989 (vii) Section 97-11-33, which relates to extortion
990 by public officials.
991 (viii) Sections 97-19-5 through 97-19-31, which
992 relate to unlawful procurement or use of credit cards.
993 (ix) Sections 97-23-1 and 97-23-3, which relate to
994 false, misleading or deceptive advertising.
995 (x) Sections 97-15-3 and 97-15-5, which relate to
996 bribery of members and employees of the Highway Commission and the
997 defrauding of the state by Highway Commission members, employees
998 or highway contractors.



999 (xi) Section 97-9-5, which relates to bribery of
1000 jurors.

1001 (xii) Sections 97-11-11, 97-11-13 and 97-11-53,
1002 which relate to acceptance of bribes by public officials and
1003 bribery of public officials.

1004 (xiii) Sections 97-13-1 and 97-13-3, which relate
1005 to bribery of electors or election officials.

1006 (xiv) Sections 97-23-19 through 97-23-27, which
1007 relate to embezzlement.

1008 (c) "White-collar crime investigations" means an
1009 investigation into any illegal act or acts defined as white-collar
1010 crime.

1011 (d) "Computer crimes investigations" means an
1012 investigation into any illegal act or acts defined as computer
1013 crime.

1014 (e) "Person" means and includes not only an individual,
1015 but also a partnership, corporation, professional firm, nonprofit
1016 organization or other business entity.

1017 (2) The Attorney General is hereby authorized to conduct
1018 official corruption investigations and such other white-collar
1019 crime investigations and computer crime investigations that are of
1020 statewide interest or which are in the protection of public
1021 rights.

1022 (3) (a) In conducting white-collar crime and computer crime
1023 investigations, the Attorney General shall have the authority to



1024 issue and serve subpoenas to any person in control of any
1025 designated documents for the production of such documents,
1026 including, but not limited to, writings, drawings, graphs, charts,
1027 photographs, phono-records, subscriber records and other data
1028 compilations from which information can be obtained, or translated
1029 through detection devices into reasonably usable form. Such
1030 subpoenas shall require the named person, his agent or attorney,
1031 to appear and deliver the designated documents to a location in
1032 the county of his residence unless the court for good cause shown
1033 directs that the subpoena be issued for the person to deliver such
1034 documents to a location outside of the county of his residence.
1035 Mere convenience of the Attorney General shall not be considered
1036 good cause. The Attorney General or his designee shall have the
1037 authority to inspect and copy such documents. Such subpoenas
1038 shall be issued only upon the ex parte and in camera application
1039 of the Attorney General to the circuit or chancery court of the
1040 county of residence of the person in control of the documents or
1041 the circuit or chancery court of the county where the person in
1042 control of the documents may be found, and only upon a showing
1043 that the documents sought are relevant to a criminal investigation
1044 under this act or may lead to the discovery of such relevant
1045 evidence. Thereafter said court shall have jurisdiction to
1046 enforce or quash such subpoenas and to enter appropriate orders
1047 thereon, and nothing contained in this section shall affect the



1048 right of a person to assert a claim that the information sought is
1049 privileged by law.

1050 (b) A subpoena issued pursuant to this subsection shall
1051 be in substantially the following form:

1052 "SUBPOENA TO PRODUCE DOCUMENTS PURSUANT TO AN
1053 INVESTIGATION BY THE ATTORNEY GENERAL

1054 TO:

1055 YOU ARE HEREBY COMMANDED to appear before the Attorney
1056 General of the State of Mississippi or his designated staff
1057 attorney at the place, date and time specified below in an
1058 investigation being conducted by the Attorney General pursuant to
1059 Section 7-5-59, Mississippi Code of 1972:

1060 Place _____ Date and Time _____

1061 YOU ARE ALSO COMMANDED to bring with you the following
1062 document(s) or object(s).

1063 _____

1064 You are advised that the _____ Court of the _____
1065 Judicial District of _____ County, Mississippi, has
1066 approved the ex parte and in camera application of the Attorney
1067 General to issue this subpoena, and jurisdiction to enforce and/or
1068 quash the subpoena and to enter appropriate orders thereon is
1069 statutorily vested in the said court; enforcement and penal
1070 provisions applicable to an Attorney General's investigation
1071 include those set forth in Section 7-5-59(4), Mississippi Code of
1072 1972; and disclosure of testimony and/or records coming into



1073 possession of the Attorney General pursuant to this subpoena shall
1074 be limited by and subject to the provisions of Section 7-5-59(6),
1075 Mississippi Code of 1972, (for informational purposes, these cited
1076 statutes are reproduced on the reverse side of this subpoena).

1077 You may wish to consult an attorney in regard to this
1078 subpoena. You have certain state and federal constitutional
1079 rights, including your protection against self-incrimination and
1080 unreasonable search and seizure which this subpoena may affect.

1081 ISSUED BY AND UNDER SEAL OF THE ATTORNEY GENERAL OF THE STATE
1082 OF MISSISSIPPI, this the ____ day of _____, 20____.
1083 (SEAL) _____"

1084 (c) Following service of any subpoena, pursuant to the
1085 provisions of this subsection, a record of the return shall be
1086 made and kept by the Attorney General and subject only to such
1087 disclosure as may be authorized pursuant to the provisions of this
1088 section.

1089 (4) Enforcement and penal provisions applicable to an
1090 investigation under this section shall include the following:

1091 (a) If a person who has been served with a subpoena,
1092 which has been issued and served upon him in accordance with the
1093 provisions of this section, shall fail to deliver or have
1094 delivered the designated documents at the time and place required
1095 in the subpoena, on application of the Attorney General the
1096 circuit or chancery court having approved the issuance of the
1097 subpoena may issue an attachment for such person, returnable



1098 immediately, or at such time and place as the court may direct.
1099 Bond may be required and fine imposed and proceedings had thereon
1100 as in the case of a subpoenaed witness who fails to appear in
1101 circuit or chancery court.

1102 (b) Every person who shall knowingly and willfully
1103 obstruct, interfere with or impede an investigation under this
1104 section by concealing or destroying any documents, papers or other
1105 tangible evidence which are relevant to an investigation under
1106 this section shall be guilty of a felony and, upon conviction,
1107 shall be punished by a fine of not more than Five Thousand Dollars
1108 (\$5,000.00) or by imprisonment for not more than five (5) years,
1109 or by both such fine and imprisonment.

1110 (c) Every person who shall knowingly and willfully
1111 endeavor, by means of bribery, force or intimidation, to obstruct,
1112 delay or prevent the communication of information to any agent or
1113 employee of the Office of the Attorney General or who injures
1114 another person for the purpose of preventing the communication of
1115 such information or an account of the giving of such information
1116 relevant to an investigation under this section shall be guilty of
1117 a felony and, upon conviction, shall be punished by a fine of not
1118 more than Five Thousand Dollars (\$5,000.00) or by imprisonment for
1119 not more than five (5) years, or by both such fine and
1120 imprisonment.



1121 (d) The provisions of paragraphs (a), (b) and (c) of
1122 this subsection shall not prohibit the enforcement of, or
1123 prosecution under, any other statutes of this state.

1124 (5) (a) If any person shall refuse, or is likely to refuse,
1125 on the basis of his privilege against self-incrimination, produce
1126 the designated documents as requested by a subpoena issued under
1127 this section or issued by a court, the Attorney General may
1128 request the court, ex parte and in camera, to issue an order
1129 requiring such person to produce the documents information which
1130 he refuses to give or provide on the basis of his privilege
1131 against self-incrimination. The Attorney General may request said
1132 order under this subsection when, in his judgment:

1133 (i) The documents sought from such individual may
1134 be necessary to the public interest; and

1135 (ii) Such individual has refused or is likely to
1136 refuse to produce the designated document on the basis of his
1137 privilege against self-incrimination.

1138 Following such request, an order shall issue in accordance
1139 with this section requiring such person to produce the documents
1140 which he refuses to produce on the basis of his privilege against
1141 self-incrimination.

1142 (b) Whenever a witness refuses, on the basis of his
1143 privilege against self-incrimination, to produce documents, and
1144 the court issues to the witness an order under paragraph (a) of
1145 this subsection, the witness may not refuse to comply with the



1146 order on the basis of his privilege against self-incrimination,
1147 but no documents or information compelled under the aforesaid
1148 order, or any information directly or indirectly derived from such
1149 documents may be used against the witness in any criminal
1150 proceeding, except a prosecution for perjury, giving a false
1151 statement, or otherwise failing to comply with the order.

1152 (6) Documents in the possession of the Attorney General
1153 gathered pursuant to the provisions of this section and subpoenas
1154 issued by him shall be maintained in confidential files with
1155 access limited to prosecutorial and other law enforcement
1156 investigative personnel on a "need-to-know" basis and shall be
1157 exempt from the provisions of the Mississippi Public Records Act
1158 of 1983, except that upon the filing of an indictment or
1159 information, or upon the filing of an action for recovery of
1160 property, funds or fines, such documents shall be subject to such
1161 disclosure as may be required pursuant to the applicable statutes
1162 or court rules governing the trial of any such judicial
1163 proceeding.

1164 (7) No person, including the Attorney General, a member of
1165 his staff, prosecuting attorney, law enforcement officer, witness,
1166 court reporter, attorney or other person, shall disclose to an
1167 unauthorized person documents, including subpoenas issued and
1168 served, gathered by the Attorney General pursuant to the
1169 provisions of this section, except that upon the filing of an
1170 indictment or information, or upon the filing of an action for



1171 recovery of property, funds or fines, or in other legal
1172 proceedings, such documents shall be subject to such disclosure as
1173 may be required pursuant to applicable statutes and court rules
1174 governing the trial of any such judicial proceeding. In event of
1175 an unauthorized disclosure of any such documents gathered by the
1176 Attorney General pursuant to the provisions of this section, the
1177 person making any such unauthorized disclosure shall be guilty of
1178 a misdemeanor, and upon conviction thereof, shall be punished by a
1179 fine of not more than One Thousand Dollars (\$1,000.00) or
1180 imprisonment of not more than six (6) months, or by both such fine
1181 and imprisonment.

1182 (8) The powers of the Attorney General under this section
1183 shall not diminish the powers of local authorities to investigate
1184 or prosecute any type of white-collar crime violation, computer
1185 crime violation or any other criminal conduct within their
1186 respective jurisdictions, and the provisions of this section shall
1187 be in addition to the powers and authority previously granted the
1188 Attorney General by common, constitutional, statutory or case law.

1189 (9) No person, agent or employee upon whom a subpoena is
1190 served pursuant to this section shall disclose the existence of
1191 the investigation to any person unless such disclosure is
1192 necessary for compliance with the subpoena. Any person who
1193 willfully violates this subsection shall be guilty of a
1194 misdemeanor and may be confined in the county jail for a period



1195 not to exceed one (1) year or fined not more than Ten Thousand
1196 Dollars (\$10,000.00), or both.

1197 **SECTION 24.** Section 7-5-66, Mississippi Code of 1972, is
1198 amended as follows:

1199 7-5-66. The Attorney General is hereby authorized, in his
1200 discretion, and on a case-by-case basis, to prepay all such court
1201 costs and filing fees, as are otherwise required of private
1202 litigants, when commencing and prosecuting civil actions for the
1203 collection and recovery of delinquent sums owed to the Mississippi
1204 Guarantee Student Loan Program, subject to the provisions of
1205 Sections 1 and 2 of this act.

1206 **SECTION 25.** Section 7-7-204, Mississippi Code of 1972, is
1207 amended as follows:

1208 7-7-204. (1) Within the limits of the funds available to
1209 the Office of the State Auditor for such purpose, the State
1210 Auditor may grant a paid internship to students pursuing junior or
1211 senior undergraduate-level year coursework toward a bachelor's
1212 degree in accounting or graduate-level coursework toward a
1213 master's degree in accounting. Those applicants deemed qualified
1214 shall receive funds that may be used to pay for tuition, books and
1215 related fees to pursue their degree. It is the intent of the
1216 Legislature that the paid internship program (hereinafter referred
1217 to as the program) shall be used as an incentive for accounting
1218 students to develop job-related skills and to encourage accounting
1219 careers at the Office of the State Auditor.



1220 (2) In order to be eligible for the program, an applicant
1221 must:

1222 (a) Attend any college or school approved and
1223 designated by the Office of the State Auditor.

1224 (b) Satisfy the following conditions:

1225 (i) Undergraduate stipulations: Applicants must
1226 have successfully obtained a minimum of fifty-eight (58) semester
1227 hours toward a bachelor of science degree in accounting from a
1228 Mississippi institution of higher learning.

1229 Applicants must have achieved a minimum grade point average
1230 (GPA) on the previously obtained semester hours toward a bachelor
1231 of science degree in accounting of 3.0 on a 4.0 scale.

1232 If accepted into the program, participants shall maintain a
1233 minimum cumulative GPA of 3.0 on a 4.0 scale in all coursework
1234 counted toward a bachelor of science degree in accounting.

1235 (ii) Graduate stipulations: Applicants must have
1236 met the regular admission standards and have been accepted into
1237 the master of science accounting program at a Mississippi
1238 institution of higher learning.

1239 If accepted into the program, participants shall maintain a
1240 minimum cumulative GPA of 3.0 on a 4.0 scale in all coursework
1241 counted toward a master of science degree in accounting.

1242 (c) All program participants will be required to work a
1243 total of three hundred thirty-six (336) hours each summer at the
1244 Office of the State Auditor in Jackson, Mississippi.



1245 (d) Agree to work as an auditor at the Office of the
1246 State Auditor upon graduation for a period of time equivalent to
1247 the period of time for which the applicant receives compensation,
1248 calculated to the nearest whole month, but in no event less than
1249 two (2) years.

1250 (3) (a) Before being placed into the program, each
1251 applicant shall enter into a contract with the Office of the State
1252 Auditor, which shall be deemed a contract with the State of
1253 Mississippi, agreeing to the terms and conditions upon which the
1254 internship shall be granted to him. The contract shall include
1255 such terms and provisions necessary to carry out the full purpose
1256 and intent of this section. The form of such contract shall be
1257 prepared and approved by the Attorney General of this state, and
1258 shall be signed by the State Auditor of the Office of the State
1259 Auditor and the participant.

1260 (b) Upon entry into the program, participants will
1261 become employees of the Office of the State Auditor during their
1262 time in the program and shall be eligible for benefits such as
1263 medical insurance paid by the agency for the participant; however,
1264 in accordance with Section 25-11-105II(b), those participants
1265 shall not become members of the Public Employees' Retirement
1266 System while participating in the program. Participants shall not
1267 accrue personal or major medical leave while they are in the
1268 program.



1269 (c) The Office of the State Auditor shall have the
1270 authority to cancel any contract made between it and any program
1271 participant upon such cause being deemed sufficient by the State
1272 Auditor.

1273 (d) The Office of the State Auditor is vested with full
1274 and complete authority and power to sue in its own name any
1275 participant for any damages due the state on any such uncompleted
1276 contract, which suit, subject to the provisions of Sections 1 and
1277 2 of this act, shall be filed and handled by the Attorney General
1278 of the state. The Office of the State Auditor may contract with a
1279 collection agency or banking institution, subject to approval by
1280 the Attorney General, for collection of any damages due the state
1281 from any participant. The State of Mississippi, the Office of the
1282 State Auditor and its employees are immune from any suit brought
1283 in law or equity for actions taken by the collection agency or
1284 banking institution incidental to or arising from their
1285 performance under the contract. The Office of the State Auditor,
1286 collection agency and banking institution may negotiate for the
1287 payment of a sum that is less than full payment in order to
1288 satisfy any damages the participant owes the state, subject to
1289 approval by the director of the sponsoring facility within the
1290 Office of the State Auditor.

1291 (4) (a) Any recipient who is accepted into the program by
1292 the Mississippi Office of the State Auditor and who fails to
1293 complete undergraduate- or graduate-level coursework toward a



1294 degree in accounting, or withdraws from school at any time before
1295 completing his or her education, shall be liable to repay the
1296 Office of the State Auditor for all monies received during the
1297 time the recipient was in the program, at the rate of pay received
1298 by the employee while in the program, including benefits paid by
1299 the agency for the participant, and monies received for tuition,
1300 books and related fees used to pursue their degree with interest
1301 accruing at ten percent (10%) per annum from the date the
1302 recipient failed or withdrew from school. The recipient also will
1303 not be liable for repayment for any money earned during the
1304 required summer hours. This money shall be considered earned by
1305 the recipient at the federal minimum wage rate.

1306 (b) All paid internship compensation received by the
1307 recipient while in school shall be considered earned conditioned
1308 upon the fulfillment of the terms and obligations of the paid
1309 internship contract and this section. However, no recipient of
1310 the paid internship shall accrue personal or major medical leave
1311 while the recipient is pursuing junior or senior
1312 undergraduate-level year coursework toward a bachelor's degree in
1313 accounting or graduate-level coursework toward a master's degree
1314 in accounting. The recipient shall not be liable for liquidated
1315 damages.

1316 (c) If the recipient does not work as an auditor at the
1317 Office of the State Auditor for the period required under
1318 subsection (2) (d) of this section, the recipient shall be liable



1319 for repayment on demand of the remaining portion of the
1320 compensation that the recipient was paid while in the program
1321 which has not been unconditionally earned, with interest accruing
1322 at ten percent (10%) per annum from the recipient's date of
1323 graduation or the date that the recipient last worked at the
1324 Office of the State Auditor, whichever is the later date. In
1325 addition, there shall be included in any contract for paid student
1326 internship a provision for liquidated damages equal to Five
1327 Thousand Dollars (\$5,000.00) which may be reduced on a pro rata
1328 basis for each year served under such contract.

1329 **SECTION 26.** Section 7-7-211, Mississippi Code of 1972, is
1330 amended as follows:

1331 7-7-211. The department shall have the power and it shall be
1332 its duty:

1333 (a) To identify and define for all public offices of
1334 the state and its subdivisions generally accepted accounting
1335 principles or other accounting principles as promulgated by
1336 nationally recognized professional organizations and to consult
1337 with the State Fiscal Officer in the prescription and
1338 implementation of accounting rules and regulations;

1339 (b) To provide best practices, for all public offices
1340 of regional and local subdivisions of the state, systems of
1341 accounting, budgeting and reporting financial facts relating to
1342 said offices in conformity with legal requirements and with
1343 generally accepted accounting principles or other accounting



1344 principles as promulgated by nationally recognized professional
1345 organizations; to assist such subdivisions in need of assistance
1346 in the installation of such systems; to revise such systems when
1347 deemed necessary, and to report to the Legislature at periodic
1348 times the extent to which each office is maintaining such systems,
1349 along with such recommendations to the Legislature for improvement
1350 as seem desirable;

1351 (c) To study and analyze existing managerial policies,
1352 methods, procedures, duties and services of the various state
1353 departments and institutions upon written request of the Governor,
1354 the Legislature or any committee or other body empowered by the
1355 Legislature to make such request to determine whether and where
1356 operations can be eliminated, combined, simplified and improved;

1357 (d) To postaudit each year and, when deemed necessary,
1358 preaudit and investigate the financial affairs of the departments,
1359 institutions, boards, commissions, or other agencies of state
1360 government, as part of the publication of a comprehensive annual
1361 financial report for the State of Mississippi, or as deemed
1362 necessary by the State Auditor. In complying with the
1363 requirements of this paragraph, the department shall have the
1364 authority to conduct all necessary audit procedures on an interim
1365 and year-end basis;

1366 (e) To postaudit and, when deemed necessary, preaudit
1367 and investigate separately the financial affairs of (i) the
1368 offices, boards and commissions of county governments and any



1369 departments and institutions thereof and therein; (ii) public
1370 school districts, departments of education and junior college
1371 districts; and (iii) any other local offices or agencies which
1372 share revenues derived from taxes or fees imposed by the State
1373 Legislature or receive grants from revenues collected by
1374 governmental divisions of the state; the cost of such audits,
1375 investigations or other services to be paid as follows: Such part
1376 shall be paid by the state from appropriations made by the
1377 Legislature for the operation of the State Department of Audit as
1378 may exceed the sum of Thirty-five Dollars (\$35.00) per man-hour
1379 for the services of each staff person engaged in performing the
1380 audit or other service plus the actual cost of any independent
1381 specialist firm contracted by the State Auditor to assist in the
1382 performance of the audit, which sum shall be paid by the county,
1383 district, department, institution or other agency audited out of
1384 its general fund or any other available funds from which such
1385 payment is not prohibited by law. Costs paid for independent
1386 specialists or firms contracted by the State Auditor shall be paid
1387 by the audited entity through the State Auditor to the specialist
1388 or firm conducting the postaudit.

1389 Each school district in the state shall have its financial
1390 records audited annually, at the end of each fiscal year, either
1391 by the State Auditor or by a certified public accountant approved
1392 by the State Auditor. Beginning with the audits of fiscal year
1393 2010 activity, no certified public accountant shall be selected to



1394 perform the annual audit of a school district who has audited that
1395 district for three (3) or more consecutive years previously.
1396 Certified public accountants shall be selected in a manner
1397 determined by the State Auditor. The school district shall have
1398 the responsibility to pay for the audit, including the review by
1399 the State Auditor of audits performed by certified public
1400 accountants;

1401 (f) To postaudit and, when deemed necessary, preaudit
1402 and investigate the financial affairs of the levee boards;
1403 agencies created by the Legislature or by executive order of the
1404 Governor; profit or nonprofit business entities administering
1405 programs financed by funds flowing through the State Treasury or
1406 through any of the agencies of the state, or its subdivisions; and
1407 all other public bodies supported by funds derived in part or
1408 wholly from public funds, except municipalities which annually
1409 submit an audit prepared by a qualified certified public
1410 accountant using methods and procedures prescribed by the
1411 department;

1412 (g) To make written demand, when necessary, for the
1413 recovery of any amounts representing public funds improperly
1414 withheld, misappropriated and/or otherwise illegally expended by
1415 an officer, employee or administrative body of any state, county
1416 or other public office, and/or for the recovery of the value of
1417 any public property disposed of in an unlawful manner by a public
1418 officer, employee or administrative body, such demands to be made



1419 (i) upon the person or persons liable for such amounts and upon
1420 the surety on official bond thereof, and/or (ii) upon any
1421 individual, partnership, corporation or association to whom the
1422 illegal expenditure was made or with whom the unlawful disposition
1423 of public property was made, if such individual, partnership,
1424 corporation or association knew or had reason to know through the
1425 exercising of reasonable diligence that the expenditure was
1426 illegal or the disposition unlawful. Such demand shall be
1427 premised on competent evidence, which shall include at least one
1428 (1) of the following: (i) sworn statements, (ii) written
1429 documentation, (iii) physical evidence, or (iv) reports and
1430 findings of government or other law enforcement agencies. Other
1431 provisions notwithstanding, a demand letter issued pursuant to
1432 this paragraph shall remain confidential by the State Auditor
1433 until the individual against whom the demand letter is being filed
1434 has been served with a copy of such demand letter. If, however,
1435 such individual cannot be notified within fifteen (15) days using
1436 reasonable means and due diligence, such notification shall be
1437 made to the individual's bonding company, if he or she is bonded.
1438 Each such demand shall be paid into the proper treasury of the
1439 state, county or other public body through the office of the
1440 department in the amount demanded within thirty (30) days from the
1441 date thereof, together with interest thereon in the sum of one
1442 percent (1%) per month from the date such amount or amounts were
1443 improperly withheld, misappropriated and/or otherwise illegally



1444 expended. In the event, however, such person or persons or such
1445 surety shall refuse, neglect or otherwise fail to pay the amount
1446 demanded and the interest due thereon within the allotted thirty
1447 (30) days, the State Auditor shall have the authority and it shall
1448 be his duty to institute suit, and the Attorney General shall
1449 prosecute the same, subject to the provisions of Sections 1 and 2
1450 of this act, in any court of the state to the end that there shall
1451 be recovered the total of such amounts from the person or persons
1452 and surety on official bond named therein; and the amounts so
1453 recovered shall be paid into the proper treasury of the state,
1454 county or other public body through the State Auditor. In any
1455 case where written demand is issued to a surety on the official
1456 bond of such person or persons and the surety refuses, neglects or
1457 otherwise fails within one hundred twenty (120) days to either pay
1458 the amount demanded and the interest due thereon or to give the
1459 State Auditor a written response with specific reasons for
1460 nonpayment, then the surety shall be subject to a civil penalty in
1461 an amount of twelve percent (12%) of the bond, not to exceed Ten
1462 Thousand Dollars (\$10,000.00), to be deposited into the State
1463 General Fund;

1464 (h) To investigate any alleged or suspected violation
1465 of the laws of the state by any officer or employee of the state,
1466 county or other public office in the purchase, sale or the use of
1467 any supplies, services, equipment or other property belonging
1468 thereto; and in such investigation to do any and all things



1469 necessary to procure evidence sufficient either to prove or
1470 disprove the existence of such alleged or suspected violations.
1471 The Department of Investigation of the State Department of Audit
1472 may investigate, for the purpose of prosecution, any suspected
1473 criminal violation of the provisions of this chapter. For the
1474 purpose of administration and enforcement of this chapter, the
1475 enforcement employees of the Department of Investigation of the
1476 State Department of Audit have the powers of a law enforcement
1477 officer of this state, and shall be empowered to make arrests and
1478 to serve and execute search warrants and other valid legal process
1479 anywhere within the State of Mississippi. All enforcement
1480 employees of the Department of Investigation of the State
1481 Department of Audit hired on or after July 1, 1993, shall be
1482 required to complete the Law Enforcement Officers Training Program
1483 and shall meet the standards of the program;

1484 (i) To issue subpoenas, with the approval of, and
1485 returnable to, a judge of a chancery or circuit court, in termtime
1486 or in vacation, to examine the records, documents or other
1487 evidence of persons, firms, corporations or any other entities
1488 insofar as such records, documents or other evidence relate to
1489 dealings with any state, county or other public entity. The
1490 circuit or chancery judge must serve the county in which the
1491 records, documents or other evidence is located; or where all or
1492 part of the transaction or transactions occurred which are the
1493 subject of the subpoena;



1494 (j) In any instances in which the State Auditor is or
1495 shall be authorized or required to examine or audit, whether
1496 preaudit or postaudit, any books, ledgers, accounts or other
1497 records of the affairs of any public hospital owned or owned and
1498 operated by one or more political subdivisions or parts thereof or
1499 any combination thereof, or any school district, including
1500 activity funds thereof, it shall be sufficient compliance
1501 therewith, in the discretion of the State Auditor, that such
1502 examination or audit be made from the report of any audit or other
1503 examination certified by a certified public accountant and
1504 prepared by or under the supervision of such certified public
1505 accountant. Such audits shall be made in accordance with
1506 generally accepted standards of auditing, with the use of an audit
1507 program prepared by the State Auditor, and final reports of such
1508 audits shall conform to the format prescribed by the State
1509 Auditor. All files, working papers, notes, correspondence and all
1510 other data compiled during the course of the audit shall be
1511 available, without cost, to the State Auditor for examination and
1512 abstracting during the normal business hours of any business day.
1513 The expense of such certified reports shall be borne by the
1514 respective hospital, or any available school district funds other
1515 than minimum program funds, subject to examination or audit. The
1516 State Auditor shall not be bound by such certified reports and
1517 may, in his or their discretion, conduct such examination or audit



1518 from the books, ledgers, accounts or other records involved as may
1519 be appropriate and authorized by law;

1520 (k) The State Auditor shall have the authority to
1521 contract with qualified public accounting firms to perform
1522 selected audits required in paragraphs (d), (e), (f) and (j) of
1523 this section, if funds are made available for such contracts by
1524 the Legislature, or if funds are available from the governmental
1525 entity covered by paragraphs (d), (e), (f) and (j). Such audits
1526 shall be made in accordance with generally accepted standards of
1527 auditing. All files, working papers, notes, correspondence and
1528 all other data compiled during the course of the audit shall be
1529 available, without cost, to the State Auditor for examination and
1530 abstracting during the normal business hours of any business day;

1531 (l) The State Auditor shall have the authority to
1532 establish training courses and programs for the personnel of the
1533 various state and local governmental entities under the
1534 jurisdiction of the Office of the State Auditor. The training
1535 courses and programs shall include, but not be limited to, topics
1536 on internal control of funds, property and equipment control and
1537 inventory, governmental accounting and financial reporting, and
1538 internal auditing. The State Auditor is authorized to charge a
1539 fee from the participants of these courses and programs, which fee
1540 shall be deposited into the Department of Audit Special Fund.
1541 State and local governmental entities are authorized to pay such
1542 fee and any travel expenses out of their general funds or any



1543 other available funds from which such payment is not prohibited by
1544 law;

1545 (m) Upon written request by the Governor or any member
1546 of the State Legislature, the State Auditor may audit any state
1547 funds and/or state and federal funds received by any nonprofit
1548 corporation incorporated under the laws of this state;

1549 (n) To conduct performance audits of personal or
1550 professional service contracts by state agencies on a random
1551 sampling basis, or upon request of the State Personal Service
1552 Contract Review Board under Section 25-9-120(3); and

1553 (o) At the discretion of the State Auditor, the Auditor
1554 may conduct risk assessments, as well as performance and
1555 compliance audits based on Generally Accepted Government Auditing
1556 Standards (GAGAS) of any state-funded economic development program
1557 authorized under Title 57, Mississippi Code of 1972. After risk
1558 assessments or program audits, the State Auditor may conduct
1559 audits of those projects deemed high-risk, specifically as they
1560 identify any potential wrongdoing or noncompliance based on
1561 objectives of the economic development program. The Auditor is
1562 granted authority to gather, audit and review data and information
1563 from the Mississippi Development Authority or any of its agents,
1564 the Department of Revenue, and when necessary under this
1565 paragraph, the recipient business or businesses or any other
1566 private, public or nonprofit entity with information relevant to
1567 the audit project. The maximum amount the State Auditor may bill



1568 the oversight agency under this paragraph in any fiscal year is
1569 One Hundred Thousand Dollars (\$100,000.00), based on reasonable
1570 and necessary expenses.

1571 **SECTION 27.** Section 7-9-51, Mississippi Code of 1972, is
1572 amended as follows:

1573 7-9-51. If the State Treasurer shall misapply, waste, or
1574 embezzle any money, stock, securities, or other property in the
1575 treasury, it shall be the duty of the Attorney General to bring
1576 suit, subject to the provisions of Sections 1 and 2 of this act,
1577 on the bond of such treasurer, in the circuit court of the county
1578 where the seat of government is situated, for the amount of money,
1579 stock, securities, or other property so misapplied, wasted, or
1580 embezzled. If a judgment be rendered for the plaintiff, the
1581 defendant shall pay double the damages assessed, not exceeding the
1582 penalty of the bond.

1583 **SECTION 28.** Section 7-11-15, Mississippi Code of 1972, is
1584 brought forward as follows:

1585 7-11-15. The Secretary of State shall secure a sufficient
1586 number of suitable and well bound books for each county, so that
1587 the lands now or hereafter owned by the state may be complied
1588 therein. The books, in addition to the necessary columns on which
1589 to list all necessary information with reference to the lands
1590 owned, shall contain a column on which to number all patents or
1591 contracts issued and any other information. The order of



1592 arrangement and all other matters pertaining thereto are hereby
1593 specifically left to the discretion of the Secretary of State.

1594 In addition to the foregoing records, the Secretary of State
1595 shall provide and cause to be kept a separate register of the
1596 several different classes of lands, with appropriate references to
1597 other records or documents for information concerning the whole
1598 class, and of each parcel, if need be. He may cause correct
1599 township maps to be prepared from the field notes of original
1600 surveys, with all errors in the location of natural objects, if
1601 any there be, corrected, which maps may be supplied to the several
1602 counties at reasonable prices; and he may, in like manner, have
1603 maps and plats lithographed and sold.

1604 The Secretary of State shall procure a sufficient number of
1605 forms of certificates which shall be used by the chancery clerks
1606 of each of the various counties in certifying to the Secretary of
1607 State's office lands sold to the state for unpaid taxes in his
1608 county, and the Secretary of State shall provide such certificates
1609 in such form that they may be bond by him and used as a part of
1610 the permanent records of his office. The said chancery clerks
1611 shall use only such forms of certificates in certifying said lands
1612 to the Secretary of State's office, and failure to do so shall
1613 subject such chancery clerk so refusing or failing to do so, and
1614 his bondsman, to a penalty of five hundred dollars (\$500.00),
1615 which penalty shall be collected by the Attorney General in a suit
1616 therefor filed in the name of the State of Mississippi. Such



1617 certificates, before being filed by the Secretary of State, shall
1618 be examined by the Attorney General. The Secretary of State, with
1619 the approval of the Attorney General, shall strike from such
1620 certificates all lands which, by reason of insufficient
1621 description or other cause, in the opinion of the Attorney General
1622 are not the property of the state; and the title of the state to
1623 such lands as may be thus stricken off shall be thereby
1624 relinquished.

1625 **SECTION 29.** Section 9-3-17, Mississippi Code of 1972, is
1626 amended as follows:

1627 9-3-17. The clerk shall carefully keep a minute of the
1628 proceedings of the court for each day, drawn up at large in a
1629 record book to be kept by him for that purpose; he shall
1630 seasonably record the judgments, decrees, orders, and decisions of
1631 the Court of Appeals and the Supreme Court; he shall safely keep
1632 all records, files, books and papers committed to his charge, and
1633 also all presses and furniture belonging to his office, and
1634 deliver such records, files, books, papers, presses and furniture
1635 to his successor in office; and in case of refusal or failure to
1636 deliver whatever belongs to his office to his successor, his bond
1637 may be put in suit by the Attorney General, subject to the
1638 provisions of Sections 1 and 2 of this act; he shall prepare for
1639 any person demanding the same a certified copy of any paper,
1640 record, decree, judgment, or entry on file in his office, proper
1641 to be certified, for the fees prescribed by law. The transcript



1642 filed in the Court of Appeals and Supreme Court, the process in
1643 each case, and the judgment or decree of the court thereon, shall
1644 be the final record in the cause, and certified as such by the
1645 clerk whenever an exemplification of the judgment or decree of the
1646 court may be required.

1647 **SECTION 30.** Section 11-17-19, Mississippi Code of 1972, is
1648 brought forward as follows:

1649 11-17-19. Any person, firm or corporation which claims title
1650 to or a leasehold or other interest in any real property, other
1651 than sixteenth section school lands or lands granted in lieu
1652 thereof, under or by virtue of a sale, conveyance or lease of such
1653 property by any county, municipality, supervisor's district, or
1654 other political subdivision of the State of Mississippi, acting
1655 either separately or jointly, may proceed by sworn complaint in
1656 the chancery court of the county in which such real property, or
1657 some part thereof, is located, to have the title to or leasehold
1658 or other interest in such real property quieted and confirmed.
1659 Such action may be brought whether or not such person, firm or
1660 corporation be in possession of such real property, or whether he
1661 or it be threatened to be disturbed in such possession or not. In
1662 such complaint, the person, firm or corporation claiming such
1663 title or leasehold or other interest shall be the party plaintiff
1664 and there shall be made defendants thereto the county,
1665 municipality or other political subdivision which sold, conveyed
1666 or leased said property, the Attorney General of the state and the



1667 district attorney of the county in which said suit is filed. In
1668 any such suit, it shall not be necessary that the plaintiff
1669 therein deraign his title to said property.

1670 **SECTION 31.** Section 11-43-3, Mississippi Code of 1972, is
1671 brought forward as follows:

1672 11-43-3. Nothing in this chapter shall authorize the
1673 discharge of any person convicted of an offense, or charged with
1674 an offense committed in any other part of the United States, and
1675 who, agreeably to the Constitution of the United States or the
1676 laws of the state, ought to be delivered up to the executive power
1677 of the state or territory where the offense is charged to have
1678 been committed; nor of any person suffering imprisonment under
1679 lawful judgment.

1680 This chapter shall not apply to any collateral relief sought
1681 by any person following his conviction of a crime. Such relief
1682 shall be governed by the procedures prescribed in the Mississippi
1683 Uniform Post-Conviction Collateral Relief Act.

1684 Provided, in any suit filed seeking the release of any person
1685 being held for extradition to any other part of the United States,
1686 its territories or foreign countries or any suit filed hereunder
1687 seeking the release of any person ordered extradited, a copy of
1688 the petition and writ shall be served upon the Attorney General
1689 not less than three (3) days before the date and time set for
1690 hearing thereon.



SECTION 32. Section 11-45-3, Mississippi Code of 1972, is brought forward as follows:

11-45-3. The summons in such suit shall be served on the Attorney General in the mode prescribed by law for the service of a summons in other cases; and he shall appear for the state. The suit shall be proceeded with as if it were between private persons; but a bill shall not be taken as confessed nor a judgment by default be rendered against the state. The answer of the state to any bill need not be under oath or under the great seal, but may be made by the Attorney General for the state.

SECTION 33. Section 13-7-41, Mississippi Code of 1972, is brought forward as follows:

13-7-41. The Attorney General shall make available suitable space for state grand juries to meet. The Mississippi Department of Public Safety and the Mississippi Bureau of Narcotics may provide such services as required by the Attorney General and the state grand juries.

SECTION 34. Section 17-13-11, Mississippi Code of 1972, is brought forward as follows:

17-13-11. (1) Every agreement made by a local governmental unit hereunder shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General of this state who shall determine whether the agreement is in proper form and compatible with the laws of this state. No agreement may be considered that does not cite the specific authority under which



1716 each of the local governing units involved may exercise the powers
1717 necessary to fulfill the terms of the joint agreement. The
1718 Attorney General shall approve any such agreement submitted to him
1719 hereunder unless he shall find that it does not meet the
1720 conditions set forth herein and elsewhere in the laws of this
1721 state and shall detail in writing addressed to the governing
1722 bodies of the units concerned the specific respects in which the
1723 proposed agreement fails to meet the requirements of law.

1724 Failure to disapprove an agreement submitted hereunder within
1725 sixty (60) days of its submission shall constitute approval
1726 thereof.

1727 (2) In the event that an agreement made pursuant to this
1728 chapter shall deal in whole or in part with the provision of
1729 services or facilities with regard to which an officer, unit or
1730 agency of the state government has constitutional or statutory
1731 powers of control, the agreement shall, as a condition precedent
1732 to its being in force, be submitted to the state officer, unit or
1733 agency having such power of control and shall be approved or
1734 disapproved by him or it as to all matters within his or its
1735 jurisdiction in the same manner and subject to the same
1736 requirements governing action of the Attorney General pursuant to
1737 subsection (1) of this section.

1738 (3) Prior to its being in force, an agreement made pursuant
1739 to this chapter shall be filed with the chancery clerk of each of
1740 the counties wherein a participating local governmental unit is



1741 located and with the Secretary of State. The chancery clerk and
1742 the Secretary of State shall preserve such agreements as public
1743 records and index and docket the same separate and apart from all
1744 other records in his office.

1745 **SECTION 35.** Section 19-2-12, Mississippi Code of 1972, is
1746 amended as follows:

1747 19-2-12. (1) If upon audit, examination or investigation,
1748 the State Auditor determines that an individual member of a county
1749 board of supervisors is not in substantial compliance with the
1750 provisions of law that require the county to operate on a
1751 countywide system of road administration, as described in Section
1752 19-2-3, then the State Auditor shall give, by United States
1753 Certified Mail, return receipt requested, written notification to
1754 the supervisor of such noncompliance. If within thirty (30) days
1755 after receipt of the notice, such supervisor, in the opinion of
1756 the State Auditor, remains in noncompliance, the Auditor may
1757 institute civil proceedings in the chancery court of the county in
1758 which the supervisor serves. The court, upon hearing, shall
1759 decide the issue and, if it determines that such supervisor is not
1760 in substantial compliance, shall order the supervisor to
1761 immediately and thereafter comply. Violations of any order of the
1762 court shall be punishable as for contempt. In addition, the
1763 court, in its discretion, may impose a civil penalty in an amount
1764 not to exceed Five Thousand Dollars (\$5,000.00) upon the
1765 supervisor, for which he shall be liable in his individual



capacity, for any such noncompliance that the court determines as intentional or willful.

(2) The provisions of this section shall not be construed to prevent the State Auditor, the Attorney General or any other public official, as otherwise authorized by law, from initiating or commencing civil actions or criminal proceedings by or on behalf of the state or any county or political subdivision for the misappropriation or the unlawful use, taking or conversion of public funds or public property; however, the Attorney General shall be subject to the provisions of Sections 1 and 2 of this act.

SECTION 36. Section 23-15-813, Mississippi Code of 1972, is amended as follows:

23-15-813. (a) In addition to any other penalty permitted by law, the Secretary of State shall require any candidate or political committee, as identified in Section 23-15-805(a), and any other political committee registered with the Secretary of State, who fails to file a campaign finance disclosure report as required under Sections 23-15-801 through 23-15-813, or Sections 23-17-47 through 23-17-53, or who shall file a report which fails to substantially comply with the requirements of Sections 23-15-801 through 23-15-813, or Sections 23-17-47 through 23-17-53, to be assessed a civil penalty as follows:

(i) Within five (5) calendar days after any deadline for filing a report pursuant to Sections 23-15-801 through



1791 23-15-813, or Sections 23-17-47 through 23-17-53, the Secretary of
1792 State shall compile a list of those candidates and political
1793 committees who have failed to file a report. The Secretary of
1794 State shall provide each candidate or political committee, who has
1795 failed to file a report, notice of the failure by first-class
1796 mail.

1797 (ii) Beginning with the tenth calendar day after which
1798 any report shall be due, the Secretary of State shall assess the
1799 delinquent candidate and political committee a civil penalty of
1800 Fifty Dollars (\$50.00) for each day or part of any day until a
1801 valid report is delivered to the Secretary of State, up to a
1802 maximum of ten (10) days. However, in the discretion of the
1803 Secretary of State, the assessing of the fine may be waived in
1804 whole or in part if the Secretary of State determines that
1805 unforeseeable mitigating circumstances, such as the health of the
1806 candidate, interfered with timely filing of a report. Failure of
1807 a candidate or political committee to receive notice of failure to
1808 file a report from the Secretary of State is not an unforeseeable
1809 mitigating circumstance, and failure to receive the notice shall
1810 not result in removal or reduction of any assessed civil penalty.

1811 (iii) Filing of the required report and payment of the
1812 fine within ten (10) calendar days of notice by the Secretary of
1813 State that a required statement has not been filed, constitutes
1814 compliance with Sections 23-15-801 through 23-15-813, or Sections
1815 23-17-47 through 23-17-53.



1816 (iv) Payment of the fine without filing the required
1817 report does not in any way excuse or exempt any person required to
1818 file from the filing requirements of Sections 23-15-801 through
1819 23-15-813, and Sections 23-17-47 through 23-17-53.

1820 (v) If any candidate or political committee is assessed
1821 a civil penalty, and the penalty is not subsequently waived by the
1822 Secretary of State, the candidate or political committee shall pay
1823 the fine to the Secretary of State within ninety (90) days of the
1824 date of the assessment of the fine. If, after one hundred twenty
1825 (120) days of the assessment of the fine the payment for the
1826 entire amount of the assessed fine has not been received by the
1827 Secretary of State, the Secretary of State shall notify the
1828 Attorney General of the delinquency, and the Attorney General
1829 shall file, subject to the provisions of Sections 1 and 2 of this
1830 act, where necessary, a suit to compel payment of the civil
1831 penalty.

1832 (b) (i) Upon the sworn application, made within sixty (60)
1833 calendar days of the date upon which the required report is due,
1834 of a candidate or political committee against whom a civil penalty
1835 has been assessed pursuant to paragraph (a), the Secretary of
1836 State shall forward the application to the State Board of Election
1837 Commissioners. The State Board of Election Commissioners shall
1838 appoint one or more hearing officers who shall be former
1839 chancellors, circuit court judges, judges of the Court of Appeals
1840 or justices of the Supreme Court, and who shall conduct hearings



1841 held pursuant to this article. The hearing officer shall fix a
1842 time and place for a hearing and shall cause a written notice
1843 specifying the civil penalties that have been assessed against the
1844 candidate or political committee and notice of the time and place
1845 of the hearing to be served upon the candidate or political
1846 committee at least twenty (20) calendar days before the hearing
1847 date. The notice may be served by mailing a copy thereof by
1848 certified mail, postage prepaid, to the last known business
1849 address of the candidate or political committee.

1850 (ii) The hearing officer may issue subpoenas for the
1851 attendance of witnesses and the production of books and papers at
1852 the hearing. Process issued by the hearing officer shall extend
1853 to all parts of the state and shall be served by any person
1854 designated by the hearing officer for the service.

1855 (iii) The candidate or political committee has the
1856 right to appear either personally, by counsel or both, to produce
1857 witnesses or evidence in his behalf, to cross-examine witnesses
1858 and to have subpoenas issued by the hearing officer.

1859 (iv) At the hearing, the hearing officer shall
1860 administer oaths as may be necessary for the proper conduct of the
1861 hearing. All hearings shall be conducted by the hearing officer,
1862 who shall not be bound by strict rules of procedure or by the laws
1863 of evidence in the conduct of the proceedings, but the
1864 determination shall be based upon sufficient evidence to sustain
1865 it. The scope of review at the hearing shall be limited to making



1866 a determination of whether failure to file a required report was
1867 due to an unforeseeable mitigating circumstance.

1868 (v) Where, in any proceeding before the hearing
1869 officer, any witness fails or refuses to attend upon a subpoena
1870 issued by the commission, refuses to testify, or refuses to
1871 produce any books and papers the production of which is called for
1872 by a subpoena, the attendance of the witness, the giving of his
1873 testimony or the production of the books and papers shall be
1874 enforced by any court of competent jurisdiction of this state in
1875 the manner provided for the enforcement of attendance and
1876 testimony of witnesses in civil cases in the courts of this state.

1877 (vi) Within fifteen (15) calendar days after conclusion
1878 of the hearing, the hearing officer shall reduce his or her
1879 decision to writing and forward an attested true copy of the
1880 decision to the last known business address of the candidate or
1881 political committee by way of United States first-class, certified
1882 mail, postage prepaid.

1883 (c) (i) The right to appeal from the decision of the
1884 hearing officer in an administrative hearing concerning the
1885 assessment of civil penalties authorized pursuant to this section
1886 is granted. The appeal shall be to the Circuit Court of Hinds
1887 County and shall include a verbatim transcript of the testimony at
1888 the hearing. The appeal shall be taken within thirty (30)
1889 calendar days after notice of the decision of the commission
1890 following an administrative hearing. The appeal shall be



1891 perfected upon filing notice of the appeal and by the prepayment
1892 of all costs, including the cost of the preparation of the record
1893 of the proceedings by the hearing officer, and the filing of a
1894 bond in the sum of Two Hundred Dollars (\$200.00), conditioned that
1895 if the decision of the hearing officer be affirmed by the court,
1896 the candidate or political committee will pay the costs of the
1897 appeal and the action in court. If the decision is reversed by
1898 the court, the Secretary of State will pay the costs of the appeal
1899 and the action in court.

1900 (ii) If there is an appeal, the appeal shall act as a
1901 supersedeas. The court shall dispose of the appeal and enter its
1902 decision promptly. The hearing on the appeal may be tried in
1903 vacation, in the court's discretion. The scope of review of the
1904 court shall be limited to a review of the record made before the
1905 hearing officer to determine if the action of the hearing officer
1906 is unlawful for the reason that it was 1. not supported by
1907 substantial evidence, 2. arbitrary or capricious, 3. beyond the
1908 power of the hearing officer to make, or 4. in violation of some
1909 statutory or constitutional right of the appellant. The decision
1910 of the court may be appealed to the Supreme Court in the manner
1911 provided by law.

1912 (d) If, after forty-five (45) calendar days of the date of
1913 the administrative hearing procedure set forth in paragraph (b),
1914 the candidate or political committee identified in paragraph (a)
1915 of this section fails to pay the monetary civil penalty imposed by



the hearing officer, the Secretary of State shall notify the Attorney General of the delinquency. The Attorney General shall investigate the offense in accordance with the provisions of this chapter, and where necessary subject to the provisions of Sections 1 and 2 of this act, file suit to compel payment of the unpaid civil penalty.

(e) If, after twenty (20) calendar days of the date upon which a campaign finance disclosure report is due, a candidate or political committee identified in paragraph (a) of this section shall not have filed a valid report with the Secretary of State, the Secretary of State shall notify the Attorney General of those candidates and political committees who have not filed a valid report, and the Attorney General shall thereupon prosecute the delinquent candidates and political committees.

SECTION 37. Section 25-4-21, Mississippi Code of 1972, is amended as follows:

25-4-21. (1) Upon receipt of a complaint that complies with Section 25-4-19, the commission shall authorize a confidential investigation of the complaint. Upon completion of the investigation, the commission shall proceed as follows:

(a) If the complaint concerns a public official in the legislative branch, the commission shall refer the complaint, confidentially, to the public official and to the appropriate committee of the House of Representatives or the Senate having



1940 jurisdiction over the ethical conduct of its members and
1941 employees.

1942 (b) If the complaint concerns a public official in the
1943 judicial branch, the commission shall refer the complaint,
1944 confidentially, to the public official and to the Commission on
1945 Judicial Performance or the Chief Justice of the Supreme Court.

1946 (c) If the complaint concerns a public official in the
1947 executive branch or persons not covered in paragraph (a) or (b) of
1948 this subsection, then the commission shall refer the complaint,
1949 confidentially, to the public official and to the head of the
1950 department or agency, if the person is in the executive branch,
1951 or, for other public officials, to the person about whom the
1952 complaint is filed.

1953 (d) The persons, committees or commission receiving
1954 complaints referred in paragraph (a), (b) or (c) shall have thirty
1955 (30) days within which to respond to the complaint.

1956 (e) After receiving the response to the complaint or,
1957 if no response is received after thirty (30) days from the notice
1958 of referral, the commission may, in its discretion, terminate the
1959 matter or proceed with an investigation as follows:

1960 (i) The commission may terminate any and all
1961 proceedings at any stage of its procedure upon a determination
1962 that an appropriate disposition of the matter has occurred.

1963 (ii) If the investigation indicates probable cause
1964 for belief that a violation of law has occurred, the commission



may set a hearing of the matter to be held in accordance with the Mississippi Rules of Civil Procedure and the Mississippi Rules of Evidence. After the hearing, the commission may order penalties as prescribed in this chapter. The commission may enroll its order as a civil judgment with the circuit clerk in the county of residence of the judgment debtor. The commission may enforce the judgment on behalf of the State General Fund in the same manner as prescribed for other civil judgments, after complying with subsection (2) of this section.

(iii) The commission may refer the complaint with any evidence gathered during the investigation to the Attorney General and to the district attorney having jurisdiction, with a recommendation that it be considered for presentation to the grand jury. The Attorney General and the district attorney shall report back to the commission within ninety (90) days as to what action was taken following receipt of the complaint and recommendations of the commission, including the intent of the Attorney General to seek further civil remedies, subject to the provisions of Sections 1 and 2 of this act, and the intent of the district attorney to present such matter to the grand jury.

(2) Any person aggrieved by a decision of the commission made pursuant to its hearing procedures may appeal de novo to the Circuit Court for Hinds County and execution of the commission's decision shall be stayed upon the filing of a notice of appeal.



(3) Civil actions taken by the commission shall not bar prosecutions for violations of the criminal law.

SECTION 38. Section 25-4-113, Mississippi Code of 1972, is amended as follows:

25-4-113. The Attorney General of the State of Mississippi, the commission, or any governmental entity directly injured by a violation of this article may bring a separate civil action, subject to the provisions of Sections 1 and 2 of this act, against the public servant or other person or business violating the provisions of this article for recovery of damages suffered as a result of such violation. Further, any pecuniary benefit received by or given by a public servant in violation of this article shall be declared forfeited by a circuit court of competent jurisdiction for the benefit of the governmental entity injured. In the discretion of the court, any judgment for damages or forfeiture of pecuniary benefit may include costs of court and reasonable attorney's fees.

SECTION 39. Section 25-7-7, Mississippi Code of 1972, is brought forward as follows:

25-7-7. The clerk of the Supreme Court shall make out a separate, detailed account of fees adjudged against the state, in cases where the state fails in the prosecution or suit or in case of felony where the defendant appeals on pauper oath and the costs cannot be made out of his estate, or against any county, and due him in civil or criminal cases, keeping the fees in each case



2014 separate, and shall present it to the Attorney General, who shall
2015 examine the fee bill in each case and approve it if found to be
2016 correct. The fee bill thus approved shall be presented to the
2017 supreme court for allowance. If the court allow the same, it
2018 shall direct in criminal cases that it be paid out of the county
2019 treasury of the county where the prosecution was begun, on the
2020 order of the board of supervisors thereof; and in civil cases,
2021 that it be paid out of the state or county treasury, as the case
2022 may be. The board of supervisors shall allow said claim for fees
2023 against the county on presentation of a duly certified copy of the
2024 judgment of the supreme court ordering the same to be paid; and
2025 the auditor shall issue a warrant, on the order of the supreme
2026 court, for such costs against the state in civil cases to be paid
2027 by the state treasurer out of the proper appropriation.

2028 **SECTION 40.** Section 25-9-127, Mississippi Code of 1972, is
2029 brought forward as follows:

2030 25-9-127. (1) No employee of any department, agency or
2031 institution who is included under this chapter or hereafter
2032 included under its authority, and who is subject to the rules and
2033 regulations prescribed by the state personnel system, may be
2034 dismissed or otherwise adversely affected as to compensation or
2035 employment status except for inefficiency or other good cause, and
2036 after written notice and hearing within the department, agency or
2037 institution as shall be specified in the rules and regulations of
2038 the State Personnel Board complying with due process of law; and



any employee who has by written notice of dismissal or action adversely affecting his compensation or employment status shall, on hearing and on any appeal of any decision made in such action, be required to furnish evidence that the reasons stated in the notice of dismissal or action adversely affecting his compensation or employment status are not true or are not sufficient grounds for the action taken; provided, however, that this provision shall not apply (a) to persons separated from any department, agency or institution due to curtailment of funds or reduction in staff when such separation is in accordance with rules and regulations of the state personnel system; (b) during the probationary period of state service of twelve (12) months; and (c) to an executive officer of any state agency who serves at the will and pleasure of the Governor, board, commission or other appointing authority.

(2) The operation of a state-owned motor vehicle without a valid Mississippi driver's license by an employee of any department, agency or institution that is included under this chapter and that is subject to the rules and regulations of the state personnel system shall constitute good cause for dismissal of such person from employment.

(3) Beginning July 1, 1999, every male between the ages of eighteen (18) and twenty-six (26) who is required to register under the federal Military Selective Service Act, 50 USCS App. 453, and who is an employee of the state shall not be promoted to any higher position of employment with the state until he submits



2064 to the person, commission, board or agency by which he is employed
2065 satisfactory documentation of his compliance with the draft
2066 registration requirements of the Military Selective Service Act.
2067 The documentation shall include a signed affirmation under penalty
2068 of perjury that the male employee has complied with the
2069 requirements of the Military Selective Service Act.

2070 (4) For a period of two (2) years beginning July 1, 2014,
2071 the provisions of subsection (1) shall not apply to the personnel
2072 actions of the State Department of Education that are subject to
2073 the rules and regulations of the State Personnel Board, and all
2074 employees of the department shall be classified as nonstate
2075 service during that period. However, any employee hired after
2076 July 1, 2014, by the department shall meet the criteria of the
2077 State Personnel Board as it presently exists for employment. The
2078 State Superintendent of Public Education and the State Board of
2079 Education shall consult with the Office of the Attorney General
2080 before taking personnel actions authorized by this section to
2081 review those actions for compliance with applicable state and
2082 federal law.

2083 It is not the intention or effect of this section to include
2084 any school attendance officer in any exemption from coverage under
2085 the State Personnel Board policy or regulations, including, but
2086 not limited to, termination and conditions of employment.

2087 (5) (a) For a period of two (2) years beginning July 1,
2088 2015, the provisions of subsection (1) shall not apply to the



2089 personnel actions of the Department of Corrections, and all
2090 employees of the department shall be classified as nonstate
2091 service during that period. However, any employee hired after
2092 July 1, 2015, by the department shall meet the criteria of the
2093 State Personnel Board as it presently exists for employment.

2094 (b) Additionally, for a period of one (1) year
2095 beginning July 1, 2016, the personnel actions of the Commissioner
2096 of the Department of Corrections shall be exempt from State
2097 Personnel Board rules, regulations and procedures in order to give
2098 the commissioner flexibility in making an orderly, effective and
2099 timely reorganization and realignment of the department.

2100 (c) The Commissioner of Corrections shall consult with
2101 the Office of the Attorney General before personnel actions
2102 authorized by this section to review those actions for compliance
2103 with applicable state and federal law.

2104 (6) Through July 1, 2019, the provisions of subsection (1)
2105 of this section shall not apply to the personnel actions of the
2106 Department of Human Services that are subject to the rules and
2107 regulations of the State Personnel Board, and all employees of the
2108 department shall be classified as nonstate service during that
2109 period. Any employee hired on or after July 1, 2019, by the
2110 department shall meet the criteria of the State Personnel Board as
2111 it presently exists for employment. The Executive Director of
2112 Human Services shall consult with the Office of the Attorney
2113 General before taking personnel actions authorized by this section



2114 to review those actions for compliance with applicable state and
2115 federal law.

2116 (7) Through July 1, 2019, the provisions of subsection (1)
2117 of this section shall not apply to the personnel actions of the
2118 Department of Child Protection Services that are subject to the
2119 rules and regulations of the State Personnel Board, and all
2120 employees of the department shall be classified as nonstate
2121 service during that period. Any employee hired on or after July
2122 1, 2019, by the division shall meet the criteria of the State
2123 Personnel Board as it presently exists for employment. The
2124 Commissioner of Child Protection Services shall consult with the
2125 Office of the Attorney General before taking personnel actions
2126 authorized by this section to review those actions for compliance
2127 with applicable state and federal law.

2128 (8) Any state agency whose personnel actions are exempted in
2129 this section from the rules, regulations and procedures of the
2130 State Personnel Board shall file with the Lieutenant Governor, the
2131 Speaker of the House of Representatives, and the members of the
2132 Senate and House Accountability, Efficiency, Transparency
2133 Committees an annual report no later than July 1, 2016, and each
2134 year thereafter while under the exemption. Such annual report
2135 shall contain the following information:

2136 (a) The number of current employees who received an
2137 increase in salary during the past fiscal year and the amount of
2138 the increase;



2139 (b) The number of employees who were dismissed from the
2140 agency or otherwise adversely affected as to compensation or
2141 employment status during the past fiscal year, including a
2142 description of such adverse effects; and

2143 (c) The number of new employees hired during the past
2144 fiscal year and the starting salaries of each new employee.

2145 **SECTION 41.** Section 25-31-11, Mississippi Code of 1972, is
2146 brought forward as follows:

2147 25-31-11. (1) It shall be the duty of the district attorney
2148 to represent the state in all matters coming before the grand
2149 juries of the counties within his district and to appear in the
2150 circuit courts and prosecute for the state in his district all
2151 criminal prosecutions and all civil cases in which the state or
2152 any county within his district may be interested; but if two (2)
2153 or more counties are adversely interested, the district attorney
2154 shall not represent either. Any district attorney may also
2155 institute and prosecute to final judgment or decree any case in
2156 the name of the state against any person or corporation for any
2157 violation of the Constitution or the laws of this state, in order
2158 to enforce any penalties, fines or forfeitures imposed by law in
2159 any court of his district having jurisdiction, with like effect as
2160 if the suit was instituted by the Attorney General.

2161 (2) The district attorney may transfer any case handled by
2162 him to a county prosecuting attorney when charges in such case no
2163 longer constitute a felony.



2164 (3) The validity of any judgment or sentence shall not be
2165 affected by the division of jurisdiction under this section, and
2166 no judgment or sentence may be reversed or modified upon the basis
2167 that the case was not processed according to this section.

2168 (4) A county prosecuting attorney or municipal prosecuting
2169 attorney may be designated by the district attorney to appear on
2170 behalf of the district attorney pursuant to an agreement relating
2171 to appearances in certain courts or proceedings in the county of
2172 the county prosecuting attorney or in the municipality of the
2173 municipal prosecuting attorney. Such agreement shall be filed
2174 with the circuit court clerk of any county where such agreement
2175 shall be operative. Such agreement shall be binding upon the
2176 district attorney and county prosecuting attorney or municipal
2177 prosecuting attorney until dissolved by either of them in writing
2178 upon five (5) days' notice.

2179 (5) Where any statute of this state confers a jurisdiction,
2180 responsibility, duty, privilege or power upon a county attorney or
2181 county prosecuting attorney, either solely, jointly or
2182 alternatively with a district attorney, such county prosecuting
2183 attorney shall be responsible for the prosecution, handling,
2184 appearance, disposition or other duty conferred by such statute.
2185 Any such provision shall not be construed to bestow such
2186 responsibility, jurisdiction or power upon the district attorney
2187 where there is no elected county prosecuting attorney, and any



2188 such matter shall be handled pursuant to Section 19-3-49,
2189 Mississippi Code of 1972.

2190 (6) The district attorney or his designated assistant, or
2191 the county prosecuting attorney or his designated assistant, shall
2192 assist the Attorney General in appeals from his district to the
2193 Mississippi Supreme Court and in other post judgment proceedings,
2194 and shall appear for oral argument before the Supreme Court when
2195 directed by the Supreme Court.

2196 (7) The several district attorneys shall submit reports of
2197 revenues and expenditures and shall submit budget requests as
2198 required for State General Fund agencies. For purposes of budget
2199 control, the several offices of district attorney shall be
2200 considered General Fund agencies and the budget and accounts of
2201 the several offices, including salaries, travel expenses, office
2202 expenses and any other expenditures or revenues, shall be
2203 consolidated for all districts as far as such consolidation is
2204 practical.

2205 All revenue or funds allocated or expended by a district
2206 attorney, whether such funds are appropriated from state funds, or
2207 whether such funds are received from county funds, grants or
2208 otherwise, shall be reported to the Legislative Budget Office.

2209 (8) A district attorney shall be authorized to assign the
2210 duties of employees regardless of the source of funding for such
2211 employees.



2212 **SECTION 42.** Section 25-31-19, Mississippi Code of 1972, is
2213 amended as follows:

2214 25-31-19. The several district attorneys, with the Attorney
2215 General, are hereby authorized to institute or defend any suits,
2216 subject to the provisions of Sections 1 and 2 of this act, arising
2217 out of any act or order of the * * * Department of Revenue or the
2218 Public Service Commission affecting the laws and revenues of the
2219 state, and are also clothed with such other authority as is
2220 conferred upon them at common law.

2221 **SECTION 43.** Section 25-31-25, Mississippi Code of 1972, is
2222 amended as follows:

2223 25-31-25. When it may be necessary and proper for the
2224 enforcement or collection of any judgment or debt in favor of the
2225 state, or any officer thereof in his official capacity, or of any
2226 county, the district attorney with the approval of the Attorney
2227 General shall institute and prosecute, subject to the provisions
2228 of Sections 1 and 2 of this act, in behalf of the creditor, a suit
2229 or suits to set aside and annul any conveyance or other device
2230 fraudulently made by the debtor, or any one for him, to hinder,
2231 delay, or defraud the creditor.

2232 **SECTION 44.** Section 25-31-27, Mississippi Code of 1972, is
2233 brought forward as follows:

2234 25-31-27. No district attorney of this state, without the
2235 consent in writing of the Attorney General, shall institute or
2236 prosecute any civil suit for a violation of the antitrust statutes



of this state; and no court shall take cognizance of any such suit without such written consent of the Attorney General.

SECTION 45. Section 27-3-73, Mississippi Code of 1972, is amended as follows:

27-3-73. (1) Except in accordance with proper judicial order or as otherwise provided in this section or as authorized in Section 27-4-3, it shall be unlawful for the Commissioner of Revenue, or any deputy, agent, clerk or other officer or employee of the Department of Revenue, to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required on any taxes collected by reports received by the Department of Revenue. This provision relates to all taxes collected by the Department of Revenue and not referred to in Sections 27-7-83, 27-13-57 and 27-65-81, requiring confidentiality of income tax, franchise tax and sales tax returns. All system edits, thresholds, and any other automated system calculations used by the Department of Revenue in the processing of returns or statistics or used to determine the correct tax due for all taxes administered by the department shall be considered confidential information and may not be divulged or made known. Nothing in this section shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the Attorney General, or any other attorney representing the state, of the report or return



2262 of any taxpayer who shall bring action to set aside the tax
2263 thereon, except the Attorney General's authority to bring action
2264 shall be subject to provisions of Sections 1 and 2 of this act, or
2265 against whom an action or proceeding has been instituted to
2266 recover any tax or penalty imposed. Additionally, nothing in this
2267 section shall prohibit the Commissioner of Revenue from making
2268 available information necessary to recover taxes owing the state
2269 pursuant to the authority granted in Section 27-75-16.

2270 The term "proper judicial order" as used in this section
2271 shall not include subpoenas or subpoenas duces tecum but shall
2272 include only those orders entered by a court of record in this
2273 state after furnishing notice and a hearing to the taxpayer and
2274 the Department of Revenue. The court shall not authorize the
2275 furnishing of such information unless it is satisfied that the
2276 information is needed to pursue pending litigation wherein the
2277 return itself is in issue, or the judge is satisfied that the need
2278 for furnishing the information outweighs the rights of the
2279 taxpayer to have such information secreted.

2280 However, information relating to possible tax liability to
2281 other states or the federal government may be furnished to the
2282 revenue departments of those states or the federal government when
2283 the states or federal government grant a like comity to
2284 Mississippi.

2285 (2) The State Auditor and the employees of his office shall
2286 have the right to examine only such tax returns as are necessary



2287 for auditing the Department of Revenue, and the same prohibitions
2288 against disclosure which apply to the Department of Revenue shall
2289 apply to the State Auditor and his office.

2290 (3) Officers and employees of the Mississippi Development
2291 Authority who execute a confidentiality agreement with the
2292 Department of Revenue shall be authorized to discuss and examine
2293 information to which this section applies at the offices of the
2294 Mississippi Department of Revenue. This disclosure is limited to
2295 information necessary to properly administer the programs under
2296 the jurisdiction of the Mississippi Development Authority. The
2297 Department of Revenue is authorized to disclose to officers and
2298 employees of the Mississippi Development Authority who execute a
2299 confidentiality agreement the information necessary under the
2300 circumstances. The same prohibitions against disclosure which
2301 apply to the Department of Revenue shall apply to the officers or
2302 employees of the Mississippi Development Authority.

2303 (4) Information required by the University Research Center
2304 to prepare the analyses required by Sections 57-13-101 through
2305 57-13-109 shall be furnished to the University Research Center
2306 upon request. It shall be unlawful for any officer or employee of
2307 the University Research Center to divulge or make known in any
2308 manner the amount of income or any particulars set forth or
2309 disclosed in any information received by the center from the
2310 Department of Revenue other than as may be required by Sections



2311 57-13-101 through 57-13-109 in an analysis prepared pursuant to
2312 Sections 57-13-101 through 57-13-109.

2313 (5) Information required by the Mississippi Development
2314 Authority to prepare the reports required by Section 57-1-12.2
2315 shall be furnished to the Mississippi Development Authority upon
2316 request. It shall be unlawful for any officer or employee of the
2317 Mississippi Development Authority to divulge or make known in any
2318 manner the amount of income or any particulars set forth or
2319 disclosed in any information received by the Mississippi
2320 Development Authority from the Department of Revenue other than as
2321 may be required by Section 57-1-12.2 in a report prepared pursuant
2322 to Section 57-1-12.2.

2323 (6) Any person who violates the provisions of this section
2324 shall be guilty of a misdemeanor and, on conviction thereof, shall
2325 be fined not more than One Thousand Dollars (\$1,000.00) or
2326 imprisoned not more than six (6) months in the county jail, or
2327 both.

2328 (7) The Commissioner of Revenue and the Department of
2329 Revenue are authorized to disclose to the Child Support Unit and
2330 to the Fraud Investigation Unit of the Department of Human
2331 Services without the need for a subpoena or proper judicial order
2332 the name, address, social security number, amount of income,
2333 amount of sales tax, source of income, assets and other relevant
2334 information, records and tax forms for individuals who are
2335 delinquent in the payment of any child support as defined in



2336 Section 93-11-101 or who are under investigation for fraud or
2337 abuse of any state or federal program or statute as provided in
2338 Section 43-1-23.

2339 **SECTION 46.** Section 27-7-83, Mississippi Code of 1972, is
2340 amended as follows:

2341 27-7-83. (1) Returns and return information filed or
2342 furnished under the provisions of this chapter shall be
2343 confidential, and except in accordance with proper judicial order,
2344 as otherwise authorized by this section or as authorized in
2345 Section 27-4-3, it shall be unlawful for the Commissioner of
2346 Revenue or any deputy, agent, clerk or other officer or employee
2347 of the Department of Revenue or the Mississippi Department of
2348 Information Technology Services, or any former employee thereof,
2349 to divulge or make known in any manner the amount of income or any
2350 particulars set forth or disclosed in any report or return
2351 required. The provisions of this section shall apply fully to any
2352 federal return, a copy of any portion of a federal return, or any
2353 information reflected on a federal return which is attached to or
2354 made a part of the state tax return. Likewise, the provisions of
2355 this section shall apply to any federal return or portion thereof,
2356 or to any federal return information data which is acquired from
2357 the Internal Revenue Service for state tax administration purposes
2358 pursuant to the Federal-State Exchange Program cited at Section
2359 6103, Federal Internal Revenue Code. The term "proper judicial
2360 order" as used in this section shall not include subpoenas or



2361 subpoenas duces tecum, but shall include only those orders entered
2362 by a court of record in this state after furnishing notice and a
2363 hearing to the taxpayer and the Department of Revenue. The court
2364 shall not authorize the furnishing of such information unless it
2365 is satisfied that the information is needed to pursue pending
2366 litigation wherein the return itself is in issue, or the judge is
2367 satisfied that the need for furnishing the information outweighs
2368 the rights of the taxpayer to have such information secreted.

2369 (2) Returns and return information with respect to taxes
2370 imposed by this chapter shall be open to inspection by or
2371 disclosure to the Commissioner of the Internal Revenue Service of
2372 the United States, or the proper officer of any state imposing an
2373 income tax similar to that imposed by this chapter, or the
2374 authorized representatives of such agencies. Such inspection
2375 shall be permitted, or such disclosure made, only upon written
2376 request by the head of such agencies, or the district director in
2377 the case of the Internal Revenue Service, and only to the
2378 representatives of such agencies designated in a written statement
2379 to the Commissioner of Revenue as the individuals who are to
2380 inspect or to receive the return or return information on behalf
2381 of such agency. The Commissioner of Revenue is authorized to
2382 enter into agreements with the Internal Revenue Service and with
2383 other states for the exchange of returns and return information
2384 data, or the disclosure of returns or return information data to
2385 such agencies, only to the extent that the statutes of the United



2386 States or of such other state, as the case may be, grant
2387 substantially similar privileges to the proper officer of this
2388 state charged with the administration of the tax laws of this
2389 state.

2390 (3) (a) The return of a person shall, upon written request,
2391 be open to inspection by or disclosure to:

2392 (i) In the case of the return of an individual,
2393 that individual;

2394 (ii) In the case of an income tax return filed
2395 jointly, either of the individuals with respect to whom the return
2396 is filed;

2397 (iii) In the case of the return of a partnership,
2398 any person who was a member of such partnership during any part of
2399 the period covered by the return;

2400 (iv) In the case of the return of a corporation or
2401 a subsidiary thereof, any person designated by resolution of its
2402 board of directors or other similar governing body, or any officer
2403 or employee of such corporation upon written request signed by any
2404 principal officer and attested to by the secretary or other
2405 officer;

2406 (v) In the case of the return of an estate, the
2407 administrator, executor or trustee of such estate, and any heir at
2408 law, next of kin or beneficiary under the will, of the decedent,
2409 but only to the extent that such latter persons have a material
2410 interest which will be affected by information contained therein;



2411 (vi) In the case of the return of a trust, the
2412 trustee or trustees, jointly or separately, and any beneficiary of
2413 such trust, but only to the extent that such beneficiary has a
2414 material interest which will be affected by information contained
2415 therein;

2416 (vii) In the case of the return of an individual
2417 or a return filed jointly, any claimant agency seeking to collect
2418 a debt through the setoff procedure established in Sections
2419 27-7-701 through 27-7-713 and Sections 27-7-501 through 27-7-519,
2420 from an individual with respect to whom the return is filed.

2421 (b) If an individual described in paragraph (a) is
2422 legally incompetent, the applicable return shall, upon written
2423 request, be open to inspection by or disclosure to the committee,
2424 trustee or guardian of his estate.

2425 (c) If substantially all of the property of the person
2426 with respect to whom the return is filed is in the hands of a
2427 trustee in bankruptcy or receiver, such return or returns for
2428 prior years of such person shall, upon written request, be open to
2429 inspection by or disclosure to such trustee or receiver, but only
2430 if the Commissioner of Revenue finds that such receiver or
2431 trustee, in his fiduciary capacity, has a material interest which
2432 will be affected by information contained therein.

2433 (d) Any return to which this section applies shall,
2434 upon written request, also be open to inspection by or disclosure
2435 to the attorney-in-fact duly authorized in writing by any of the



2436 persons described in paragraph (a) of this subsection to inspect
2437 the return or receive the information on his behalf, subject to
2438 the conditions provided in paragraph (a).

2439 (e) Return information with respect to any taxpayer may
2440 be open to inspection by or disclosure to any person authorized by
2441 this subsection to inspect any return of such taxpayer if the
2442 Commissioner of Revenue determines that such disclosure would not
2443 seriously impair state tax administration.

2444 (4) The State Auditor and the employees of his office shall
2445 have the right to examine only such tax returns as are necessary
2446 for auditing the Department of Revenue, and the same prohibitions
2447 against disclosure which apply to the Department of Revenue shall
2448 apply to the State Auditor and his employees or former employees.

2449 (5) Officers and employees of the Mississippi Development
2450 Authority who execute a confidentiality agreement with the
2451 Department of Revenue shall be authorized to discuss and examine
2452 information to which this section applies at the offices of the
2453 Mississippi Department of Revenue. This disclosure is limited to
2454 information necessary to properly administer the programs under
2455 the jurisdiction of the Mississippi Development Authority. The
2456 Department of Revenue is authorized to disclose to officers and
2457 employees of the Mississippi Development Authority who execute a
2458 confidentiality agreement the information necessary under the
2459 circumstances. The same prohibitions against disclosure which



2460 apply to the Department of Revenue shall apply to the officers or
2461 employees of the Mississippi Development Authority.

2462 (6) Information required by the University Research Center
2463 to prepare the analyses required by Sections 57-13-101 through
2464 57-13-109 shall be furnished to the University Research Center
2465 upon request. It shall be unlawful for any officer or employee of
2466 the University Research Center to divulge or make known in any
2467 manner the amount of income or any particulars set forth or
2468 disclosed in any information received by the center from the
2469 Department of Revenue other than as may be required by Sections
2470 57-13-101 through 57-13-109 in an analysis prepared pursuant to
2471 Sections 57-13-101 through 57-13-109.

2472 (7) Information required by the Mississippi Development
2473 Authority to prepare the reports required by Section 57-1-12.2
2474 shall be furnished to the Mississippi Development Authority upon
2475 request. It shall be unlawful for any officer or employee of the
2476 Mississippi Development Authority to divulge or make known in any
2477 manner the amount of income or any particulars set forth or
2478 disclosed in any information received by the Mississippi
2479 Development Authority from the Department of Revenue other than as
2480 may be required by Section 57-1-12.2 in a report prepared pursuant
2481 to Section 57-1-12.2.

2482 (8) Nothing in this section shall be construed to prohibit
2483 the publication of statistics, so classified as to prevent the
2484 identification of particular reports or returns and the items



2485 thereof, or the inspection by the Attorney General, or any other
2486 attorney representing the state, of the report or return of any
2487 taxpayer who shall bring action, except the Attorney General's
2488 authority to bring action shall be subject to provisions of
2489 Sections 1 and 2 of this act, to set aside the tax thereon, or
2490 against whom any action or proceeding has been instituted to
2491 recover any tax or penalty imposed.

2492 (9) Nothing in this section shall prohibit the commissioner
2493 from making available information necessary to recover taxes owing
2494 the state pursuant to the authority granted in Section 27-75-16.

2495 (10) Reports and returns required under the provisions of
2496 this chapter shall be preserved in accordance with approved
2497 records control schedules. No records, however, may be destroyed
2498 without the approval of the Director of the Department of Archives
2499 and History.

2500 (11) The Department of Revenue is authorized to disclose to
2501 the Child Support Unit and to the Fraud Investigation Unit of the
2502 Department of Human Services without the need for a subpoena or
2503 proper judicial order the name, address, social security number,
2504 amount of income, source of income, assets and other relevant
2505 information, records and tax forms for individuals who are
2506 delinquent in the payment of any child support as defined in
2507 Section 93-11-101 or who are under investigation for fraud or
2508 abuse of any state or federal program or statute as provided in
2509 Section 43-1-23.



2510 (12) Nothing in this section shall prohibit the Department
2511 of Revenue from exchanging information with the federal government
2512 that is necessary to offset income tax refund payment on debts
2513 owed to this state or the United States.

2514 (13) Nothing in this section shall prohibit the department
2515 from making available information that is necessary to be
2516 disclosed for the administration and enforcement of Section
2517 27-7-87.

2518 **SECTION 47.** Section 27-9-39, Mississippi Code of 1972, is
2519 amended as follows:

2520 27-9-39. Action may be brought at any time by the
2521 commissioner or the Attorney General, except the Attorney
2522 General's authority to bring action shall be subject to provisions
2523 of Sections 1 and 2 of this act, of the state in the name of the
2524 commissioner to recover the amount of any tax, penalties and
2525 interest due under this chapter. Such action shall be brought in
2526 the county and district where the taxpayer resides.

2527 All administrative provisions of the Mississippi Sales Tax
2528 Law shall apply with like force and effect to all persons liable
2529 for taxes under the provisions of this chapter, and the
2530 commissioner and the * * * Department of Revenue shall exercise
2531 all power and authority and perform all the duties with respect to
2532 taxpayers under this chapter as are provided in said Mississippi
2533 Sales Tax Law. In case of conflict between the provisions of this



chapter and any provision in the Mississippi Sales Tax Law, then the provisions of this chapter shall control.

SECTION 48. Section 27-9-55, Mississippi Code of 1972, is brought forward as follows:

27-9-55. (1) Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the members of the commission, any deputy, agent, clerk, or other officer, or employee, to divulge or make known in any manner the value of any estate or any particulars set forth or disclosed in any report or return required. Nothing herein shall be construed to prohibit the publication of statistics, so classified so as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the Attorney General or other legal representatives of the state, of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon or against whom an action or proceeding has been instituted to recover any tax or penalty imposed by this chapter. Reports and returns shall be preserved in accordance with approved records control schedules. No records, however, may be destroyed without the approval of the Director of the Department of Archives and History.

(2) Notwithstanding the provisions of this section, the commissioner may permit the Commissioner of Internal Revenue of the United States or the proper officer of any state imposing an estate tax similar to that imposed by this chapter, or the



2559 authorized representative of either such officer, to inspect the
2560 estate tax returns of any individual, or may furnish to such
2561 officer or his authorized representatives an abstract of the
2562 return for estate tax of any executor or supply him with
2563 information concerning any item contained in any return, or
2564 disclosed by the report of any investigation of the return of any
2565 executor, but such permission shall be granted, or such
2566 information furnished to such officer or his representative only
2567 if the statutes of the United States or of such other state, as
2568 the case may be, grant substantially similar privileges to the
2569 proper officer of this state charged with the administration of
2570 this chapter.

2571 **SECTION 49.** Section 27-13-27, Mississippi Code of 1972, is
2572 brought forward as follows:

2573 27-13-27. (1) If any corporation or organization taxable
2574 under this chapter after receiving due process under the
2575 provisions of this chapter, shall fail or refuse to pay the tax
2576 demanded and determined by the commissioner, together with all
2577 penalties and interest shown to be due, or if such corporation or
2578 organization shall fail to file a protest against such assessment,
2579 or appeal therefrom, then the commissioner, in addition to the
2580 other authority conferred upon him in this chapter, may request
2581 the administrative dissolution of such corporation or organization
2582 pursuant to Sections 79-4-14.20 through 79-4-14.23, or the
2583 revocation of the certificate of authority of such corporation or



2584 organization pursuant to Section 79-4-15.30 through 79-4-15.33, as
2585 the case may be. Whereupon, the commissioner shall notify the
2586 Secretary of State of such request for administrative dissolution
2587 or revocation of certificate of authority.

2588 (2) Any officer, agent, or employee of any organization
2589 subject to the provisions of this chapter, who shall exercise,
2590 attempt to exercise or cause to be exercised, any of the rights,
2591 privileges, powers or franchises of any such organization after
2592 such administrative dissolution or revocation of certificate of
2593 authority shall be deemed to have acted in violation of the
2594 provisions of this chapter, and as a penalty therefor, shall be
2595 fined a sum not less than One Hundred Dollars (\$100.00) and not
2596 more than One Thousand Dollars (\$1,000.00) to be collected by the
2597 Attorney General of the State of Mississippi upon recommendation
2598 of the commissioner, by appropriate action in any court of
2599 competent jurisdiction and each such act shall be deemed a
2600 separate violation of the provisions of this chapter, and the
2601 amount of the penalty shall be stated in the action brought by the
2602 Attorney General of the State of Mississippi. The penalty herein
2603 provided shall be against the person violating the provisions of
2604 this chapter and be proceeded against in personam and shall be in
2605 addition to the tax, interest, penalty and increase assessed
2606 against the organization, nor shall its collection or settlement
2607 in any way relieve the organization as such from its liabilities.
2608 Provided, however, that the commissioner, for good cause shown in



2609 writing, and satisfactory explanation of the delinquency or
2610 violation, may recommend the compromise or cessation of the action
2611 against the offending officer, agent or employee and the Attorney
2612 General of the State of Mississippi shall be governed by the
2613 recommendation of the commissioner.

2614 (3) If any organization thus administratively dissolved or
2615 for which a certificate of authority has been revoked shall
2616 appear, either by its principal officer or officers, or its
2617 attorney, within twelve (12) months from the date of such
2618 administrative dissolution or revocation of certificate of
2619 authority, and make satisfactory explanation of the cause of the
2620 default; and pay all taxes due, together with all interest,
2621 penalties and increases finally determined by the commissioner to
2622 be due, then it shall be the duty of the commissioner to
2623 immediately notify the Secretary of State.

2624 (4) Upon the setting aside of such administrative
2625 dissolution or revocation of certificate of authority, said
2626 organization shall be restored to all rights of which it was
2627 deprived by such administrative dissolution or revocation of
2628 certificate of authority, and authorized to resume all activities
2629 as though said administrative dissolution or revocation of
2630 certificate of authority had not been imposed.

2631 (5) If, however, the administrative dissolution or
2632 revocation of certificate of authority has not been set aside
2633 within a period of twelve (12) months from the date of the



original imposition thereof, all rights to have such administrative dissolution or revocation of certificate of authority set aside shall cease; and after the expiration of said twelve-month period, said organization, insofar as being a going concern, with rights to exercise powers originally granted are concerned, shall be considered as nonexistent; and the disposition of assets, and winding up of the affairs of the organization may be accomplished in such manner as may be provided by law.

SECTION 50. Section 27-13-57, Mississippi Code of 1972, is brought forward as follows:

27-13-57. (1) Except in accordance with the proper judicial order, or as otherwise provided in this section or as authorized in Section 27-4-3, it shall be unlawful for the Commissioner of Revenue or any deputy, agent, clerk or other officer or employee of the Department of Revenue to divulge or make known in any manner any particulars set forth or disclosed in any report or return required under this chapter. When a combined report or return is filed as authorized by Section 27-13-17(5), each report or return which composes the combined return shall be considered separate for the purpose of any examinations authorized in this section and only particulars relating to the specific return or report set forth in the judicial order or as otherwise provided shall be considered lawfully divulged. The term "proper judicial order" as used in this section shall not include subpoenas or subpoenas duces tecum, but shall include only those orders entered



2659 by a court of record in this state after furnishing notice and a
2660 hearing to the taxpayer and the Department of Revenue. The court
2661 shall not authorize the furnishing of such information unless it
2662 is satisfied that the information is needed to pursue pending
2663 litigation wherein the return itself is in issue, or the judge is
2664 satisfied that the need for furnishing the information outweighs
2665 the rights of the taxpayer to have such information secreted.
2666 Nothing in this section shall be construed to prohibit the
2667 publication of statistics, so classified as to prevent the
2668 identification of particular reports or returns and the items
2669 thereof, or the inspection by the Attorney General or any other
2670 attorney representing the state of the report or return of any
2671 taxpayer who shall bring action to set aside or review the tax
2672 based thereon, or against whom an action or proceeding has been
2673 instituted to recover any tax or penalty imposed by this chapter.
2674 Reports and returns shall be preserved in accordance with approved
2675 records control schedules. No records, however, may be destroyed
2676 without the approval of the Director of the Department of Archives
2677 and History.

2678 However, information relating to possible tax liability of
2679 other states or the federal government may be furnished to the
2680 revenue department of those states or the federal government when
2681 those states or the federal government grant a like comity to
2682 Mississippi.



2683 (2) The State Auditor and the employees of his office shall
2684 have the right to examine only such tax returns as are necessary
2685 for auditing the Department of Revenue, and the same prohibitions
2686 against disclosure which apply to the Department of Revenue shall
2687 apply to the State Auditor and his office.

2688 (3) Officers and employees of the Mississippi Development
2689 Authority who execute a confidentiality agreement with the
2690 Department of Revenue shall be authorized to discuss and examine
2691 information to which this section applies at the offices of the
2692 Mississippi Department of Revenue. This disclosure is limited to
2693 information necessary to properly administer the programs under
2694 the jurisdiction of the Mississippi Development Authority. The
2695 Department of Revenue is authorized to disclose to officers and
2696 employees of the Mississippi Development Authority who execute a
2697 confidentiality agreement the information necessary under the
2698 circumstances. The same prohibitions against disclosure which
2699 apply to the Department of Revenue shall apply to the officers or
2700 employees of the Mississippi Development Authority.

2701 (4) Information required by the University Research Center
2702 to prepare the analyses required by Sections 57-13-101 through
2703 57-13-109 shall be furnished to the University Research Center
2704 upon request. It shall be unlawful for any officer or employee of
2705 the University Research Center to divulge or make known in any
2706 manner any particulars set forth or disclosed in any information
2707 received by the center from the Department of Revenue other than



2708 as may be required by Sections 57-13-101 through 57-13-109 in an
2709 analysis prepared pursuant to Sections 57-13-101 through
2710 57-13-109.

2711 (5) Information required by the Mississippi Development
2712 Authority to prepare the reports required by Section 57-1-12.2
2713 shall be furnished to the Mississippi Development Authority upon
2714 request. It shall be unlawful for any officer or employee of the
2715 Mississippi Development Authority to divulge or make known in any
2716 manner the amount of income or any particulars set forth or
2717 disclosed in any information received by the Mississippi
2718 Development Authority from the Department of Revenue other than as
2719 may be required by Section 57-1-12.2 in a report prepared pursuant
2720 to Section 57-1-12.2.

2721 (6) Nothing in this section shall prohibit the Commissioner
2722 of Revenue from making available information necessary to recover
2723 taxes owing the state pursuant to the authority granted in Section
2724 27-75-16, Mississippi Code of 1972.

2725 (7) Any person violating the provisions of this section
2726 shall be guilty of a misdemeanor and, on conviction, shall be
2727 punished by a fine of not exceeding Five Hundred Dollars
2728 (\$500.00), or by imprisonment not exceeding one (1) year, or both,
2729 at the discretion of the court, and if the offender be an officer
2730 or employee of the state he shall be dismissed from office and be
2731 incapable of holding any public office in this state for a period
2732 of five (5) years thereafter.



2733 **SECTION 51.** Section 27-17-499, Mississippi Code of 1972, is
2734 amended as follows:

2735 27-17-499. It shall be the duty of the officer required to
2736 collect privilege taxes to require all persons liable for a
2737 privilege tax to pay the same, and he shall cause all persons
2738 doing business without a privilege license as required under this
2739 chapter, to be prosecuted. He is further required to make demands
2740 in writing for payment of the tax due, plus an initial penalty of
2741 ten percent (10%), and thereafter a penalty of one percent (1%)
2742 per month for each month or part thereof during which the tax
2743 remains delinquent. If payment is not made upon demand, he shall
2744 forthwith bring suit in his official character against all such
2745 persons legally liable for privilege taxes; and such suits shall
2746 be prosecuted to final judgment and execution thereon if the
2747 judgment be in favor of the officer. No officer required to
2748 collect this tax shall be liable for any costs in such suits.

2749 The officer required to collect privilege taxes shall be
2750 liable for the amount of the tax, together with a penalty
2751 calculated in the same manner as the penalty for delinquent
2752 privilege taxes, that he fails to collect; and the liability of
2753 such officer shall extend to all cases where he might collect such
2754 taxes but negligently fails to do so.

2755 It is further provided that for willful failure to carry out
2756 any of the provisions of this chapter, the officer whose duty it
2757 is to collect privilege taxes shall be liable to the state on his



2758 official bond for a penalty of One Hundred Dollars (\$100.00) for
2759 each such failure, and it shall be the duty of the Attorney
2760 General to bring suit for such penalty, subject to the provisions
2761 of Sections 1 and 2 of this act.

2762 **SECTION 52.** Section 27-19-155, Mississippi Code of 1972, is
2763 amended as follows:

2764 27-19-155. The license or number tag herein provided for
2765 shall be purchased by the License Tag Commission, composed of the
2766 Governor, Commissioner of Revenue, Attorney General and the State
2767 Treasurer, upon competitive bids, after having given three (3)
2768 weeks' notice of the time and place of purchase, by publishing
2769 said notice in at least three (3) newspapers, at least one (1) of
2770 which shall be published in the State of Mississippi, for a period
2771 of three (3) weeks prior to the date of purchase. The successful
2772 bidder shall enter into a bond with some surety company,
2773 authorized to do business in the state, as surety thereon, payable
2774 to the State of Mississippi, in a sum equal to the amount of his
2775 contract, conditioned for the faithful and prompt carrying out of
2776 said bid, and, in the event of the failure to comply with the
2777 terms of said contract, the amount of said bond shall be forfeited
2778 as liquidated damages and may be recovered by the Attorney General
2779 in any appropriate action, subject to the provisions of Sections 1
2780 and 2 of this act. The License Tag Commission is hereby
2781 authorized and empowered to renegotiate any contract entered into



for the purchase of license tags in order to obtain any other or additional tags necessitated by the passage of this article.

All monies received by the * * * Department of Revenue as registration or tag fees, either from the tax collectors, or from licenses issued by the * * * Department of Revenue, shall be paid into the State Treasury on the same day in which such funds are collected by the * * * Department of Revenue. On April 1, 2010, and on the first day of each month succeeding the month in which registration or tag fees are received by the Department of Revenue, the portion of the receipts equal to the cost of the license tags, decals and associated freight costs shall be deposited into the special fund created in Section 27-19-179.

SECTION 53. Section 27-33-61, Mississippi Code of 1972, is amended as follows:

27-33-61. Any county attorney, district attorney, or the Attorney General shall bring suit and prosecute it to a conclusion, in the name of the state, or county, or district, when requested to do so by a member of the board of supervisors, or the * * * Department of Revenue, if upon investigation the suit appears to be meritorious; except the Attorney General's authority to bring suit shall be subject to provisions of Sections 1 and 2 of this act.

SECTION 54. Section 27-35-309, Mississippi Code of 1972, is brought forward as follows:



2806 27-35-309. (1) The Department of Revenue shall, if
2807 practicable, on or before the first Monday of June of each year,
2808 make out for each person, firm, company or corporation listed in
2809 Section 27-35-303, Mississippi Code of 1972, an assessment of the
2810 company's property, both real and personal, tangible and
2811 intangible. The Department of Revenue shall apportion the
2812 assessment of value of each company's property according to the
2813 provisions of this article, except as provided in subsection (3)
2814 of this section, as follows:

2815 (a) When the property of such public service company is
2816 located in more than one (1) county in this state, the Department
2817 of Revenue shall direct the company to apportion the assessed
2818 value between the counties and municipalities and all other taxing
2819 districts therein, in the proportion which the property located
2820 therein bears to the entire value of the property of such company
2821 as valued by the department, so that to each county, municipality
2822 and taxing district therein, there shall be apportioned such part
2823 of the entire valuation as will fairly equalize the relative value
2824 of the property therein located to the whole value thereof.

2825 (b) When the property of such public utility required
2826 to be assessed by the provisions of this article is located in
2827 more than one (1) state, the assessed value thereof shall be
2828 apportioned by the Department of Revenue in such manner as will
2829 fairly and equitably determine the principal sum for the value



2830 thereof in this state, and after ascertaining such value it shall
2831 be apportioned by them as herein provided.

2832 The assessment roll shall contain all the property of any
2833 such public service company, railroad, person, firm or corporation
2834 and the value thereof, and so made that each county, municipality,
2835 and taxing district shall receive its just share of taxes
2836 proportionately to the amount of property therein situated.

2837 (2) (a) The assessment when made shall remain open for
2838 thirty (30) days in the Office of the Department of Revenue, and
2839 be for such time subject to the objections thereto which may be
2840 filed with the Executive Director of the Board of Tax Appeals; but
2841 real estate belonging to railroads and which forms no part of the
2842 road, and is wholly disconnected from its railroad business, shall
2843 not be assessed by the Department of Revenue, but shall be
2844 assessed as other real estate is assessed by the tax assessor of
2845 the county where situated.

2846 (b) The apportionment of the assessed value as required
2847 by this section shall be filed with the Department of Revenue by
2848 such public service company on or before the first day of August
2849 in each year. If such company shall fail, refuse or neglect to
2850 render the apportionment of assessed value as required by this
2851 section, such company shall be subject to the penalties provided
2852 for in Section 27-35-305. The filing of an objection by such
2853 public service company shall not preclude such company from filing
2854 the property apportionment as required by this section.



2855 (3) Any nuclear generating plant which is located in the
2856 state, which is owned or operated by a public utility rendering
2857 electric service within the state and not exempt from ad valorem
2858 taxation under any other statute and which is not owned or
2859 operated by an instrumentality of the federal government shall be
2860 exempt from county, municipal and district ad valorem taxes. In
2861 lieu of the payment of county, municipal and district ad valorem
2862 taxes, such public utility shall pay to the Department of Revenue
2863 a sum based on the assessed value of such nuclear generating plant
2864 in an amount to be determined and distributed as follows:

2865 (a) The Department of Revenue shall annually assign an
2866 assessed value to any nuclear generating plant described in this
2867 subsection in the same manner as for ad valorem tax purposes by
2868 using accepted industry methods for appraising and assessing
2869 public utility property. The assessed value assigned shall be
2870 used for the purpose of determining the in-lieu tax due under this
2871 section and shall not be included on the ad valorem tax rolls of
2872 the situs taxing authority nor be subject to ad valorem taxation
2873 by the situs taxing authority nor shall the assessed value
2874 assigned be used in determining the debt limit of the situs taxing
2875 authority. However, the assessed value so assigned may be used by
2876 the situs taxing authority for the purpose of determining salaries
2877 of its public officials.

2878 (b) On or before February 1, 1987, for the 1986 taxable
2879 year and on or before February 1 of each year through the 1989



2880 taxable year, such utility shall pay to the Department of Revenue
2881 a sum equal to two percent (2%) of the assessed value as
2882 ascertained by the Department of Revenue, but such payment shall
2883 not be less than Sixteen Million Dollars (\$16,000,000.00) for any
2884 of the four (4) taxable years; all such payments in excess of
2885 Sixteen Million Dollars (\$16,000,000.00) for these four (4)
2886 taxable years shall be paid into the General Fund of the state.
2887 On or before February 1, 1991, for the 1990 taxable year and on or
2888 before February 1 of each year thereafter, such utility shall pay
2889 to the Department of Revenue a sum equal to two percent (2%) of
2890 the assessed value as ascertained by the Department of Revenue,
2891 but such payment shall not be less than Twenty Million Dollars
2892 (\$20,000,000.00) for any taxable year for as long as such nuclear
2893 power plant is licensed to operate and is not being permanently
2894 decommissioned; all such payments in excess of Sixteen Million
2895 Dollars (\$16,000,000.00) for taxable years 1990 and thereafter
2896 shall be paid as follows:

2897 (i) An amount of Three Million Forty Thousand
2898 Dollars (\$3,040,000.00) annually, beginning with fiscal year 1991,
2899 shall be transferred by the Department of Revenue to Claiborne
2900 County. Such payments may be expended by the Board of Supervisors
2901 of Claiborne County for any purpose for which a county is
2902 authorized by law to levy an ad valorem tax and shall not be
2903 included or considered as proceeds of ad valorem taxes for the
2904 purposes of the growth limitation on ad valorem taxes under



2905 Sections 27-39-305 and 27-39-321. However, should the Board of
2906 Supervisors of Claiborne County withdraw its support of the Grand
2907 Gulf Nuclear Station off-site emergency plan or otherwise fail to
2908 satisfy its off-site emergency plan commitments as determined by
2909 the Mississippi Emergency Management Agency and the Federal
2910 Emergency Management Agency, Five Hundred Thousand Dollars
2911 (\$500,000.00) annually of the funds designated for Claiborne
2912 County as described by this subsection (i) shall be deposited in
2913 the Grand Gulf Disaster Assistance Fund as provided in Section
2914 33-15-51.

2915 (ii) An amount of One Hundred Sixty Thousand
2916 Dollars (\$160,000.00) annually, beginning with fiscal year 1991,
2917 shall be transferred by the Department of Revenue to the City of
2918 Port Gibson, Mississippi. Such payments may be expended by the
2919 Board of Aldermen of the City of Port Gibson for any purpose for
2920 which a municipality is authorized by law to levy an ad valorem
2921 tax and shall not be included or considered as proceeds of ad
2922 valorem taxes for the purposes of the growth limitation on ad
2923 valorem taxes under Sections 27-39-305 and 27-39-321. However,
2924 should the Board of Aldermen of the City of Port Gibson withdraw
2925 its support of the Grand Gulf Nuclear Station off-site emergency
2926 plan or otherwise fail to satisfy its off-site emergency plan
2927 commitment, as determined by the Mississippi Emergency Management
2928 Agency and the Federal Emergency Management Agency, Fifty Thousand
2929 Dollars (\$50,000.00) annually of the funds designated for the City



2930 of Port Gibson as described by this subsection (ii) shall be
2931 deposited in the Grand Gulf Disaster Assistance Fund as provided
2932 in Section 33-15-51.

2933 (iii) The remaining balance of the payments in
2934 excess of Sixteen Million Dollars (\$16,000,000.00) annually, less
2935 amounts transferred under (i) and (ii) of this subsection,
2936 beginning with fiscal year 1991, shall be allocated in accordance
2937 with subsection (3)(f) of this section.

2938 (c) Pursuant to certification by the Attorney General
2939 to the State Treasurer and the State Tax Commission that the suit
2940 against the State of Mississippi pending on the effective date of
2941 House Bill 8, First Extraordinary Session of 1990, [Laws, 1990 Ex
2942 Session, Ch. 12, eff June 26, 1990], in the Chancery Court for the
2943 First Judicial District of Hinds County, Mississippi, styled
2944 Albert Butler et al v. the Mississippi State Tax Commission et al,
2945 has been voluntarily dismissed with prejudice as to all plaintiffs
2946 at the request of the complainants and that no attorney's fees or
2947 court costs have been assessed against the state and each of the
2948 parties, including Claiborne County and each municipality and
2949 school district located in the county, have signed and delivered
2950 to the Attorney General a full and complete release in favor of
2951 the State of Mississippi and its elected officials of all claims
2952 that have been asserted or may be asserted in the suit pending on
2953 the effective date of House Bill 8, First Extraordinary Session of
2954 1990, [Laws, 1990 Ex Session, Ch. 12, eff June 26, 1990], in the



2955 Chancery Court for the First Judicial District of Hinds County,
2956 Mississippi, styled *Albert Butler et al v. the Mississippi State*
2957 *Tax Commission et al*, and the deposit into the State General Fund
2958 of in-lieu payments and interest thereon due the state under
2959 subsection (3)(b) of this section but placed in escrow because of
2960 the lawsuit described above, the state shall promptly transfer to
2961 the Board of Supervisors of Claiborne County out of the State
2962 General Fund an amount of Two Million Dollars (\$2,000,000.00)
2963 which shall be a one-time distribution to Claiborne County from
2964 the state. Such payment may be expended by the Board of
2965 Supervisors of Claiborne County for any purposes for which a
2966 county is authorized by law to levy an ad valorem tax and shall
2967 not be included or considered as proceeds of ad valorem taxes for
2968 the purposes of the growth limitation on ad valorem taxes for the
2969 1991 fiscal year under Sections 27-39-321 and 27-39-305.

2970 (d) After distribution of the one-time payment to
2971 Claiborne County as set forth in subsection (3)(c) of this
2972 section, the Department of Revenue upon certification that the
2973 pending lawsuit as described in subsection (3)(c) of this section
2974 has been voluntarily dismissed shall promptly deposit an amount of
2975 Five Hundred Thousand Dollars (\$500,000.00) into the Grand Gulf
2976 Disaster Assistance Trust Fund as provided for in Section
2977 33-15-51, which shall be a one-time payment, to be utilized in
2978 accordance with the provisions of such section.



2979 (e) After distribution of the one-time payment to
2980 Claiborne County as set forth in subsection (3)(c) of this section
2981 and the payment to the Grand Gulf Disaster Assistance Trust Fund
2982 as set forth in subsection (3)(d) of this section, the Department
2983 of Revenue upon certification that the pending lawsuit as
2984 described in subsection (3)(c) of this section has been
2985 voluntarily dismissed shall promptly distribute ten percent (10%)
2986 of the remainder of the prior payments remaining in escrow to the
2987 General Fund of the state and the balance of the prior payments
2988 remaining in escrow shall be distributed to the counties and
2989 municipalities in this state wherein such public utility has
2990 rendered electric service in the proportion that the amount of
2991 electric energy consumed by the retail customers of such public
2992 utility in each county, excluding municipalities therein, and in
2993 each municipality, for the next preceding fiscal year bears to the
2994 total amount of electric energy consumed by all retail customers
2995 of such public utility in the State of Mississippi for the next
2996 preceding fiscal year. The payments distributed to the counties
2997 and municipalities under this paragraph (e) may be expended by
2998 such counties and municipalities for any lawful purpose and shall
2999 not be included or considered as proceeds of ad valorem taxes for
3000 the purposes of the growth limitation on ad valorem taxes under
3001 Sections 27-39-321 and 27-39-305.

3002 (f) After distribution of the payments for fiscal year
3003 1991 as set forth in Section 19-9-151 and distribution of the



3004 payments as provided for in subsection (3)(b) of this section, the
3005 Department of Revenue shall distribute ten percent (10%) of the
3006 remainder of the payments to the General Fund of the state and the
3007 balance to the counties and municipalities in this state wherein
3008 such public utility renders electric service in the proportion
3009 that the amount of electric energy consumed by the retail
3010 customers of such public utility in each county, excluding
3011 municipalities therein, and in each municipality for the next
3012 preceding fiscal year bears to the total amount of electric energy
3013 consumed by all retail customers of such public utility in the
3014 State of Mississippi for the next preceding fiscal year.

3015 (g) No county, including municipalities therein, shall
3016 receive in excess of twenty percent (20%) of the funds distributed
3017 under paragraph (f) of this subsection.

3018 (h) The revenues received by counties and
3019 municipalities under paragraph (f) of this subsection shall not be
3020 included or considered as proceeds of ad valorem taxes for the
3021 purposes of the growth limitation on ad valorem taxes under
3022 Sections 27-39-305 and 27-39-321.

3023 **SECTION 55.** Section 27-35-325, Mississippi Code of 1972, is
3024 amended as follows:

3025 27-35-325. The Department of Revenue is hereby authorized
3026 and empowered and it shall be its duty to assess any property
3027 required to be assessed by the Department of Revenue as the state
3028 assessor of railroads, which it discovers escaping taxation in



3029 former years by reason of not being assessed; and to assess or
3030 cause to be assessed and taxed, any such property which it
3031 discovers escaping taxation by reason of not being assessed in or
3032 for the benefit of any road district, school district, or other
3033 taxing district or municipality, although the property may have
3034 been assessed and taxed for state and general county taxes;
3035 however, the right to so assess property shall expire at the end
3036 of seven (7) years from the date when the right so to do first
3037 accrued. When any property is discovered escaping assessment and
3038 taxation which, under the law, is required to be assessed by the
3039 Department of Revenue as state assessor of railroads, the
3040 Department of Revenue shall assess the same for such purpose and
3041 for the years it has escaped taxation, and shall give notice by
3042 United States mail, or otherwise, by the Commissioner of Revenue
3043 of the Department of Revenue to the owner of the property, or
3044 agent, of such owner, showing what property has escaped assessment
3045 and for what years, and all other proper information, and the
3046 owner shall have thirty (30) days in which to file objections.
3047 The Department of Revenue shall deal with the assessment in all
3048 respects with the same powers as if made at the time regular
3049 assessment of such property is made, and shall have power to
3050 require such information as it may desire for the correct
3051 determination of all questions before it. When any objection is
3052 heard and determined, the Board of Tax Appeals shall by order
3053 approve or disapprove, or may modify the assessment, and make it



3054 final. If no objection is made in regard to the assessment or if
3055 the assessment is approved or modified by the Board of Tax
3056 Appeals, the Department of Revenue shall certify it to the clerk
3057 of the board of supervisors of the county or counties where the
3058 property is located, and such assessment shall be dealt with by
3059 the clerk and tax collector as is required in cases of assessments
3060 when made at the regular time. In all cases where suit is
3061 necessary, it shall be the duty of the Attorney General to
3062 represent the Department of Revenue whenever requested to do so,
3063 subject to the provisions of Sections 1 and 2 of this act.

3064 **SECTION 56.** Section 27-41-83, Mississippi Code of 1972, is
3065 amended as follows:

3066 27-41-83. The owner of lands sold or struck off to this
3067 state as provided in Section 27-41-81 shall not have the right to
3068 cut merchantable timber, cordwood or brush from any such land
3069 until such land be redeemed from the tax sale and title again be
3070 perfected in the individual owner thereof, and such former owner
3071 of said property during the period of redemption shall not have
3072 the right to prospect for or to extract and/or attempt to extract
3073 from any such lands so forfeited to the state for nonpayment of
3074 taxes any minerals, stone or gravel that may be found on or under
3075 said land, and provided further that the former owner of any land
3076 so forfeited to the state for nonpayment of taxes shall commit no
3077 waste on the lands or premises so forfeited to the state during
3078 the period of redemption.



3079 If the former owner or any other person in violation of the
3080 provisions of this section cuts, fells, removes or otherwise
3081 injures any tree on property forfeited to the state for taxes
3082 either during the period of redemption or after the title matures
3083 in the state, or extracts, or attempts to extract, minerals
3084 therefrom including rock, stone and gravel, commits or permits to
3085 be committed waste or any other trespass on such land, such person
3086 shall be liable for a penalty in the sum of Five Dollars (\$5.00)
3087 per acre for each acre upon which any trespass or violation of
3088 this section is committed, and, in addition to said penalty, such
3089 person shall be liable for actual damages for the property taken
3090 or injured. All such penalties and damages may be recovered in
3091 one and the same action and suits to recover the same shall be
3092 instituted and prosecuted in the name of the state by the Attorney
3093 General, subject to the provisions of Sections 1 and 2 of this
3094 act, and any penalties and damages recovered in such actions shall
3095 be apportioned fifty percent (50%) to the state and fifty percent
3096 (50%) to the county in which the land lies. Provided that during
3097 the period of redemption the owner may cut and use wood from
3098 contiguous woodlands for fuel, fences and like farm purposes, but
3099 not for sale.

3100 Any person violating any of the provisions of this section
3101 shall be guilty of a misdemeanor and, upon conviction therefor,
3102 shall be fined not less than Ten Dollars (\$10.00) nor more than
3103 Fifty Dollars (\$50.00), in the discretion of the court, and upon



the second offense, may be sentenced to serve not more than sixty (60) days in the county jail, in the discretion of the trial court.

SECTION 57. Section 27-41-85, Mississippi Code of 1972, is amended as follows:

27-41-85. The Attorney General, by and with the consent of the Governor, may employ special counsel to assist him in the investigation and prosecution of such claims or demands and suits under Section 27-41-83, subject to the provisions of Sections 1 and 2 of this act; and he may contract to pay such attorneys so employed such reasonable compensation as may be agreed upon, not to exceed twenty percent (20%) of the amount recovered and collected.

SECTION 58. Section 27-41-87, Mississippi Code of 1972, is brought forward as follows:

27-41-87. The board of supervisors of any county affected is hereby authorized to pay such reasonable expenses, except attorneys' fees, as may be incurred in obtaining information deemed necessary to maintain an action under Section 27-41-83.

In any case where funds are received by the Attorney General in consequence of any action or demand under Section 27-41-83, involving lands in more than one (1) county, and where the court in which said suit was filed does not allot the funds between said counties, or where said counties cannot agree among themselves as to the proper distribution of such funds, then the Attorney



3129 General may apply to the chancery court in the county where the
3130 land or some part thereof is located in vacation or in term time
3131 for an allotment and distribution of the funds between the
3132 counties. It shall be the duty of the Attorney General in such
3133 case to notify the interested counties that he has filed such
3134 application, and he shall notify them when and where said
3135 application will be heard. The judgment of the chancellor in such
3136 matters will be final, and the Attorney General shall distribute
3137 said funds in accordance with the chancellor's order, and a copy
3138 of said order shall be filed with the chancery clerk in each of
3139 the interested counties. The counties shall have the right to
3140 agree among themselves as to the proper distribution of any such
3141 fund; and where such agreement is had, it shall be entered on the
3142 minutes of the board of supervisors in each county, and the
3143 Attorney General shall then distribute the funds in accordance
3144 therewith. However, it shall be the duty of the court hereafter,
3145 in which suit is filed or tried, to make proper distribution of
3146 such funds between said counties.

3147 **SECTION 59.** Section 27-45-21, Mississippi Code of 1972, is
3148 amended as follows:

3149 27-45-21. (1) It shall be the duty of the chancery clerk,
3150 within thirty (30) days after the period of redemption has
3151 expired, to certify to the Secretary of State a list, on forms
3152 provided by the Secretary of State, of all lands struck off to the
3153 state for taxes, which have not been redeemed. The list shall



3154 show a description of the land, all costs, officer's and printer's
3155 fees, the tax for which it sold, segregated as to state, county,
3156 levee and drainage districts, and of all taxes due on the lands
3157 for the year in which it was struck off to the state, segregated
3158 as to state, county, levee and drainage districts, a total of two
3159 (2) years' taxes listed separately (the taxes for which it sold
3160 and accrued taxes for one (1) year). If any chancery clerk shall
3161 fail or neglect to transmit such lists within the time specified,
3162 he shall be liable to the state on his official bond in the
3163 penalty of Fifty Dollars (\$50.00) for each day that he is in
3164 default. The penalty to be collected by the Department of
3165 Revenue, or by the Attorney General, in a suit instituted for that
3166 purpose, subject to the provisions of Sections 1 and 2 of this
3167 act, and upon request of the Secretary of State; provided that the
3168 Secretary of State, if so requested by any chancery clerk before
3169 the expiration of ten (10) days and for good cause shown, may
3170 grant a reasonable extension of the time within which the clerk
3171 shall transmit his list.

3172 (2) The Secretary of State may provide the forms described
3173 in subsection (1) of this section for certifying lands struck off
3174 to the state for taxes to the chancery clerk as an electronic
3175 record. The chancery clerk may certify the list of all lands
3176 struck off to the state by completing and submitting the form
3177 containing the electronic signature of the chancery clerk to the
3178 Secretary of State. An electronic record of the list submitted by



3179 the chancery clerk to the Secretary of State in the prescribed
3180 form and containing the electronic signature of the chancery clerk
3181 shall vest good title in the State of Mississippi to all lands
3182 listed in the form.

3183 **SECTION 60.** Section 27-65-81, Mississippi Code of 1972, is
3184 amended as follows:

3185 27-65-81. (1) Applications, returns and information
3186 contained therein filed or furnished under this chapter shall be
3187 confidential, and except in accordance with proper judicial order,
3188 or as otherwise authorized by this section or as authorized by
3189 Section 27-4-3, it shall be unlawful for the Commissioner of
3190 Revenue or any deputy, agent, clerk or other officer or employee
3191 of the Department of Revenue or Department of Information
3192 Technology Services, or any former employee thereof, to divulge or
3193 make known in any manner the amount of income or any particulars
3194 set forth or disclosed on any application, report or return
3195 required.

3196 The term "proper judicial order" as used in this section
3197 shall not include subpoenas or subpoenas duces tecum but shall
3198 include only those orders entered by a court of record in this
3199 state after furnishing notice and a hearing to the taxpayer and
3200 the Department of Revenue. The court shall not authorize the
3201 furnishing of such information unless it is satisfied that the
3202 information is needed to pursue pending litigation wherein the
3203 return itself is in issue, or the judge is satisfied that the need



3204 for furnishing the information outweighs the rights of the
3205 taxpayer to have such information secreted.

3206 (2) Such information contained on the application, returns
3207 or reports may be furnished to:

3208 (a) Members and employees of the Department of Revenue
3209 and the income tax department thereof, for the purpose of
3210 checking, comparing and correcting returns;

3211 (b) The Attorney General, or any other attorney
3212 representing the state in any action in respect to the amount of
3213 tax under the provisions of this chapter, subject to the
3214 provisions of Sections 1 and 2 of this act;

3215 (c) The revenue department of other states or the
3216 federal government when said states or federal government grants a
3217 like comity to Mississippi.

3218 (3) The State Auditor and the employees of his office shall
3219 have the right to examine only such tax returns as are necessary
3220 for auditing the Department of Revenue, and the same prohibitions
3221 against disclosure which apply to the Department of Revenue shall
3222 apply to the State Auditor and his office.

3223 (4) Officers and employees of the Mississippi Development
3224 Authority who execute a confidentiality agreement with the
3225 Department of Revenue shall be authorized to discuss and examine
3226 information to which this section applies at the offices of the
3227 Mississippi Department of Revenue. This disclosure is limited to
3228 information necessary to properly administer the programs under



3229 the jurisdiction of the Mississippi Development Authority. The
3230 Department of Revenue is authorized to disclose to officers and
3231 employees of the Mississippi Development Authority who execute a
3232 confidentiality agreement the information necessary under the
3233 circumstances. The same prohibitions against disclosure which
3234 apply to the Department of Revenue shall apply to the officers or
3235 employees of the Mississippi Development Authority.

3236 (5) Information required by the University Research Center
3237 to prepare the analyses required by Sections 57-13-101 through
3238 57-13-109 shall be furnished to the University Research Center
3239 upon request. It shall be unlawful for any officer or employee of
3240 the University Research Center to divulge or make known in any
3241 manner the amount of income or any particulars set forth or
3242 disclosed in any information received by the center from the
3243 Department of Revenue other than as may be required by Sections
3244 57-13-101 through 57-13-109 in an analysis prepared pursuant to
3245 Sections 57-13-101 through 57-13-109.

3246 (6) Information required by the Mississippi Development
3247 Authority to prepare the reports required by Section 57-1-12.2
3248 shall be furnished to the Mississippi Development Authority upon
3249 request. It shall be unlawful for any officer or employee of the
3250 Mississippi Development Authority to divulge or make known in any
3251 manner the amount of income or any particulars set forth or
3252 disclosed in any information received by the Mississippi
3253 Development Authority from the Department of Revenue other than as



3254 may be required by Section 57-1-12.2 in a report prepared pursuant
3255 to Section 57-1-12.2.

3256 (7) Nothing in this section shall prohibit the Commissioner
3257 of Revenue from making available information necessary to recover
3258 taxes owing the state pursuant to the authority granted in Section
3259 27-75-16.

3260 (8) The Department of Revenue is authorized to disclose to
3261 the Child Support Unit and to the Fraud Investigation Unit of the
3262 Department of Human Services without the need for a subpoena or
3263 proper judicial order the name, address, social security number,
3264 amount of income, amount of sales tax, source of income, assets
3265 and other relevant information, records and tax forms for
3266 individuals who are delinquent in the payment of any child support
3267 as defined in Section 93-11-101 or who are under investigation for
3268 fraud or abuse of any state or federal program or statute as
3269 provided in Section 43-1-23.

3270 **SECTION 61.** Section 27-73-1, Mississippi Code of 1972, is
3271 brought forward as follows:

3272 27-73-1. (1) If any person, firm or corporation has paid,
3273 or shall hereafter pay to the Auditor of Public Accounts or the
3274 Commissioner of Insurance, through error or otherwise, whether
3275 paid under protest or not, any ad valorem, privilege or excise tax
3276 for which the person, firm or corporation was not liable, or if
3277 any such taxpayer has paid any tax in excess of the sum properly
3278 due and such erroneous payment or overpayment has been paid into



3279 the proper treasury, the taxpayer shall be entitled to a refund of
3280 the taxes so erroneously paid. Taxes erroneously paid within the
3281 meaning of this section shall include double payment, or
3282 overpayment, or payment on state, United States, vacant and exempt
3283 land, and the purchase price paid for the redemption of lands
3284 erroneously sold for taxes.

3285 Claims for refund under the provisions of this section shall
3286 be filed with the Auditor of Public Accounts and shall be
3287 supported by proper documents showing the overpayment or erroneous
3288 payment for which claim is made. The auditor is hereby authorized
3289 and required to make a careful investigation and audit of all such
3290 claims and if he shall find that the taxes or monies covered by
3291 the claim have been erroneously paid into the treasury of the
3292 state, county, drainage or levee districts, he shall distribute
3293 the claim against each separate fund in proportion to the amount
3294 paid over to such fund in each case, and submit the audited claim
3295 with the voucher and evidence upon which the claim is based, to
3296 the Attorney General for his approval. The Attorney General shall
3297 have plenary power to require the claimant or the officer who
3298 collected the tax to furnish any additional documents or
3299 information as may in his opinion be necessary or proper to enable
3300 him to determine the merits of the claim.

3301 If the Attorney General shall be of the opinion that the
3302 claim is in proper form and complies with the requirements of this
3303 section, he shall approve the claim and return it to the Auditor



3304 of Public Accounts, who shall thereupon file in his office the
3305 audited claim, together with the Attorney General's approval and
3306 all other documents relating to the claim, as a voucher, and issue
3307 his warrant on the State Treasurer in favor of the claimant for
3308 the amount of purchase money or taxes erroneously paid into the
3309 State Treasury. The auditor shall then certify to the clerk of
3310 the board of supervisors, the secretary of the drainage district
3311 board, or the secretary of the levee board, as the case may be,
3312 the amount, if any, found to be due to the claimant by the county,
3313 drainage district or levee district. Upon receipt of the
3314 certificate, the board of supervisors, or the commissioners of the
3315 drainage district or of the levee district, shall cause a warrant
3316 to be issued on the treasurer of the county or drainage or levee
3317 district, as the case may be, in favor of the claimant for the
3318 amount erroneously paid into their respective treasuries.

3319 If the Attorney General shall disapprove the claim, he shall
3320 return it to the Auditor of Public Accounts accompanied by his
3321 opinion which shall show the reason for his disapproval, whereupon
3322 the auditor shall promptly notify the claimant of the disapproval.
3323 A claimant taxpayer being aggrieved at the disapproval may, within
3324 six (6) months from the date thereof, file in the chancery court
3325 his petition for appeal and review. All petitions for appeal and
3326 review shall be filed in the chancery court of the county in which
3327 the money for which refund is claimed was originally paid, and
3328 shall be accompanied by a bond in the sum of Five Hundred Dollars



3329 (\$500.00) conditioned to pay all costs which may accrue in the
3330 case, which bond shall be approved by the clerk of the court.
3331 Upon the approval of the bond, the chancery clerk shall give the
3332 Attorney General and the Auditor of Public Accounts notice, as
3333 required by law, of the filing of the petition. It shall be the
3334 duty of the auditor to promptly transmit to the court in which the
3335 appeal is pending a certified copy of the entire record of the
3336 claim as shown by the files in his office, which record shall be
3337 docketed by the clerk in the cause, and the controversy shall be
3338 tried by the court on such record. It shall be the duty of the
3339 Attorney General to defend on behalf of the state, and he may
3340 request the district attorney, county attorney or attorney for the
3341 drainage or levee district, as the case may be, to defend on
3342 behalf of the county, drainage or levee district. If the claimant
3343 taxpayer shall prevail, judgment shall be entered requiring the
3344 payment of the claim in like manner as if it had been duly
3345 approved by the Attorney General. If, however, the action of the
3346 Attorney General in disapproving the claim shall be affirmed by
3347 the court, judgment shall be entered against the appealing
3348 taxpayer for the costs of the proceedings.

3349 Nothing in this section shall be so construed as to authorize
3350 the recovery or repayment of any tax heretofore levied and
3351 collected by any special road district, drainage district, or
3352 separate school district, on account of, or upon the ground that
3353 the law authorizing such tax was unconstitutional, whether the



unconstitutionality of such tax be based upon the creation or mode of operation of any special road district, drainage district or separate school district. Provided further, that nothing in this section shall be construed as authorizing the refunding of state taxes paid into the State Treasury through error, or otherwise, or satisfying a judgment or decree against the state except through an appropriation therefor by the Legislature.

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

SECTION 62. Section 27-75-13, Mississippi Code of 1972, is amended as follows:

27-75-13. The Attorney General of the State of Mississippi, or the officer authorized by the law of the State of Mississippi to collect the tax owing to the State of Mississippi, or its political subdivisions, is hereby empowered in his official capacity to bring and prosecute to final judgment or decree suits in the courts of other states or territories of the United States and the District of Columbia in the name of the State of Mississippi, or its political subdivisions, to recover any taxes, as defined in this chapter, and which includes penalties and interest, which are now or may hereafter be owing to the State of Mississippi, or its political subdivisions, subject to the



3379 provisions of Sections 1 and 2 of this act, and to take such other
3380 proceedings as authorized by the laws of the state where the suit
3381 is brought to collect or enforce any judgment or decree rendered
3382 therein. The officer bringing such suit is authorized to pay any
3383 court costs or court fees which may be incurred in such suit and
3384 required to be paid by the laws of the state, territory or
3385 District of Columbia wherein the action is brought, and such court
3386 costs or fees may be paid out of the fund appropriated for the
3387 operation of the office of such officer bringing said suit, and
3388 any political subdivision of the state may allow or appropriate
3389 funds necessary to pay such costs.

3390 **SECTION 63.** Section 27-75-15, Mississippi Code of 1972, is
3391 amended as follows:

3392 27-75-15. The Attorney General or the officer authorized by
3393 the law of the State of Mississippi to collect any tax owing to
3394 the State of Mississippi or its political subdivisions, is hereby
3395 authorized to employ attorneys residing in a sister state,
3396 district or territory, where suits are instituted to recover taxes
3397 due the State of Mississippi, pursuant to this chapter, to aid and
3398 assist in the prosecution of any such suit, when it appears to be
3399 in the best interest of the State of Mississippi, subject to the
3400 provisions of Sections 1 and 2 of this act. It is further
3401 provided that such attorney fees may, within the discretion of the
3402 designated officers, be set on a fixed or contingent fee basis.
3403 The fixed fee shall be paid out of the fund appropriated for the



3404 operation of the office of such officer bringing suit, and the
3405 contingent fee shall be deducted from and paid out of the proceeds
3406 of the particular claim, subject, however, to the approval of the
3407 Governor as to the employment and amount of such fee in either
3408 instance.

3409 **SECTION 64.** Section 27-77-15, Mississippi Code of 1972, is
3410 brought forward as follows:

3411 27-77-15. (1) Except as otherwise provided in this section,
3412 it shall be unlawful for the executive director, the Board of Tax
3413 Appeals, the commissioner, the agency, or an officer, agent or
3414 employee of the agency or the Board of Tax Appeals, to divulge or
3415 make known in any manner the information contained in the files,
3416 records and orders of the agency, a hearing officer of the agency,
3417 the board of review or the Board of Tax Appeals in regard to an
3418 appeal to a hearing officer, the board of review or the Board of
3419 Tax Appeals under this chapter.

3420 (2) For purposes of this section, the term "appellant" means
3421 the taxpayer, IFTA licensee, IRP registrant, permittee, tag holder
3422 or title interest holder who filed the appeal to the board of
3423 review or the Board of Tax Appeals under this chapter which
3424 resulted in the files, records and orders of that appeal.

3425 (3) The executive director, the Board of Tax Appeals, the
3426 commissioner, the agency, hearing officer or an agent or employee
3427 of the agency or the Board of Tax Appeals is permitted to divulge
3428 and make known information otherwise prohibited from disclosure



3429 under subsection (1) of this section in any of the following
3430 circumstances:

3431 (a) Where the information is being disclosed as a
3432 result of complying with the provisions of this chapter and/or
3433 with regulations promulgated to enforce the provisions of this
3434 chapter.

3435 (b) Where the information is being provided to the
3436 appellant or his designated representative.

3437 (c) Where the information is being disclosed to
3438 employees or officers of the agency.

3439 (d) Where the information is being provided or
3440 disclosed pursuant to a written authorization executed by the
3441 appellant as prescribed by regulation.

3442 (e) Where the information is being provided or
3443 disclosed in the course of a court action in which the agency, the
3444 Board of Tax Appeals, the commissioner, an officer or employee of
3445 the agency or the Board of Tax Appeals and the appellant are
3446 parties, including, but not limited to, an action brought under
3447 this chapter or in the course of the bankruptcy case of the
3448 appellant.

3449 (f) Where the information is being provided to the
3450 Internal Revenue Service or a taxing authority of another state
3451 under an information exchange agreement where similar information
3452 can be obtained by the agency from the Internal Revenue Service or
3453 state taxing authority receiving the information.



3454 (g) Where the information is being provided pursuant to
3455 the International Registration Plan (IRP) or the International
3456 Fuel Tax Agreement (IFTA) or any regulations, rules or procedures
3457 adopted under such plan or agreement.

3458 (h) Where the disclosure of information is authorized
3459 under Section 27-19-123, 27-55-49, 27-55-557, 27-57-39, 27-59-53
3460 or 27-61-20.

3461 (i) Where the information is being provided to the
3462 State Auditor or his employees in the course of his audit of the
3463 agency; however, the prohibitions against disclosure which apply
3464 to the agency shall also apply to the State Auditor and his
3465 employees or former employees.

3466 (j) Where the information is being provided to the
3467 Attorney General or any other attorney representing the state or
3468 the agency in an action brought by the appellant to set aside the
3469 tax, in an action brought by the state or agency to recover the
3470 tax imposed, or in an action where the appellant is being
3471 prosecuted for a crime under the tax laws of this state.

3472 (k) Where the information is being provided by the
3473 commissioner to a contractor of collection services pursuant to
3474 the authority granted the commissioner in Section 27-75-16.

3475 (l) Where the information is being provided in
3476 accordance with a proper judicial order. The term "proper
3477 judicial order" as used in this paragraph shall not include
3478 subpoenas or subpoenas duces tecum, but shall include only those



3479 orders entered by a court of record in this state after furnishing
3480 notice and a hearing to the appellant and the Department of
3481 Revenue. The court shall not authorize the furnishing of such
3482 information unless it is satisfied that the information is needed
3483 to pursue pending litigation in which the information itself is in
3484 issue, or the judge is satisfied that the need for furnishing the
3485 information outweighs the rights of the appellant to have such
3486 information secreted.

3487 (4) Nothing in subsection (1) of this section shall prohibit
3488 the inspection or disclosure of the minutes of the Board of Tax
3489 Appeals except to the extent that such minutes reflect the
3490 specific amount of a tax assessment or refund claim or the
3491 specific amount of tax or refund claim determined by the Board of
3492 Tax Appeals to be due.

3493 (5) Information that is prohibited from being disclosed in
3494 subsection (1) of this section shall be exempt from the provisions
3495 of the Mississippi Public Records Act of 1983.

3496 (6) Due to the need to discuss confidential tax information,
3497 the hearings before a hearing officer, the board of review and the
3498 Board of Tax Appeals under this chapter, and the meetings in which
3499 the board of review and the Board of Tax Appeals deliberate and
3500 vote on the issues raised at such hearings shall be exempt from
3501 the provisions of Section 25-41-1 et seq.

3502 **SECTION 65.** Section 27-104-29, Mississippi Code of 1972, is
3503 amended as follows:



3504 27-104-29. (1) The Legislative Budget Office or the State
3505 Fiscal Officer may request and the Attorney General is authorized,
3506 upon receipt of such request, to bring an injunctive action
3507 against any special-fund agency failing to comply with the terms
3508 of Sections 27-103-101 through 27-103-139 and 27-104-1 through
3509 27-104-29, subject to the provisions of Sections 1 and 2 of this
3510 act.

3511 (2) Such injunctive action by the Attorney General may be
3512 either a mandatory injunction to force the filing of the required
3513 budget or a prohibitory injunction to prevent the special-fund
3514 agency from engaging in further business or other activities until
3515 such time as the terms of Sections 27-103-101 through 27-103-139
3516 and 27-104-1 through 27-104-29 have been complied with.

3517 **SECTION 66.** Section 27-105-25, Mississippi Code of 1972, is
3518 amended as follows:

3519 27-105-25. (1) In the event of the failure of any public
3520 funds depository to pay any check lawfully issued by the State of
3521 Mississippi or any agency or department of the state or any
3522 county, municipality or other governmental unit on any funds on
3523 deposit belonging to the State of Mississippi or any agency or
3524 department of the state or any county, municipality or other
3525 governmental unit in the depository, the State Treasurer is
3526 empowered to sell such securities as are placed with him by the
3527 depository, or so much of them as is necessary to cover back into
3528 the Treasury of the State of Mississippi or any agency or



3529 department of the state or any county, municipality or other
3530 governmental unit the amount of state funds on deposit with the
3531 depository with accrued interest thereon in excess of applicable
3532 deposit insurance, and the sale of the securities shall be made by
3533 the State Treasurer at the best price that he can obtain at either
3534 public or private sale, and in the event of the failure of the
3535 depository to pay any check when the depository has placed as
3536 security surety bonds, the Treasurer shall notify the Attorney
3537 General and that officer shall take such immediate action as he
3538 may deem most expedient for covering back into the Treasury of the
3539 State of Mississippi or any agency or department of the state or
3540 any county, municipality or other governmental unit all state
3541 money on deposit in the depository, subject to the provisions of
3542 Sections 1 and 2 of this act. In addition, the Attorney General
3543 is authorized to employ counsel, if necessary, to more speedily
3544 enforce the payment and expense of that collection, including
3545 counsel fees, to be charged against the depository, and, in
3546 addition thereto, the depository will be liable for damages at the
3547 rate of one percent (1%) per month for any delay in paying over
3548 any state funds when demanded, and the bond of any depository
3549 shall be liable for those expenses and damages.

3550 (2) If the loss to the State of Mississippi or any agency or
3551 department of the state or any county, municipality or other
3552 governmental unit (hereinafter "public depositors") of the
3553 depository that is also a public funds guaranty pool member is not



3554 covered by deposit insurance or the proceeds of the sale of
3555 securities, the State Treasurer shall provide coverage of the
3556 remaining loss by assessment against the other public funds
3557 guaranty pool members. The assessment shall be determined by
3558 multiplying the total amount of the loss to all public depositors
3559 by a percentage that represents the share of public fund deposits
3560 held by the depository divided by the total public deposits held
3561 by all public funds guaranty pool members, excluding the public
3562 deposits of the defaulting depository, as determined by the State
3563 Treasurer from the average of the six (6) most recent month-end
3564 reports of the public funds guaranty pool members provided under
3565 Section 27-105-6. Each public funds guaranty pool member shall
3566 pay its assessment to the State Treasurer within seven (7)
3567 business days after it receives notice of the assessment. If a
3568 public funds guaranty pool member fails to pay its assessment when
3569 due, the State Treasurer shall satisfy the assessment by selling
3570 securities pledged by any depository failing to pay the
3571 assessment.

3572 (3) The State Treasurer shall distribute the funds to the
3573 public depositors of the public funds depository in default
3574 according to their validated claims.

3575 (4) Public depositors receiving payment under the provisions
3576 of this section shall assign to the State Treasurer any interest
3577 they may have in funds that may subsequently be made available to
3578 the depository in default, if the depository in default or its



3579 receiver provides funds to the State Treasurer, the State
3580 Treasurer shall distribute the funds, plus all accrued interest
3581 that has accumulated from the investment of the funds, if any, to
3582 the public funds guaranty pool members that paid assessments on
3583 the same pro rata basis as the assessments were paid.

3584 **SECTION 67.** Section 29-1-7, Mississippi Code of 1972, is
3585 brought forward as follows:

3586 29-1-7. The Land Commissioner may prosecute suits in the
3587 name of the state, concerning the public lands, through the
3588 Attorney General, subject to the provisions of Sections 1 and 2 of
3589 this act, a district attorney, or some attorney at law employed by
3590 him for that purpose, with the consent of the Governor.

3591 **SECTION 68.** Section 29-1-137, Mississippi Code of 1972, is
3592 amended as follows:

3593 29-1-137. The Attorney General of the state shall act as
3594 attorney for the commission and shall advise it as to all
3595 questions arising in connection with the administration of
3596 Sections 29-1-125 through 29-1-143, and as to all matters in
3597 controversy. He shall represent the commission in any and all
3598 suits at law or equity arising from the administration of said
3599 sections, and shall bring suit for the collection of any sum due
3600 the state on behalf of the commission, as the agent of the state,
3601 in all cases which he believes the conditions warrant suit,
3602 subject to the provisions of Sections 1 and 2 of this act. He
3603 may, if deemed advisable, sue in his own name as the chief law



3604 officer of the state. He shall represent the commission in all
3605 cases involving the title of lands in question, and on any and all
3606 other matters arising from the administration of the cited
3607 sections.

3608 The Attorney General may request and direct any district
3609 attorney to aid in the trial of any suit in the district which he
3610 serves and, when so requested, the district attorney shall assist
3611 in the conduct and trial of any suit in his district; but the
3612 Attorney General shall prepare all bills, declarations, and
3613 pleadings.

3614 **SECTION 69.** Section 29-3-9, Mississippi Code of 1972, is
3615 amended as follows:

3616 29-3-9. In all cases where this chapter has not been
3617 complied with, the official involved shall forthwith comply with
3618 same. It shall be the duty of the state land commissioner to
3619 ascertain whether or not said statutes have been complied with.
3620 If said state land commissioner shall find that said statutes have
3621 not been complied with in any case, he shall call the same to the
3622 attention of the board of education involved. If any board of
3623 education shall fail or refuse to comply with the mandate of this
3624 section, then the action of mandamus shall lie to compel such
3625 compliance, and such action may be brought either by the Attorney
3626 General, subject to the provisions of Sections 1 and 2 of this
3627 act, or any resident citizen of the State of Mississippi on the
3628 relation of the Attorney General. If the state land commissioner



3629 shall find that any board of education is failing to take the
3630 necessary steps to effectively comply with said statutes in any
3631 case, he shall so certify to the Attorney General. It shall
3632 thereupon be the duty of the Attorney General to institute an
3633 action for issuance of a writ of mandamus as hereinabove provided,
3634 and to such end he is hereby authorized and empowered to employ
3635 competent local counsel to assist him in the prosecution of the
3636 same. It shall also be the duty of the state land commissioner in
3637 conjunction with the Attorney General, to submit a special report
3638 in writing to the next regular session of the Legislature, which
3639 said report shall set forth any instances of noncompliance with
3640 said chapter and the steps which have been taken to secure
3641 compliance with same.

3642 **SECTION 70.** Section 31-7-127, Mississippi Code of 1972, is
3643 amended as follows:

3644 31-7-127. In order to ensure the proper enforcement of
3645 Sections 31-7-101 through 31-7-127, as well as to ensure the
3646 enforcement of all other laws pertaining to county government or
3647 the board of supervisors, the district attorney, in addition to
3648 any other powers he already has, shall have the power to
3649 investigate the personnel, records or supervisors of any county in
3650 his district and shall have the power to bring criminal or civil
3651 actions to recover funds illegally spent, to recover damages, or
3652 to seek injunctive relief to prevent unlawful acts or compel
3653 lawful ones by supervisors or other personnel of county



government. In the event of a refusal or failure of the district attorney to act, the Attorney General in a proper case may exercise the above powers of the district attorney, notwithstanding the absence of a request for investigation or action by the district attorney, subject to the provisions of Sections 1 and 2 of this act.

SECTION 71. Section 31-17-59, Mississippi Code of 1972, is amended as follows:

31-17-59. It shall be the duty of the Auditor and the State Treasurer, within sixty (60) days after the close of each fiscal year, to check the records in their offices and ascertain definitely the amount of bonds and interest coupons which have matured more than twelve (12) months before the close of the last fiscal year and which have not been paid; and if it shall appear that funds for the payment of such bonds and coupons have been forwarded to the paying agent and have not been used for the purpose of paying such bonds and coupons, it shall be the duty of the State Treasurer to make demand upon the paying agent for the repayment of said funds into the state treasury within thirty (30) days from the date of such demand.

In like manner, it shall be the duty of the clerk of the board of supervisors of each county and of the municipal clerk of each municipality, within sixty (60) days after the close of each fiscal year, to check the bond register and other records in his office and ascertain definitely the amount of bonds and interest



3679 coupons of the county, any taxing district, or of the
3680 municipality, as the case may be, which have matured more than
3681 twelve (12) months before the close of the last fiscal year and
3682 which have not been paid; and if it shall appear that funds for
3683 the payment of such bonds and coupons have been forwarded to the
3684 paying agent and have not been used for the purpose of paying such
3685 bonds and coupons, it shall be the duty of the clerk of the board
3686 of supervisors, or the municipal clerk, as the case may be, to
3687 make demand upon the paying agent for the repayment of said funds
3688 into the county depository or municipal depository, as the case
3689 may be, within thirty (30) days from the date of such demand.

3690 In the event such paying agent shall fail to refund into the
3691 state treasury, the county depository, or municipal depository, as
3692 the case may be, such unexpended balance or balances as provided
3693 for in Sections 31-17-57 and 31-17-59, it shall be the duty of the
3694 Attorney General on behalf of the state subject to the provisions
3695 of Sections 1 and 2 of this act, or the board of supervisors or
3696 municipal authorities on behalf of the county or municipality, as
3697 the case may be, to cause suit to be instituted for the recovery
3698 of such funds.

3699 **SECTION 72.** Section 31-19-25, Mississippi Code of 1972, is
3700 amended as follows:

3701 31-19-25. All bonds issued pursuant to any laws of this
3702 state and hereafter sold by the governing authority of or on
3703 behalf of any county, road district, school district, drainage



3704 district or other political subdivision or instrumentality of this
3705 state shall be advertised for sale on sealed bids or at public
3706 auction. Such advertisement shall be published at least two (2)
3707 times in a newspaper published in the county in which the
3708 political subdivision or instrumentality is situated, and if no
3709 newspaper is published in such county, then in a newspaper
3710 published in an adjoining county; with respect to a political
3711 subdivision or instrumentality which is composed of more than one
3712 (1) county, such advertisement shall be published at least two (2)
3713 times in a newspaper having a general circulation in each county
3714 all or a portion of which is part of the political subdivision or
3715 instrumentality. The first publication in each case shall be made
3716 at least ten (10) days preceding the date fixed for the reception
3717 of bids, and such notice shall give the time and place of sale.

3718 The governing authority may reject any and all bids, whether
3719 so stated in the notice of sale or not. If the bonds are not sold
3720 pursuant to such advertisement, they may be sold by the governing
3721 authority by private sale at any time within sixty (60) days after
3722 the date advertised for the reception of bids; but no such private
3723 sale shall be made at a price less than the highest bid which
3724 shall have been received pursuant to such advertisement. If not
3725 so sold at private sale, said bonds shall be readvertised in the
3726 manner herein prescribed.

3727 Every bid for the purchase of any of such bonds shall be
3728 accompanied by a cashier's check, certified check or exchange,



3729 payable to the proper governing authority, issued or certified by
3730 a bank located in this state in the amount of not less than two
3731 percent (2%) of the par value of the bonds offered for sale, as a
3732 guaranty that the bidder will carry out his contract and purchase
3733 the bonds if the bid is accepted. If the successful bidder fails
3734 to purchase the bonds pursuant to his bid and contract, the amount
3735 of such good faith check shall be retained by the governing
3736 authority and covered into the proper fund as liquidated damages
3737 for such failure.

3738 This section shall not apply to the sale of bonds by the
3739 State of Mississippi through the State Bond Commission or the sale
3740 of bonds or any other indebtedness incurred by a county in
3741 connection with a project as defined under Section
3742 57-75-5(f)(xxviii) or Section 57-75-5(f)(xxix).

3743 A failure to comply with any provision of this section shall
3744 not invalidate such bonds, but any member of the governing board,
3745 commission or other governing authority who shall willfully
3746 violate any of said provisions and shall willfully fail to give
3747 the notices herein required shall be liable personally and on his
3748 official bond for a penalty in each case of Five Hundred Dollars
3749 (\$500.00) and, in addition thereto, for all financial loss that
3750 may result to the county, municipality, road district, school
3751 district, drainage district or other political subdivision or
3752 instrumentality of the state or county resulting from such willful
3753 failure to comply herewith. Such penalty and damages may be



recovered by suit of the Attorney General, subject to the provisions of Sections 1 and 2 of this act, a district attorney or of any citizen of such county or other political subdivision in any court of competent jurisdiction, for the use and benefit of the county or other such political subdivision or instrumentality.

SECTION 73. Section 37-37-21, Mississippi Code of 1972, is amended as follows:

37-37-21. When, as a result of any audits performed under the terms of this chapter, the State Auditor has reason to believe that any false or erroneous report or violation of law presents ample evidence therefor, he shall report the same to the Attorney General. The Attorney General shall thereupon institute suit in the name of the State of Mississippi and prosecute to a conclusion such actions as may be necessary to make recovery from any and all persons civilly liable, subject to the provisions of Sections 1 and 2 of this act. The Attorney General shall also refer the matter to the proper district attorney for the institution of any appropriate criminal proceedings. Any funds recovered by such suits shall be paid into the appropriate school district fund in accordance with the loss such fund or funds may have sustained.

SECTION 74. Section 37-41-25, Mississippi Code of 1972, is amended as follows:

37-41-25. Any superintendent of schools, member of the school board, superintendent, principal or carrier, or bus driver, who shall knowingly make any false report, list or record, or who



3779 shall knowingly make use of any false report, list or record
3780 concerning the number of school children being transported or
3781 entitled to be transported in any county or school district shall
3782 be guilty of a misdemeanor and upon conviction shall be punished
3783 by imprisonment in the county jail for a period not to exceed
3784 sixty (60) days, or by a fine of not less than One Hundred Dollars
3785 (\$100.00) nor more than Three Hundred Dollars (\$300.00), or by
3786 both such fine and imprisonment, in the discretion of the court.
3787 In addition, any such person shall be civilly liable for all
3788 amounts of public funds which are illegally, unlawfully or
3789 wrongfully expended or paid out by virtue of or pursuant to such
3790 false report, list or record, and upon conviction or adjudication
3791 of civil liability hereunder such person shall forfeit his license
3792 to teach for a period of three (3) years, if such person is the
3793 holder of such a license. Any suit to recover such funds
3794 illegally, unlawfully, or wrongfully expended or paid out may be
3795 brought in the name of the State of Mississippi by the Attorney
3796 General or the proper district attorney or county attorney,
3797 subject to the provisions of Sections 1 and 2 of this act. In the
3798 event such suit be brought against a person who is under bond, the
3799 sureties upon such bond shall likewise be liable for such amount
3800 illegally, unlawfully or wrongfully expended or paid out.

3801 **SECTION 75.** Section 37-43-45, Mississippi Code of 1972, is
3802 amended as follows:



3803 37-43-45. Any loss occasioned by the neglect, carelessness
3804 or failure of duty by the county superintendent or any principal
3805 or teacher in charge of any school, shall entitle the state to
3806 bring suit for the recovery of the amount of the loss or losses
3807 occasioned thereby.

3808 Any writ or suit of any nature instituted under the
3809 provisions of this chapter shall be brought in the name of the
3810 State of Mississippi by the Attorney General subject to the
3811 provisions of Sections 1 and 2 of this act. Any money or * * *
3812 monies recovered by such suit shall be placed to the credit of the
3813 State Textbook Fund.

3814 **SECTION 76.** Section 37-51-17, Mississippi Code of 1972, is
3815 amended as follows:

3816 37-51-17. Each applicant, if an adult, or his parent or
3817 legal guardian in his behalf, if a minor, before being granted a
3818 loan shall enter into a contract with the State of Mississippi
3819 agreeing to the terms and conditions upon which the loan shall be
3820 made. Said contract shall include such terms and conditions as
3821 are necessary to carry out the full purpose and intent of this
3822 chapter. The form of said contract shall be prepared and approved
3823 by the Attorney General of this state, and said contract shall be
3824 signed by the executive secretary of the commission.

3825 The commission is hereby vested with full and complete
3826 authority to sue in its own name any applicant for any balance due
3827 the state on any such contract. Such suit shall be filed and



3828 conducted by the Attorney General of the State of Mississippi,
3829 subject to the provisions of Sections 1 and 2 of this act, or by
3830 private counsel, which the commission is hereby authorized to
3831 employ for such purpose.

3832 **SECTION 77.** Section 37-101-241, Mississippi Code of 1972, is
3833 amended as follows:

3834 37-101-241. (1) There is hereby created the Commission on
3835 College Accreditation. Said commission shall be composed of the
3836 Executive Director of the Mississippi Community College Board, the
3837 Commissioner of Higher Education, or their designees, and three
3838 (3) additional members, one (1) of whom shall be selected by the
3839 foregoing two (2) members and who shall represent the private
3840 colleges within the state, and two (2) of whom shall be selected
3841 by the Mississippi Association of Colleges. The latter three (3)
3842 members shall each serve for a term of three (3) years.

3843 (2) The commission shall meet and organize by electing from
3844 among its membership a chairman, a vice chairman and a secretary.
3845 The commission shall keep full and complete minutes and records of
3846 all its proceedings and actions.

3847 (3) The commission shall have the power and authority, and
3848 it shall be its duty, to prepare an approved list of community,
3849 junior and senior colleges and universities or other entities
3850 which offer one or more postsecondary academic degrees and are
3851 domiciled, incorporated or otherwise located in the State of
3852 Mississippi. Postsecondary academic degrees include, but are not



3853 limited to, associate, bachelor, masters and doctorate degrees.
3854 The commission shall adopt standards which are in keeping with the
3855 best educational practices in accreditation and receive reports
3856 from the institutions seeking to be placed on the approved list.

3857 (4) The above-described community, junior and senior
3858 colleges and universities or other entities must be approved
3859 annually by the commission in order to grant diplomas of
3860 graduation, degrees or offer instruction.

3861 (5) The commission shall petition the chancery court of the
3862 county in which a person or agent offers one or more postsecondary
3863 academic degrees subject to the provisions of this chapter or
3864 advertises for the offering of such degrees without having first
3865 obtained approval by the commission, for an order enjoining such
3866 offering or advertising. The court may grant such injunctive
3867 relief upon a showing that the respondent named in the petition is
3868 offering or advertising one or more postsecondary academic degrees
3869 without having obtained prior approval of the commission. The
3870 Attorney General or the district attorney of the district,
3871 including the county in which such action is brought, shall, upon
3872 request of the commission, represent the commission in bringing
3873 any such action, subject to the provisions of Sections 1 and 2 of
3874 this act.

3875 (6) The provisions of subsection (5) shall not apply to
3876 community, junior and senior colleges and universities with the



3877 main campus in Mississippi that were chartered, authorized or
3878 approved by the commission prior to July 1, 1988.

3879 (7) The provisions of this section shall not apply to the
3880 proprietary schools and colleges subject to regulation under
3881 Section 75-60-1 et seq.

3882 (8) The Commission on College Accreditation may promulgate
3883 rules and regulations and establish appropriate fees for the
3884 implementation of this section.

3885 (9) The commission shall have the power and authority, and
3886 it shall be its duty, to execute site visits when deemed necessary
3887 by the commission. The members of the commission and
3888 commission-appointed evaluation teams shall receive reasonable
3889 traveling expenses and other authorized expenses incurred in the
3890 performance of commission duties, together with other expenses of
3891 the operation of the commission. The members of the Commission on
3892 College Accreditation shall serve without salary compensation but
3893 shall receive a per diem and mileage as authorized by law
3894 including time of going to and returning from site visits of said
3895 commission, together with actual travel and hotel expenses
3896 incident to the site visits of the commission, and in the
3897 discharge of duties prescribed by the commission.

3898 **SECTION 78.** Section 37-101-279, Mississippi Code of 1972, is
3899 amended as follows:

3900 37-101-279. (1) If a borrower defaults on an educational
3901 loan or scholarship, the Attorney General of the State of



3902 Mississippi shall bring suit against the defaulting party as soon
3903 as practicable, subject to the provisions of Sections 1 and 2 of
3904 this act.

3905 (2) A suit against a defaulting party under this section may
3906 be brought in the county in which the defaulting person resides,
3907 in which the lender is located, or in any Hinds County court.

3908 **SECTION 79.** Section 37-101-291, Mississippi Code of 1972, is
3909 amended as follows:

3910 37-101-291. (1) In order to help alleviate the problem of
3911 the shortage of health care professionals at the state health
3912 institutions, there is established a program of paid educational
3913 leave for the study of such health care professions as defined in
3914 Section 37-101-285 and licensed practical nursing by any employee
3915 who works at a state health institution and who declares an
3916 intention to work in such respective health care occupation in the
3917 same state health institution in which the employee was working
3918 when granted educational leave, for a minimum period of time after
3919 graduation.

3920 (2) The paid educational leave program shall be administered
3921 by the respective state health institutions.

3922 (3) (a) Within the limits of the funds available to a state
3923 health institution for such purpose, the institution may grant
3924 paid educational leave to those applicants deemed qualified
3925 therefor, upon such terms and conditions as it may impose and as
3926 provided for in this section.



3927 (b) In order to be eligible for paid educational leave,
3928 an applicant must:

3929 (i) Be working at a state health institution at
3930 the time of application;

3931 (ii) Attend any college or school approved and
3932 designated by the state health institution; and

3933 (iii) Agree to work in a health care profession as
3934 defined in Section 37-101-285 or as a licensed practical nurse in
3935 the same state health institution for a period of time equivalent
3936 to the period of time for which the applicant receives paid
3937 educational leave compensation, calculated to the nearest whole
3938 month, but in no event less than two (2) years.

3939 (c) (i) Before being granted paid educational leave,
3940 each applicant shall enter into a contract with the state health
3941 institution, which shall be deemed a contract with the State of
3942 Mississippi, agreeing to the terms and conditions upon which the
3943 paid educational leave shall be granted to him. The contract
3944 shall include such terms and provisions necessary to carry out the
3945 full purpose and intent of this section. The form of such
3946 contract shall be prepared and approved by the Attorney General of
3947 this state, and shall be signed by the executive director of the
3948 respective state health institution and the recipient. If the
3949 recipient is a minor, his minority disabilities shall be removed
3950 by a chancery court of competent jurisdiction before the contract
3951 is signed.



3952 (ii) The state health institution shall have the
3953 authority to cancel any contract made between it and any recipient
3954 for paid educational leave upon such cause being deemed sufficient
3955 by the executive director of such institution.

3956 (iii) The state health institution is vested with
3957 full and complete authority and power to sue in its own name any
3958 recipient for any balance due the state on any such uncompleted
3959 contract, which suit shall be filed and handled by the Attorney
3960 General of the state, subject to the provisions of Sections 1 and
3961 2 of this act. The state health institution may contract with a
3962 collection agency or banking institution, subject to approval by
3963 the Attorney General, for collection of any balance due the state
3964 from any recipient. The State of Mississippi, agencies of the
3965 state and the state health institution and its employees are
3966 immune from any suit brought in law or equity for actions taken by
3967 the collection agency or banking institution incidental to or
3968 arising from their performance under the contract. The state
3969 health institution, collection agency and banking institution may
3970 negotiate for the payment of a sum that is less than full payment
3971 in order to satisfy any balance the recipient owes the state,
3972 subject to approval by the facility director of the sponsoring
3973 facility within the state health institution.

3974 (iv) Failure to meet the terms of an educational
3975 loan contract shall be grounds for revocation of the professional



3976 license which was earned through the paid educational leave
3977 compensation granted under this section.

3978 (v) A finding by the sponsoring agency of a
3979 default by the recipient shall be a finding of unprofessional
3980 conduct and therefore, a basis for the revocation of the
3981 professional license which was obtained through the educational
3982 leave program. The finding also will be grounds for revocation of
3983 any license, as defined by Section 93-11-153.

3984 (vi) Notice of pending default status shall be
3985 mailed to the recipient at the last known address by the
3986 sponsoring agency.

3987 (vii) The sponsoring agency shall conduct a
3988 hearing of pending default status, make a final determination, and
3989 issue an Order of Default, if appropriate.

3990 (viii) Recipients may appear either personally or
3991 by counsel, or both, and produce and cross-examine witnesses or
3992 evidence in the recipient's behalf. The procedure of the hearing
3993 shall not be bound by the Mississippi Rules of Civil Procedure and
3994 Evidence.

3995 (ix) If a recipient is found to be in default, a
3996 copy of an Order of Default shall be forwarded to the appropriate
3997 licensing agency.

3998 (x) Appeals from a finding of default by the
3999 sponsoring agency shall be to the Circuit Court of Hinds County.

4000 Actions taken by a licensing entity in revoking a license when



required by this section are not actions from which an appeal may be taken under the general licensing and disciplinary provisions applicable to the licensing agency.

(xi) Rules and regulations governing hearing and other applicable matters shall be promulgated by the sponsoring agency.

(xii) A license which has been revoked pursuant to this statute shall be reinstated upon a showing of proof that the recipient is no longer in default.

(xiii) A finding by the sponsoring facility of educational leave default is a disciplinary action, not a collection action, and therefore shall not be affected by the recipient declaring bankruptcy.

(4) (a) Any recipient who is granted paid educational leave by a state health institution shall be compensated by the institution during the time the recipient is in school, at the rate of pay received by a nurse's aide employed at the respective state health institution. All educational leave compensation received by the recipient while in school shall be considered earned conditioned upon the fulfillment of the terms and obligations of the educational leave contract and this section. However, no recipient of full-time educational leave shall accrue personal or major medical leave while the recipient is on paid educational leave. Recipients of paid educational leave shall be responsible for their individual costs of tuition and books.



(b) Paid educational leave shall be granted only upon the following conditions:

(i) The recipient shall fulfill his or her obligation under the contract with the State of Mississippi by working as a professional in a health care profession defined in Section 37-101-285 or as a licensed practical nurse in a state health institution; a recipient sponsored by a health institution under the supervision of the Mississippi Department of Mental Health may fulfill his or her obligation under the contract with the State of Mississippi at another health institution under the supervision of the Mississippi Department of Mental Health with prior written approval of the Director of the Department of Mental Health institution with which he or she originally contracted for educational leave. The total compensation that the recipient was paid while on educational leave shall be considered as unconditionally earned on an annual pro rata basis for each year of service rendered under the educational leave contract as a health care professional in his respective state health institution.

(ii) If the recipient does not work as a professional in a health care profession as defined in Section 37-101-285 or as a licensed practical nurse in his respective state health institution for the period required under subsection (3)(b)(iii) of this section, the recipient shall be liable for repayment on demand of the remaining portion of the compensation



4051 that the recipient was paid while on paid educational leave which
4052 has not been unconditionally earned, with interest accruing at ten
4053 percent (10%) per annum from the recipient's date of graduation or
4054 the date that the recipient last worked at that state health
4055 institution, whichever is the later date. In addition, there
4056 shall be included in any contract for paid educational leave a
4057 provision for liquidated damages equal to Five Thousand Dollars
4058 (\$5,000.00) which may be reduced on a pro rata basis for each year
4059 served under such contract.

4060 (iii) If any recipient fails or withdraws from
4061 school at any time before completing his or her health care
4062 training, the recipient shall be liable for repayment on demand of
4063 the amount of the total compensation that the recipient was paid
4064 while on paid educational leave, with interest accruing at ten
4065 percent (10%) per annum from the date the recipient failed or
4066 withdrew from school. However, the recipient shall not be liable
4067 for liquidated damages, and if the recipient returns to work in
4068 the same position held in the same state health institution prior
4069 to accepting educational leave, the recipient shall not be liable
4070 for payment of any interest on the amount owed.

4071 (iv) The issuance and renewal of the professional
4072 license required to work in a health care profession as defined in
4073 Section 37-101-285 for which the educational leave was granted
4074 shall be contingent upon the repayment of the total compensation
4075 that the recipient received while on paid educational leave. No



license shall be granted until a contract for repayment is executed. No license shall be renewed without proof of an existing contract which is not in default. Failure to meet the terms of an educational loan contract shall be grounds for revocation of the professional license which was earned through the paid educational leave compensation granted under this section. Any person who receives any amount of paid educational leave compensation while in school and subsequently receives a professional license shall be deemed to have earned the professional license through paid educational leave.

(v) The obligations of educational leave recipients under contracts entered into before July 1, 2002, shall remain unchanged. However, state health institutions may use the collection or license revocation provisions of this section to collect money owed under all educational leave contracts, regardless of when those contracts were executed.

SECTION 80. Section 37-101-292, Mississippi Code of 1972, is amended as follows:

37-101-292. (1) Within the limits of the funds available to the Mississippi Transportation Commission for such purpose, the Executive Director of the Mississippi Department of Transportation may pay a stipend to contractual services employees for educational expenses such as tuition, books and related fees to pursue junior or senior undergraduate level year coursework toward a bachelor's degree in civil engineering or graduate level



4101 coursework toward a master's degree in civil engineering to those
4102 applicants deemed qualified. It is the intent of the Legislature
4103 that such an educational program shall be used as a method of
4104 encouraging recruitment of well-qualified civil engineers for
4105 employment with the Mississippi Department of Transportation.

4106 (2) (a) In order to be eligible for this program an
4107 undergraduate participant must:

4108 (i) Have successfully obtained a minimum of
4109 fifty-eight (58) semester hours toward a bachelor of science in
4110 civil engineering from a state institution of higher learning that
4111 has been fully accredited by the Accreditation Board of
4112 Engineering and Technology;

4113 (ii) Have achieved a minimum grade point average
4114 of 2.75 on a 4.0 scale on the previously obtained semester hours
4115 toward a bachelor of science in civil engineering; and

4116 (iii) Agree to work as a civil engineer at the
4117 Mississippi Department of Transportation for a period of time
4118 equivalent to the period of time for which the applicant receives
4119 a stipend for educational expenses calculated to the nearest whole
4120 month.

4121 (b) In order to be eligible for this program a graduate
4122 participant must:

4123 (i) Have obtained a bachelor of science in civil
4124 engineering from a state institution of higher learning that has



4125 been fully accredited by the Accreditation Board of Engineering
4126 and Technology;

4127 (ii) Have met the regular admission standards and
4128 been accepted into a master of science in civil engineering
4129 program at a state institution of higher learning that has been
4130 fully accredited by the Accreditation Board of Engineering and
4131 Technology;

4132 (iii) Have submitted a proposed graduate program
4133 thesis project for review by the Department of Transportation; and

4134 (iv) Agree to work as a civil engineer at the
4135 Mississippi Department of Transportation for a period of time
4136 equivalent to the period of time for which the applicant receives
4137 a stipend for educational expenses calculated to the nearest whole
4138 month.

4139 (3) (a) Each participant shall enter into a contract with
4140 the Mississippi Transportation Commission, which shall be deemed a
4141 contract with the State of Mississippi, agreeing to the terms and
4142 conditions upon which the stipend shall be granted to him. The
4143 contract shall include such terms and provisions necessary to
4144 carry out the full purpose and intent of this section. The form
4145 of such contract shall be prepared and approved by the Attorney
4146 General of this state, and shall be signed by the Executive
4147 Director of the Mississippi Department of Transportation and the
4148 recipient. If the recipient is a minor, his minority disabilities



4149 shall be removed by a chancery court of competent jurisdiction
4150 before the contract is signed.

4151 (b) The Mississippi Transportation Commission may
4152 cancel any contract made between it and any participant upon such
4153 cause being deemed sufficient by the Executive Director.

4154 (c) The Mississippi Transportation Commission is vested
4155 with full and complete authority and power to sue in its own name
4156 any recipient for any balance due the state on any such
4157 uncompleted contract, which suit shall be filed and handled by the
4158 Attorney General of the state, subject to the provisions of
4159 Sections 1 and 2 of this act. The Mississippi Transportation
4160 Commission may contract with a collection agency or banking
4161 institution, subject to approval by the Attorney General, for
4162 collection of any balance due the state from any recipient. The
4163 State of Mississippi, the Mississippi Transportation Commission
4164 and the Mississippi Department of Transportation and its employees
4165 are immune from any suit brought in law or equity for actions
4166 taken by the collection agency or banking institution incidental
4167 to or arising from their performance under the contract. The
4168 Mississippi Transportation Commission may negotiate for the
4169 payment of a sum that is less than full payment in order to
4170 satisfy any balance the recipient owes the state, if necessary or
4171 advisable.



4172 (d) Notice of pending default status shall be mailed to
4173 the recipient at the last known address prior to commencing a
4174 lawsuit.

4175 (e) The sponsoring agency shall conduct a hearing of
4176 pending default status, make a final determination, and issue an
4177 Order of Default, if appropriate.

4178 (f) Recipients may appear either personally or by
4179 counsel, or both, and produce and cross-examine witnesses or
4180 evidence in the recipient's behalf. The procedure of the hearing
4181 shall not be bound by the Mississippi Rules of Civil Procedure and
4182 Evidence.

4183 (g) Appeals from a finding of default by the sponsoring
4184 agency shall be to the Circuit Court of Hinds County.

4185 (h) Rules and regulations governing this program and
4186 other applicable matters may be promulgated by the sponsoring
4187 agency.

4188 **SECTION 81.** Section 37-101-293, Mississippi Code of 1972, is
4189 amended as follows:

4190 37-101-293. (1) Within the limits of the funds available to
4191 any state agency for such purpose, the administrative head of such
4192 state agency may grant paid educational leave on a part-time or
4193 full-time basis and reimburse employees for educational expenses
4194 such as tuition, books and related fees to pursue undergraduate or
4195 graduate level education to those applicants deemed qualified.



4196 It is the intent of the Legislature that such educational
4197 leave program shall be used as an incentive for employees to
4198 develop job-related skills and to develop employees for
4199 higher-level professional and management positions.

4200 (2) In order to be eligible for paid educational leave,
4201 reimbursement for educational expenses or both, an applicant must:

4202 (a) Be working at a state agency for at least three (3)
4203 years at the time of application or be working at a state agency
4204 at the time of application for part-time graduate level education
4205 in a particular profession deemed by the administrative head of
4206 the state agency to meet a critical need within the state agency;

4207 (b) Attend any college or school located in the State
4208 of Mississippi and approved by the administrative head of such
4209 agency, unless such course of study is not available at a
4210 Mississippi college or school, in which case the applicant may
4211 attend an out-of-state college or school;

4212 (c) Agree to work as an employee in the same state
4213 agency for at least three (3) full years after completion of the
4214 course of study or, in the case of employees on educational leave
4215 on a part-time basis or receiving reimbursement for educational
4216 expenses only, to work for a time prorated based upon the total
4217 amount of expenses, including leave, paid for by the agency.

4218 (3) (a) Before being granted paid educational leave, or
4219 being approved for reimbursement of educational expense or both,
4220 each applicant shall enter into a contract with the state agency,



4221 which shall be deemed a contract with the State of Mississippi,
4222 agreeing to the terms and conditions upon which the paid
4223 educational leave will be granted to him. The contract shall
4224 include such terms and provisions necessary to implement the
4225 purpose and intent of this section. The form of such contract
4226 shall be prepared by the Attorney General of this state and
4227 approved by the State Personnel Board, and shall be signed by the
4228 administrative head of the state agency and signed by the
4229 recipient. If the recipient is a minor, his minority disabilities
4230 shall be removed by a chancery court of competent jurisdiction
4231 before the contract is signed.

4232 (b) Educational expenses for tuition, books and
4233 associated fees shall be reimbursed to the employee only after the
4234 employee has submitted documentation that the approved course has
4235 been successfully completed.

4236 (c) If the recipient does not work as an employee in
4237 that state agency for the period of employment specified in the
4238 contract, the recipient shall be liable for repayment on demand of
4239 the remaining portion of the compensation that he or she was paid
4240 while on paid educational leave and educational expenses paid,
4241 with interest accruing at ten percent (10%) per annum from the
4242 recipient's date of graduation, or the date that the recipient
4243 last worked at that state agency, whichever is the later date. In
4244 addition, there shall be included in any contract for paid
4245 educational leave a provision for liquidated damages equal to Two



4246 Thousand Dollars (\$2,000.00) per year for each year remaining to
4247 be served under such contract.

4248 (d) If any recipient fails or withdraws from school at
4249 any time before completing his or her education, the recipient
4250 shall be liable for repayment on demand of the amount of the total
4251 compensation that he or she was paid while on paid educational
4252 leave, with interest accruing at ten percent (10%) per annum from
4253 the date the recipient failed or withdrew from school. However,
4254 if the recipient remains or returns to work in the same position
4255 he or she held in the same state agency prior to accepting
4256 educational leave, he or she shall not be liable for payment of
4257 any interest on the amount owed.

4258 (e) The state agency shall have the authority to cancel
4259 any contract made between it and any recipient for paid
4260 educational leave or educational expenses or both upon such cause
4261 being deemed sufficient by the administrative head of the agency.

4262 (f) The state agency is vested with full and complete
4263 authority and power to sue in its own name any recipient for any
4264 balance due the state on any such uncompleted contract, which suit
4265 shall be conducted and handled by the Attorney General of the
4266 state, subject to the provisions of Sections 1 and 2 of this act.

4267 (g) Persons who default on contracts entered into under
4268 this section shall have the default determined and lose their
4269 professional health care licenses under the procedures provided in
4270 Section 37-101-291.



4271 (4) At the discretion of the administrative head of the
4272 state agency, any recipient who is granted paid educational leave
4273 by the state agency, including nurses, shall be compensated by
4274 such agency as prescribed by the State Personnel Board during the
4275 time he or she is in school. For employees who are on educational
4276 leave on a full-time basis, the State Personnel Board shall
4277 establish a maximum salary amount at which any employee may be
4278 paid full compensation while on educational leave and shall
4279 establish a deduction ratio or reduced percentage rate of
4280 compensation to be paid to all employees compensated at a salary
4281 level above such maximum salary amount. No recipient of full-time
4282 educational leave shall accrue personal or major medical leave
4283 while he or she is on paid educational leave.

4284 (5) Each state agency granting paid educational leave to
4285 employees or reimbursing educational expenses or both shall file
4286 an annual report with the Legislature which shall detail for each
4287 recipient of paid educational leave the position of the employee,
4288 the cost of the educational assistance and the degree program and
4289 school attended.

4290 (6) Within the limits of funds available to the Mississippi
4291 Department of Mental Health, the Executive Director of the
4292 Department of Mental Health may grant educational leave to medical
4293 residents of the University of Mississippi and pay a stipend in an
4294 amount not to exceed the salary of a medical resident. In order
4295 to be eligible for paid educational leave under this subsection,



4296 the applicant must be approved by the Department of Mental Health
4297 Educational Leave Committee and meet all obligations established
4298 under agreements between the Department of Mental Health and the
4299 University of Mississippi and regulations promulgated by the Board
4300 of Mental Health. The recipient shall fulfill his or her
4301 obligation under this program on an annual pro rata basis for each
4302 year on paid education leave.

4303 **SECTION 82.** Section 37-135-31, Mississippi Code of 1972, is
4304 brought forward as follows:

4305 37-135-31.

4306 **Interstate Compact on Educational**
4307 **Opportunity for Military Children**

4308 **ARTICLE I**

4309 **PURPOSE**

4310 **Section 1.** It is the purpose of this compact to remove
4311 barriers to educational success imposed on children of military
4312 families because of frequent moves and deployment of their parents
4313 by:

4314 A. Facilitating the timely enrollment of children of
4315 military families and ensuring that they are not placed at a
4316 disadvantage due to difficulty in the transfer of education
4317 records from the previous school district(s) or variations in
4318 entrance/age requirements.

4319 B. Facilitating the student placement process through which
4320 children of military families are not disadvantaged by variations



4321 in attendance requirements, scheduling, sequencing, grading,
4322 course content or assessment.

4323 C. Facilitating the qualification and eligibility for
4324 enrollment, educational programs, and participation in
4325 extracurricular academic, athletic, and social activities.

4326 D. Facilitating the on-time graduation of children of
4327 military families.

4328 E. Providing for the promulgation and enforcement of
4329 administrative rules implementing the provisions of this compact.

4330 F. Providing for the uniform collection and sharing of
4331 information between and among member states, schools, and military
4332 families under this compact.

4333 G. Promoting coordination between this compact and other
4334 compacts affecting military children.

4335 H. Promoting flexibility and cooperation between the
4336 educational system, parents, and the student in order to achieve
4337 educational success for the student.

4338 **ARTICLE II**

4339 **DEFINITIONS**

4340 **Section 2.** As used in this compact, unless the context
4341 clearly requires a different construction:

4342 A. "Active duty" means full-time duty status in the active
4343 uniformed service of the United States, including members of the
4344 National Guard and Reserve on active duty orders pursuant to 10
4345 USC, Sections 1209 and 1211.



4346 B. "Children of military families" means school-aged
4347 children, enrolled in Kindergarten through 12th Grade, in the
4348 household of an active duty member.

4349 C. "Compact commissioner" means the voting representative of
4350 each compacting state appointed pursuant to Article VIII of this
4351 compact.

4352 D. "Deployment" means the period one (1) month prior to the
4353 service members' departure from their home station on military
4354 orders through six (6) months after return to their home station.

4355 E. "Educational records" means those official records,
4356 files, and data directly related to a student and maintained by
4357 the school or local education agency, including, but not limited
4358 to, records encompassing all the material kept in the student's
4359 cumulative folder such as general identifying data, records of
4360 attendance and of academic work completed, records of achievement
4361 and results of evaluative tests, health data, disciplinary status,
4362 test protocols, and individualized education programs.

4363 F. "Extracurricular activities" means a voluntary activity
4364 sponsored by the school or local education agency or an
4365 organization sanctioned by the local education agency.
4366 Extracurricular activities include, but are not limited to,
4367 preparation for and involvement in public performances, contests,
4368 athletic competitions, demonstrations, displays and club
4369 activities.



4370 G. "Interstate Commission on Educational Opportunity for
4371 Military Children" means the commission that is created under
4372 Article IX of this compact, which is generally referred to as the
4373 Interstate Commission.

4374 H. "Local education agency" means a public authority legally
4375 constituted by the state as an administrative agency to provide
4376 control of and direction for Kindergarten through 12th Grade
4377 public educational institutions.

4378 I. "Member state" means a state that has enacted this
4379 compact.

4380 J. "Military installation" means a base, camp, post,
4381 station, yard, center, homeport facility for any ship, or other
4382 activity under the jurisdiction of the Department of Defense,
4383 including any leased facility, which is located within any of the
4384 several states, the District of Columbia, the Commonwealth of
4385 Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the
4386 Northern Marianas Islands, and any other U.S. Territory. Such
4387 term does not include any facility used primarily for civil works,
4388 river and harbor projects, or flood control projects.

4389 K. "Nonmember state" means a state that has not enacted this
4390 compact.

4391 L. "Receiving state" means the state to which a child of a
4392 military family is sent, brought, or caused to be sent or brought.

4393 M. "Rule" means a written statement by the Interstate
4394 Commission promulgated pursuant to Article XII of this compact



4395 that is of general applicability; implements, interprets, or
4396 prescribes a policy or provision of the compact, or an
4397 organizational, procedural, or practice requirement of the
4398 Interstate Commission and has the force and effect of statutory
4399 law in a member state; and includes the amendment, repeal, or
4400 suspension of an existing rule.

4401 N. "Sending state" means the state from which a child of a
4402 military family is sent, brought, or caused to be sent or brought.

4403 O. "State" means a state of the United States, the District
4404 of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin
4405 Islands, Guam, American Samoa, the Northern Marianas Islands, and
4406 any other U.S. Territory.

4407 P. "Student" means the child of a military family for whom
4408 the local education agency receives public funding and who is
4409 formally enrolled in Kindergarten through 12th Grade.

4410 Q. "Transition" means: (i) the formal and physical process
4411 of transferring from school to school or (ii) the period of time
4412 in which a student moves from one school in the sending state to
4413 another school in the receiving state.

4414 R. "Uniformed services" means the Army, Navy, Air Force,
4415 Marine Corps, Coast Guard, as well as the Commissioned Corps of
4416 the National Oceanic and Atmospheric Administration, and Public
4417 Health Services.



S. "Veteran" means a person who served in the active military, naval, or air service and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III

APPLICABILITY

Section 3. A. Except as otherwise provided in subsection B, this compact shall apply to the children of:

1. Active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 USC, Sections 1209 and 1211;

2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after medical discharge or retirement; and

3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this interstate compact shall not apply to the children of:

1. Inactive members of the National Guard and Military Reserves;

2. Members of the uniformed services now retired, except as provided in subsection A;



4443 3. Veterans of the uniformed services, except as
4444 provided in subsection A; and

4445 4. Other U.S. Department of Defense personnel and other
4446 federal agency civilian and contract employees not defined as
4447 active duty members of the uniformed services.

4448 **ARTICLE IV**

4449 **EDUCATIONAL RECORDS AND ENROLLMENT**

4450 **Section 4.** A. Unofficial or "hand-carried" education
4451 records. In the event that official education records cannot be
4452 released to the parents for the purpose of transfer, the custodian
4453 of the records in the sending state shall prepare and furnish to
4454 the parent a complete set of unofficial educational records
4455 containing uniform information as determined by the Interstate
4456 Commission. Upon receipt of the unofficial education records by a
4457 school in the receiving state, the school shall enroll and
4458 appropriately place the student based on the information provided
4459 in the unofficial records pending validation by the official
4460 records, as quickly as possible.

4461 B. Official education records/transcripts. Simultaneous
4462 with the enrollment and conditional placement of the student, the
4463 school in the receiving state shall request the student's official
4464 education records from the school in the sending state. Upon
4465 receipt of this request, the school in the sending state will
4466 process and furnish the official education records to the school
4467 in the receiving state within ten (10) days or within such time as



4468 is reasonably determined under the rules promulgated by the
4469 Interstate Commission.

4470 C. Immunizations. Compacting states shall give thirty (30)
4471 days from the date of enrollment or within such time as is
4472 reasonably determined under the rules promulgated by the
4473 Interstate Commission for students to obtain any immunization(s)
4474 required by the receiving state. For a series of immunizations,
4475 initial vaccinations must be obtained within thirty (30) days or
4476 within such time as is reasonably determined under the rules
4477 promulgated by the Interstate Commission.

4478 D. Kindergarten and First Grade entrance age. Students
4479 shall be allowed to continue their enrollment at the grade level
4480 in the receiving state commensurate with their grade level
4481 (including kindergarten) from a local education agency in the
4482 sending state at the time of transition, regardless of age. A
4483 student who has satisfactorily completed the prerequisite grade
4484 level in the local education agency in the sending state shall be
4485 eligible for enrollment in the next highest grade level in the
4486 receiving state, regardless of age. A student transferring after
4487 the start of the school year in the receiving state shall enter
4488 the school in the receiving state on their validated level from an
4489 accredited school in the sending state.

4490 **ARTICLE V**

4491 **PLACEMENT AND ATTENDANCE**



4492 **Section 5.** A. Course placement. When the student transfers
4493 before or during the school year, the receiving state school shall
4494 initially honor placement of the student in educational courses
4495 based on the student's enrollment in the sending state school
4496 and/or educational assessments conducted at the school in the
4497 sending state if the courses are offered. Course placement
4498 includes, but is not limited to, honors, International
4499 Baccalaureate, advanced placement, vocational, technical, and
4500 career pathway courses. Continuing the student's academic program
4501 from the previous school and promoting placement in academically
4502 and career challenging courses should be paramount when
4503 considering placement. This does not preclude the school in the
4504 receiving state from performing subsequent evaluations to ensure
4505 appropriate placement and continued enrollment of the student in
4506 the course(s).

4507 B. Educational program placement. The receiving state
4508 school shall initially honor placement of the student in
4509 educational programs based on current educational assessments
4510 conducted at the school in the sending state or
4511 participation/placement in like programs in the sending state.
4512 Such programs include, but are not limited to, (i) gifted and
4513 talented programs, and (ii) English as a second language (ESL).
4514 This does not preclude the school in the receiving state from
4515 performing subsequent evaluations to ensure appropriate placement
4516 of the student.



4517 C. Special education services. In compliance with the
4518 federal requirements of the Individuals with Disabilities
4519 Education Act (IDEA), 20 USC, Section 1400 et seq., the receiving
4520 state shall initially provide comparable services to a student
4521 with disabilities based on his/her current Individualized
4522 Education Program (IEP) and in compliance with the requirements of
4523 Section 504 of the Rehabilitation Act, 29 USC, Section 794, and
4524 with Title II of the Americans with Disabilities Act, 42 USC,
4525 Sections 12131-12165, and the receiving state shall make
4526 reasonable accommodations and modifications to address the needs
4527 of incoming students with disabilities, subject to an existing 504
4528 or Title II Plan, to provide the student with equal access to
4529 education. This does not preclude the school in the receiving
4530 state from performing subsequent evaluations to ensure appropriate
4531 placement of the student.

4532 D. Placement flexibility. Local education agency
4533 administrative officials shall have flexibility in waiving
4534 course/program prerequisites or other preconditions for placement
4535 in courses/programs offered under the jurisdiction of the local
4536 education agency.

4537 E. Absence as related to deployment activities. A student
4538 whose parent or legal guardian is an active duty member of the
4539 uniformed services, as defined by the compact, and has been called
4540 to duty for, is on leave from, or has immediately returned from
4541 deployment to a combat zone or combat support posting, shall be



4542 granted additional excused absences at the discretion of the local
4543 education agency superintendent to visit with his or her parent or
4544 legal guardian relative to such leave or deployment of the parent
4545 or guardian.

4546 **ARTICLE VI**

4547 **ELIGIBILITY**

4548 **Section 6. A. Eligibility for enrollment.**

4549 1. Special power of attorney, relative to the
4550 guardianship of a child of a military family, and executed under
4551 applicable law, shall be sufficient for the purposes of enrollment
4552 and all other actions requiring parental participation and
4553 consent;

4554 2. A local education agency shall be prohibited from
4555 charging local tuition to a transitioning military child placed in
4556 the care of a noncustodial parent or other person standing in loco
4557 parentis who lives in a jurisdiction other than that of the
4558 custodial parent; and

4559 3. A transitioning military child, placed in the care
4560 of a noncustodial parent or other person standing in loco parentis
4561 who lives in a jurisdiction other than that of the custodial
4562 parent, may continue to attend the school in which he/she was
4563 enrolled while residing with the custodial parent.

4564 B. Eligibility for extracurricular participation. State and
4565 local education agencies shall facilitate the opportunity for
4566 transitioning military children's inclusion in extracurricular



activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII

GRADUATION

Section 7. In order to facilitate the on-time graduation of children of military families, state and local education agencies shall incorporate the following procedures:

A. Waiver requirements. Local education agency administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams. States shall accept: (i) exit or end-of-course exams required for graduation from the sending state, (ii) national norm-referenced achievement tests, or (iii) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her senior year, then the provisions of Article VII, subsection C shall apply.



4591 C. Transfers during senior year. Should a military student
4592 transferring at the beginning or during his or her senior year be
4593 ineligible to graduate from the receiving local education agency
4594 after all alternatives have been considered, the sending and
4595 receiving local education agencies shall ensure the receipt of a
4596 diploma from the sending local education agency, if the student
4597 meets the graduation requirements of the sending local education
4598 agency. In the event that one of the states in question is not a
4599 member of this compact, the member state shall use best efforts to
4600 facilitate the on-time graduation of the student in accordance
4601 with subsections A and B of this Article.

4602 ARTICLE VIII

4603 STATE COORDINATION

4604 **Section 8.** A. Each member state shall, through the creation
4605 of a State Council or use of an existing body or board, provide
4606 for the coordination among its agencies of government, local
4607 education agencies, and military installations concerning the
4608 state's participation in, and compliance with, this compact and
4609 Interstate Commission activities. While each member state may
4610 determine the membership of its own State Council, its membership
4611 must include at least: (i) the state superintendent of education,
4612 (ii) the superintendent of a school district with a high
4613 concentration of military children, (iii) one (1) representative
4614 from a military installation, (iv) one (1) representative each
4615 from the legislative and executive branches of government, and



other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

B. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The Governor of each member state shall appoint or designate a compact commissioner responsible for the administration and management of the state's participation in the compact and who is empowered to establish statewide policy related to matters governed by this compact.

D. The compact commissioner and the military family education liaison designated herein shall be ex officio members of the State Council, unless either is already a full voting member of the State Council.

ARTICLE IX

INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY

FOR MILITARY CHILDREN

Section 9. The member states hereby create the Interstate Commission on Educational Opportunity for Military Children. The activities of the Interstate Commission are the formation of



4640 public policy and are a discretionary state function. The
4641 Interstate Commission shall:

4642 A. Be a body corporate and joint agency of the member states
4643 and shall have all the responsibilities, powers, and duties set
4644 forth herein and such additional powers as may be conferred upon
4645 it by a subsequent concurrent action of the respective
4646 Legislatures of the member states in accordance with the terms of
4647 this compact.

4648 B. Consist of one (1) Interstate Commission voting
4649 representative from each member state who shall be that state's
4650 compact commissioner and who is empowered to establish statewide
4651 policy related to matters governed by this compact.

4652 1. Each member state represented at a meeting of the
4653 Interstate Commission is entitled to one (1) vote;

4654 2. A majority of the total member states shall
4655 constitute a quorum for the transaction of business, unless a
4656 larger quorum is required by the bylaws of the Interstate
4657 Commission;

4658 3. A representative shall not delegate a vote to
4659 another member state. In the event the compact commissioner is
4660 unable to attend a meeting of the Interstate Commission, the
4661 Governor or State Council may delegate voting authority to another
4662 person from the state for a specified meeting; and



4663 4. The bylaws may provide for meetings of the
4664 Interstate Commission to be conducted by telecommunication or
4665 electronic communication.

4666 C. Consist of ex officio, nonvoting representatives who are
4667 members of interested organizations. Such ex officio members, as
4668 defined in the bylaws, may include, but not be limited to, members
4669 of the representative organizations of military family advocates,
4670 local education agency officials, parent and teacher groups, the
4671 U.S. Department of Defense, the Education Commission of the
4672 States, the Interstate Agreement on the Qualification of
4673 Educational Personnel, and other interstate compacts affecting the
4674 education of children of military members.

4675 D. Meet at least once each calendar year. The chairperson
4676 may call additional meetings and, upon the request of a simple
4677 majority of the member states, shall call additional meetings.

4678 E. Establish an executive committee, whose members shall
4679 include the officers of the Interstate Commission and such other
4680 members of the Interstate Commission as determined by the bylaws.
4681 Members of the executive committee shall serve a one-year term.
4682 Members of the executive committee shall be entitled to one (1)
4683 vote each. The executive committee shall have the power to act on
4684 behalf of the Interstate Commission, with the exception of
4685 rule-making, during periods when the Interstate Commission is not
4686 in session. The executive committee shall oversee the day-to-day
4687 activities of the administration of the compact, including



4688 enforcement and compliance with the provisions of the compact, its
4689 bylaws and rules, and other such duties as deemed necessary. The
4690 U.S. Department of Defense shall serve as an ex officio, nonvoting
4691 member of the executive committee.

4692 F. Establish bylaws and rules that provide for conditions
4693 and procedures under which the Interstate Commission shall make
4694 its information and official records available to the public for
4695 inspection or copying. The Interstate Commission may exempt from
4696 disclosure information or official records to the extent they
4697 would adversely affect personal privacy rights or proprietary
4698 interests.

4699 G. Public notice shall be given by the Interstate Commission
4700 of all meetings, and all meetings shall be open to the public,
4701 except as set forth in the rules or as otherwise provided in the
4702 compact. The Interstate Commission and its committees may close a
4703 meeting, or portion thereof, when it determines by two-thirds
4704 (2/3) vote that an open meeting would be likely to:

- 4705 1. Relate solely to the Interstate Commission's
4706 internal personnel practices and procedures;
- 4707 2. Disclose matters specifically exempted from
4708 disclosure by federal and state statute;
- 4709 3. Disclose trade secrets or commercial or financial
4710 information that is privileged or confidential;
- 4711 4. Involve accusing a person of a crime or formally
4712 censuring a person;



4713 5. Disclose information of a personal nature where
4714 disclosure would constitute a clearly unwarranted invasion of
4715 personal privacy;

4716 6. Disclose investigative records compiled for law
4717 enforcement purposes; or

4718 7. Specifically relate to the Interstate Commission's
4719 participation in a civil action or other legal proceeding.

4720 H. For a meeting, or portion of a meeting, closed pursuant
4721 to the provisions of subsection G, the Interstate Commission's
4722 legal counsel or designee shall certify that the meeting may be
4723 closed and shall reference each relevant exemptible provision.
4724 The Interstate Commission shall keep minutes, which shall fully
4725 and clearly describe all matters discussed in a meeting and shall
4726 provide a full and accurate summary of actions taken, and the
4727 reasons therefor, including a description of the views expressed
4728 and the record of a roll call vote. All documents considered in
4729 connection with an action shall be identified in such minutes.
4730 All minutes and documents of a closed meeting shall remain under
4731 seal, subject to release by a majority vote of the Interstate
4732 Commission.

4733 I. The Interstate Commission shall collect standardized data
4734 concerning the educational transition of the children of military
4735 families under this compact as directed through its rules, which
4736 shall specify the data to be collected, the means of collection
4737 and data exchange, and reporting requirements. Such methods of



4738 data collection, exchange, and reporting shall, insofar as is
4739 reasonably possible, conform to current technology and coordinate
4740 its information functions with the appropriate custodian of
4741 records as identified in the bylaws and rules.

4742 J. The Interstate Commission shall create a process that
4743 permits military officials, education officials, and parents to
4744 inform the Interstate Commission if and when there are alleged
4745 violations of the compact or its rules or when issues subject to
4746 the jurisdiction of the compact or its rules are not addressed by
4747 the state or local education agency. This subsection shall not be
4748 construed to create a private right of action against the
4749 Interstate Commission or any member state.

4750 **ARTICLE X**

4751 **POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

4752 **Section 10.** The Interstate Commission shall have the
4753 following powers:

4754 A. To provide for dispute resolution among member states.

4755 B. To promulgate rules and take all necessary actions to
4756 effect the goals, purposes, and obligations as enumerated in this
4757 compact. The rules shall have the force and effect of statutory
4758 law and shall be binding in the compact states to the extent and
4759 in the manner provided in this compact.

4760 C. To issue, upon request of a member state, advisory
4761 opinions concerning the meaning or interpretation of the
4762 interstate compact, its bylaws, rules, and actions.



4763 D. To enforce compliance with the compact provisions, the
4764 rules promulgated by the Interstate Commission, and the bylaws,
4765 using all necessary and proper means, including, but not limited
4766 to, the use of judicial process.

4767 E. To establish and maintain offices, which shall be located
4768 within one or more of the member states.

4769 F. To purchase and maintain insurance and bonds.

4770 G. To borrow, accept, hire, or contract for services of
4771 personnel.

4772 H. To establish and appoint committees, including, but not
4773 limited to, an executive committee as required by Article IX,
4774 subsection E, which shall have the power to act on behalf of the
4775 Interstate Commission in carrying out its powers and duties
4776 hereunder.

4777 I. To elect or appoint such officers, attorneys, employees,
4778 agents, or consultants, and to fix their compensation, define
4779 their duties, and determine their qualifications and to establish
4780 the Interstate Commission's personnel policies and programs
4781 relating to conflicts of interest, rates of compensation, and
4782 qualifications of personnel.

4783 J. To accept any and all donations and grants of money,
4784 equipment, supplies, materials, and services and to receive,
4785 utilize, and dispose of them.



4786 K. To lease, purchase, accept contributions or donations of,
4787 or otherwise to own, hold, improve, or use any property, real,
4788 personal, or mixed.

4789 L. To sell, convey, mortgage, pledge, lease, exchange,
4790 abandon, or otherwise dispose of any property, real, personal, or
4791 mixed.

4792 M. To establish a budget and make expenditures.

4793 N. To adopt a seal and bylaws governing the management and
4794 operation of the Interstate Commission.

4795 O. To report annually to the Legislatures, Governors,
4796 judiciary, and state councils of the member states concerning the
4797 activities of the Interstate Commission during the preceding year.
4798 Such reports shall also include any recommendations that may have
4799 been adopted by the Interstate Commission.

4800 P. To coordinate education, training, and public awareness
4801 regarding the compact, its implementation, and operation for
4802 officials and parents involved in such activity.

4803 Q. To establish uniform standards for the reporting,
4804 collecting, and exchanging of data.

4805 R. To maintain corporate books and records in accordance
4806 with the bylaws.

4807 S. To perform such functions as may be necessary or
4808 appropriate to achieve the purposes of this compact.



T. To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

ARTICLE XI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Section 11. A. The Interstate Commission shall, by a majority of the members present and voting, within twelve (12) months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;

2. Establishing an executive committee and such other committees as may be necessary;

3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;

4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each such meetings;

5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;

6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that



4833 may exist upon the termination of the compact after the payment
4834 and reserving all of its debts and obligations; and

4835 7. Providing "start-up" rules for initial
4836 administration of the compact.

4837 B. The Interstate Commission shall, by a majority of the
4838 members, elect annually from among its members a chairperson, a
4839 vice chairperson and a treasurer, each of whom shall have the
4840 authority and duties as may be specified in the bylaws. The
4841 chairperson or, in the chairperson's absence or disability, the
4842 vice chairperson shall preside at all meetings of the Interstate
4843 Commission. The officers so elected shall serve without
4844 compensation or remuneration from the Interstate Commission
4845 provided that, subject to the availability of budgeted funds, the
4846 officers shall be reimbursed for ordinary and necessary costs and
4847 expenses incurred by them in the performance of their
4848 responsibilities as officers of the Interstate Commission.

4849 C. Executive Committee, officers, and personnel.

4850 1. The executive committee shall have such authority
4851 and duties as may be set forth in the bylaws, including, but not
4852 limited to: (a) managing the affairs of the Interstate Commission
4853 in a manner consistent with the bylaws and purposes of the
4854 Interstate Commission; (b) overseeing an organizational structure
4855 within and appropriate procedures for the Interstate Commission to
4856 provide for the creation of rules, operating procedures, and
4857 administrative and technical support functions; and (c) planning,



4858 implementing, and coordinating communications and activities with
4859 other state, federal, and local government organizations in order
4860 to advance the goals of the Interstate Commission.

4861 2. The executive committee may, subject to the approval
4862 of the Interstate Commission, appoint or retain an executive
4863 director for such period, upon such terms and conditions, and for
4864 such compensation as the Interstate Commission may deem
4865 appropriate. The executive director shall serve as secretary to
4866 the Interstate Commission, but shall not be a member of the
4867 Interstate Commission. The executive director shall hire and
4868 supervise such other persons as may be authorized by the
4869 Interstate Commission.

4870 D. The Interstate Commission's executive director and its
4871 employees shall be immune from suit and liability, either
4872 personally or in their official capacity, for a claim for damage
4873 to or loss of property or personal injury or other civil liability
4874 caused or arising out of or relating to an actual or alleged act,
4875 error, or omission that occurred, or that such person had a
4876 reasonable basis for believing occurred, within the scope of
4877 Interstate Commission employment, duties, or responsibilities,
4878 provided that such person shall not be protected from suit or
4879 liability for damage, loss, injury, or liability caused by the
4880 intentional or willful and wanton misconduct of such person.

4881 1. The liability of the Interstate Commission's
4882 executive director and employees or the Interstate Commission



4883 representatives, acting within the scope of their employment or
4884 duties for acts, errors, or omissions occurring within such
4885 person's state, may not exceed the limits of liability set forth
4886 under the constitution and laws of that state for state officials,
4887 employees, and agents. The Interstate Commission is considered to
4888 be an instrumentality of the states for the purposes of any such
4889 action. Nothing in this subsection D shall be construed to
4890 protect such person from suit or liability for damage, loss,
4891 injury, or liability caused by the intentional or willful and
4892 wanton misconduct of such person.

4893 2. The Interstate Commission shall defend the executive
4894 director and its employees and, subject to the approval of the
4895 Attorney General or other appropriate legal counsel of the member
4896 state represented by an Interstate Commission representative,
4897 shall defend such Interstate Commission representative in any
4898 civil action seeking to impose liability arising out of an actual
4899 or alleged act, error, or omission that occurred within the scope
4900 of Interstate Commission employment, duties, or responsibilities,
4901 or that the defendant had a reasonable basis for believing
4902 occurred within the scope of Interstate Commission employment,
4903 duties, or responsibilities provided that the actual or alleged
4904 act, error, or omission did not result from intentional or willful
4905 and wanton misconduct on the part of such person.

4906 3. To the extent not covered by the state involved,
4907 member state, or the Interstate Commission, the representatives or



employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XII

RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION

Section 12. A. Rule-making authority. The Interstate

Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact.

Notwithstanding the foregoing, in the event the Interstate Commission exercises its rule-making authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rule-making procedure. Rules shall be made pursuant to a rule-making process that substantially conforms to the "Model State Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.



4933 C. Not later than thirty (30) days after a rule is
4934 promulgated, any person may file a petition for judicial review of
4935 the rule provided that the filing of such a petition shall not
4936 stay or otherwise prevent the rule from becoming effective unless
4937 the court finds that the petitioner has a substantial likelihood
4938 of success. The court shall give deference to the actions of the
4939 Interstate Commission consistent with applicable law and shall not
4940 find the rule to be unlawful if the rule represents a reasonable
4941 exercise of the Interstate Commission's authority.

4942 D. If a majority of the Legislatures of the compacting
4943 states rejects a rule by enactment of a statute or resolution in
4944 the same manner used to adopt the compact, then such rule shall
4945 have no further force and effect in any compacting state.

4946 ARTICLE XIII

4947 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

4948 Section 13. A. Oversight.

4949 1. The executive, legislative, and judicial branches of
4950 state government in each member state shall enforce this compact
4951 and shall take all actions necessary and appropriate to effectuate
4952 the compact's purposes and intent. The provisions of this compact
4953 and the rules promulgated hereunder shall have standing as
4954 statutory law;

4955 2. All courts shall take judicial notice of the compact
4956 and the rules in any judicial or administrative proceeding in a
4957 member state pertaining to the subject matter of this compact



which may affect the powers, responsibilities, or actions of the Interstate Commission; and

3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact, or promulgated rules.

B. Default, technical assistance, suspension, and termination.

If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default;

2. Provide remedial training and specific technical assistance regarding the default;

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this compact shall



4983 be terminated from the effective date of termination. A cure of
4984 the default does not relieve the offending state of obligations or
4985 liabilities incurred during the period of the default;

4986 4. Suspension or termination of membership in the
4987 compact shall be imposed only after all other means of securing
4988 compliance have been exhausted. Notice of intent to suspend or
4989 terminate shall be given by the Interstate Commission to the
4990 Governor, the majority and minority leaders of the defaulting
4991 state's Legislature, and each of the member states;

4992 5. The state which has been suspended or terminated is
4993 responsible for all assessments, obligations, and liabilities
4994 incurred through the effective date of suspension or termination,
4995 including obligations the performance of which extends beyond the
4996 effective date of suspension or termination;

4997 6. The Interstate Commission shall not bear any costs
4998 relating to any state that has been found to be in default or
4999 which has been suspended or terminated from the compact, unless
5000 otherwise mutually agreed upon in writing between the Interstate
5001 Commission and the defaulting state; and

5002 7. The defaulting state may appeal the action of the
5003 Interstate Commission by petitioning the United States District
5004 Court for the District of Columbia or the federal district where
5005 the Interstate Commission has its principal offices. The
5006 prevailing party shall be awarded all costs of such litigation
5007 including reasonable attorney's fees.



5008 C. Dispute resolution.

5009 1. The Interstate Commission shall attempt, upon the
5010 request of a member state, to resolve disputes that are subject to
5011 the compact and that may arise among member states and between
5012 member and nonmember states.

5013 2. The Interstate Commission shall promulgate a rule
5014 providing for both mediation and binding dispute resolution for
5015 disputes as appropriate.

5016 D. Enforcement.

5017 1. The Interstate Commission, in the reasonable
5018 exercise of its discretion, shall enforce the provisions and rules
5019 of this compact.

5020 2. The Interstate Commission may by majority vote of
5021 the members initiate legal action in the United States District
5022 Court for the District of Columbia or, at the discretion of the
5023 Interstate Commission, in the federal district where the
5024 Interstate Commission has its principal offices to enforce
5025 compliance with the provisions of the compact, its promulgated
5026 rules and bylaws against a member state in default. The relief
5027 sought may include both injunctive relief and damages. In the
5028 event judicial enforcement is necessary, the prevailing party
5029 shall be awarded all costs of such litigation including reasonable
5030 attorney's fees.

5031 3. The remedies herein shall not be the exclusive
5032 remedies of the Interstate Commission. The Interstate Commission



may avail itself of any other remedies available under state law
or the regulation of a profession.

ARTICLE XIV

FINANCING OF THE INTERSTATE COMMISSION

Section 14. A. The Interstate Commission shall pay or
provide for the payment of the reasonable expenses of its
establishment, organization, and ongoing activities.

B. The Interstate Commission may levy on and collect an
annual assessment from each member state to cover the cost of the
operations and activities of the Interstate Commission and its
staff, which must be in a total amount sufficient to cover the
Interstate Commission's annual budget as approved each year. The
aggregate annual assessment amount shall be allocated based upon a
formula to be determined by the Interstate Commission, which shall
promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of
any kind prior to securing the funds adequate to meet the same nor
shall the Interstate Commission pledge the credit of any of the
member states, except by and with the authority of the member
state.

D. The Interstate Commission shall keep accurate accounts of
all receipts and disbursements. The receipts and disbursements of
the Interstate Commission shall be subject to the audit and
accounting procedures established under its bylaws. However, all
receipts and disbursements of funds handled by the Interstate



Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XV

MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

Section 15. A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten (10) of the states. The effective date shall be no earlier than December 1, 2008. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The Governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XVI

WITHDRAWAL AND DISSOLUTION

Section 16. A. Withdrawal.



5082 1. Once effective, the compact shall continue in force
5083 and remain binding upon each and every member state, provided that
5084 a member state may withdraw from the compact specifically by
5085 repealing the statute which enacted the compact into law.

5086 2. Withdrawal from this compact shall be by the
5087 enactment of a statute repealing the same, but shall not take
5088 effect until one (1) year after the effective date of such statute
5089 and until written notice of the withdrawal has been given by the
5090 withdrawing state to the Governor of each other member
5091 jurisdiction.

5092 3. The withdrawing state shall immediately notify the
5093 chairperson of the Interstate Commission in writing upon the
5094 introduction of legislation repealing this compact in the
5095 withdrawing state. The Interstate Commission shall notify the
5096 other member states of the withdrawing state's intent to withdraw
5097 within sixty (60) days of its receipt thereof.

5098 4. The withdrawing state is responsible for all
5099 assessments, obligations, and liabilities incurred through the
5100 effective date of withdrawal, including obligations the
5101 performance of which extends beyond the effective date of
5102 withdrawal.

5103 5. Reinstatement following withdrawal of a member state
5104 shall occur upon the withdrawing state reenacting the compact or
5105 upon such later date as determined by the Interstate Commission.

5106 B. Dissolution of compact.



5107 1. This compact shall dissolve effective upon the date
5108 of the withdrawal or default of the member state that reduces the
5109 membership in the compact to one (1) member state.

5110 2. Upon the dissolution of this compact, the compact
5111 becomes null and void and shall be of no further force or effect
5112 and the business and affairs of the Interstate Commission shall be
5113 concluded and surplus funds shall be distributed in accordance
5114 with the bylaws.

5115 **ARTICLE XVII**

5116 **SEVERABILITY AND CONSTRUCTION**

5117 **Section 17.** A. The provisions of this compact shall be
5118 severable and if any phrase, clause, sentence, or provision is
5119 deemed unenforceable, the remaining provisions of the compact
5120 shall be enforceable.

5121 B. The provisions of this compact shall be liberally
5122 construed to effectuate its purposes.

5123 C. Nothing in this compact shall be construed to prohibit
5124 the applicability of other interstate compacts to which the states
5125 are members.

5126 **ARTICLE XVIII**

5127 **BINDING EFFECT OF COMPACT AND OTHER LAWS**

5128 **Section 18.** A. Other laws.

5129 1. Nothing herein prevents the enforcement of any other
5130 law of a member state that is not inconsistent with this compact.



2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

B. Binding effect of the compact.

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the Legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

SECTION 83. Section 37-151-107, Mississippi Code of 1972, is amended as follows:

37-151-107. Any superintendent of education, member of the local school board of any school district, superintendent, principal, teacher, carrier, bus driver or member or employee of the State Department of Education or State Board of Education, or any other person, who shall willfully violate any of the provisions of this chapter, or who shall willfully make any false report, list or record, or who shall willfully make use of any false report, list or record, concerning the number of school children in average daily attendance or the number of children being transported or entitled to be transported in any county or



5156 school district, shall be guilty of a misdemeanor and upon
5157 conviction shall be punished by imprisonment in the county jail
5158 for a period not to exceed sixty (60) days or by a fine of not
5159 less than One Hundred Dollars (\$100.00), nor more than Three
5160 Hundred Dollars (\$300.00), or by both such fine and imprisonment,
5161 in the discretion of the court. In addition, any such person
5162 shall be civilly liable for all amounts of public funds which are
5163 illegally, unlawfully or wrongfully expended or paid out by virtue
5164 of or pursuant to such false report, list or record, and upon
5165 conviction or adjudication of civil liability hereunder, such
5166 person shall forfeit his license to teach for a period of three
5167 (3) years, if such person is the holder of such a license. Any
5168 suit to recover such funds illegally, unlawfully or wrongfully
5169 expended or paid out may be brought in the name of the State of
5170 Mississippi by the Attorney General, subject to the provisions of
5171 Sections 1 and 2 of this act, or the proper district attorney or
5172 county attorney, and, in the event such suit be brought against a
5173 person who is under bond, the sureties upon such bond shall
5174 likewise be liable for such amount illegally, unlawfully or
5175 wrongfully expended or paid out.

5176 **SECTION 84.** Section 39-3-201, Mississippi Code of 1972, is
5177 brought forward as follows:

5178 39-3-201. The Interstate Library Compact is hereby enacted
5179 into law and entered into by this state with all states legally
5180 joining therein in the form substantially as follows:



5181 **INTERSTATE LIBRARY COMPACT**

5182 Article I. Policy and Purpose

5183 Because the desire for the services provided by libraries
5184 transcends governmental boundaries and can most effectively be
5185 satisfied by giving such services to communities and people
5186 regardless of jurisdictional lines, it is the policy of the states
5187 party to this compact to cooperate and share their
5188 responsibilities; to authorize cooperation and sharing with
5189 respect to those types of library facilities and services which
5190 can be more economically or efficiently developed and maintained
5191 on a cooperative basis, and to authorize cooperation and sharing
5192 among localities, states and others in providing joint or
5193 cooperative library services in areas where the distribution of
5194 population or of existing and potential library resources make the
5195 provision of library service on an interstate basis the most
5196 effective way of providing adequate and efficient service.

5197 Article II. Definitions

5198 As used in this compact:

5199 (a) "Public library agency" means any unit or agency of
5200 local or state government operating or having power to operate a
5201 library.

5202 (b) "Private library agency" means any nongovernmental
5203 entity which operates or assumes a legal obligation to operate a
5204 library.



5205 (c) "Library agreement" means a contract establishing
5206 an interstate library district pursuant to this compact or
5207 providing for the joint or cooperative furnishing of library
5208 services.

5209 Article III. Interstate Library Districts

5210 (a) Any one or more public library agencies in a party
5211 state in cooperation with any public library agency or agencies in
5212 one or more other party states may establish and maintain an
5213 interstate library district. Subject to the provisions of this
5214 compact and any other laws of the party states which pursuant
5215 hereto remain applicable, such district may establish, maintain
5216 and operate some or all of the library facilities and services for
5217 the area concerned in accordance with the terms of a library
5218 agreement therefor. Any private library agency or agencies within
5219 an interstate library district may cooperate therewith, assume
5220 duties, responsibilities and obligations thereto, and receive
5221 benefits therefrom as provided in any library agreement to which
5222 such agency or agencies become party.

5223 (b) Within an interstate library district, and as
5224 provided by a library agreement, the performance of library
5225 functions may be undertaken on a joint or cooperative basis or may
5226 be undertaken by means of one or more arrangements between or
5227 among public or private library agencies for the extension of
5228 library privileges to the use of facilities or services operated
5229 or rendered by one or more of the individual library agencies.



5230 (c) If a library agreement provides for joint
5231 establishment, maintenance or operation of library facilities or
5232 services by an interstate library district, such district shall
5233 have power to do any one or more of the following in accordance
5234 with such library agreement:

5235 1. Undertake, administer and participate in
5236 programs or arrangements for securing, lending or servicing of
5237 books and other publications, any other materials suitable to be
5238 kept or made available by libraries, library equipment or for the
5239 dissemination of information about libraries, the value and
5240 significance of particular items therein, and the use thereof.

5241 2. Accept for any of its purposes under this
5242 compact any and all donations, and grants of money, equipment,
5243 supplies, materials, and services, (conditional or otherwise) from
5244 any state or the United States or any subdivision or agency
5245 thereof, or interstate agency, or from any institution, person,
5246 firm or corporation, and receive, utilize and dispose of the same.

5247 3. Operate mobile library units or equipment for
5248 the purpose of rendering bookmobile service within the district.

5249 4. Employ professional, technical, clerical, and
5250 other personnel, and fix terms of employment, compensation and
5251 other appropriate benefits; and where desirable, provide for the
5252 inservice training of such personnel.



5. Acquire, hold, and dispose of any real or personal property or any interest or interests therein as may be appropriate to the rendering of library service.

6. Construct, maintain and operate a library, including any appropriate branches thereof.

7. Do such other things as may be incidental to or appropriate for the carrying out of any of the foregoing powers.

Article IV. Interstate Library Districts, Governing Board

(a) An interstate library district which establishes, maintains or operates any facilities or services in its own right shall have a governing board which shall direct the affairs of the district and act for it in all matters relating to its business. Each participating public library agency in the district shall be represented on the governing board which shall be organized and conduct its business in accordance with provision therefor in the library agreement. But in no event shall a governing board meet less often than twice a year.

(b) Any private library agency or agencies party to a library agreement establishing an interstate library district may be represented on or advise with the governing board of the district in such manner as the library agreement may provide.

Article V. State Library Agency Cooperation

Any two or more state library agencies of two or more of the party states may undertake and conduct joint or cooperative library programs, render joint or cooperative library services,



5278 and enter into and perform arrangements for the cooperative or
5279 joint acquisition, use, housing and disposition of items or
5280 collections of materials which, by reason of expense, rarity,
5281 specialized nature, or infrequency of demand therefor would be
5282 appropriate for central collection and shared use. Any such
5283 programs, services or arrangements may include provision for the
5284 exercise on a cooperative or joint basis of any power exercisable
5285 by an interstate library district and an agreement embodying any
5286 such program, service or arrangement shall contain provisions
5287 covering the subjects detailed in Article VI of this compact for
5288 interstate library agreements.

5289 Article VI. Library Agreement

5290 (a) In order to provide for any joint or cooperative
5291 undertaking pursuant to this compact, public and private library
5292 agencies may enter into library agreements. Any agreement
5293 executed pursuant to the provisions of this compact shall, as
5294 among the parties to the agreement:

5295 1. Detail the specific nature of the services,
5296 programs, facilities, arrangements or properties to which it is
5297 applicable.

5298 2. Provide for the allocation of costs and other
5299 financial responsibilities.

5300 3. Specify the respective rights, duties,
5301 obligations and liabilities of the parties.



5302 4. Set forth the terms and conditions for
5303 duration, renewal, termination, abrogation, disposal of joint or
5304 common property, if any, and all other matters which may be
5305 appropriate to the proper effectuation and performance of the
5306 agreement.

5307 (b) No public or private library agency shall undertake
5308 to exercise itself, or jointly with any other library agency, by
5309 means of a library agreement any power prohibited to such agency
5310 by the constitution or statutes of its state.

5311 (c) No library agreement shall become effective until
5312 filed with the compact administrator of each state involved, and
5313 approved in accordance with Article VII of this compact.

5314 Article VII. Approval of Library Agreements

5315 (a) Every library agreement made pursuant to this
5316 compact shall, prior to and as a condition precedent to its entry
5317 into force, be submitted to the Attorney General of each state in
5318 which a public library agency party thereto is situated, who shall
5319 determine whether the agreement is in proper form and compatible
5320 with the laws of his state. The attorneys general shall approve
5321 any agreement submitted to them unless they shall find that it
5322 does not meet the conditions set forth herein and shall detail in
5323 writing addressed to the governing bodies of the public library
5324 agencies concerned the specific respects in which the proposed
5325 agreement fails to meet the requirements of law. Failure to



disapprove an agreement submitted hereunder within ninety days of its submission shall constitute approval thereof.

(b) In the event that a library agreement made pursuant to this compact shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the attorneys general pursuant to paragraph (a) of this article. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the attorneys general.

Article VIII. Other Laws Applicable

Nothing in this compact or in any library agreement shall be construed to supersede, alter or otherwise impair any obligation imposed on any library by otherwise applicable law, nor to authorize the transfer or disposition of any property held in trust by a library agency in a manner contrary to the terms of such trust.

Article IX. Appropriations and Aid



5350 (a) Any public library agency party to a library
5351 agreement may appropriate funds to the interstate library district
5352 established thereby in the same manner and to the same extent as
5353 to a library wholly maintained by it and, subject to the laws of
5354 the state in which such public library agency is situated, may
5355 pledge its credit in support of an interstate library district
5356 established by the agreement.

5357 (b) Subject to the provisions of the library agreement
5358 pursuant to which it functions and the laws of the states in which
5359 such district is situated, an interstate library district may
5360 claim and receive any state and federal aid which may be available
5361 to library agencies.

5362 Article X. Compact Administrator

5363 Each state shall designate a compact administrator with whom
5364 copies of all library agreements to which his state or any public
5365 library agency thereof is party shall be filed. The administrator
5366 shall have such other powers as may be conferred upon him by the
5367 laws of his state and may consult and cooperate with the compact
5368 administrators of other party states and take such steps as may
5369 effectuate the purposes of this compact. If the laws of a party
5370 state so provide, such state may designate one or more deputy
5371 compact administrators in addition to its compact administrator.

5372 Article XI. Entry Into Force and Withdrawal

5373 (a) This compact shall enter into force and effect
5374 immediately upon its enactment into law by any two states.



Thereafter, it shall enter into force and effect as to any other state upon the enactment thereof by such state.

(b) This compact shall continue in force with respect to a party state and remain binding upon such state until six months after such state has given notice to each other party state of the repeal thereof. Such withdrawal shall not be construed to relieve any party to a library agreement entered into pursuant to this compact from any obligation of that agreement prior to the end of its duration as provided therein.

Article XII. Construction and Severability

This compact shall be liberally construed so as effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

SECTION 85. Section 39-7-37, Mississippi Code of 1972, is amended as follows:



39-7-37. In addition to, and without limiting the other powers of the Attorney General of the State of Mississippi and without altering or waiving any criminal penalty provision of this chapter, the Attorney General shall have the power to bring an action, subject to the provisions of Sections 1 and 2 of this act, in the name of the State of Mississippi in any court of competent jurisdiction to enjoin violations or threatened violations of this chapter, and for the return of items taken in violation of the provisions hereof, and for the restoration of alterations made in violation of the provisions hereof. The venue of such actions shall lie in the county in which the activity sought to be enjoined is alleged to be taking place, or in the county from which the items were taken. Any citizen in the State of Mississippi shall have the power to bring an action in any court of competent jurisdiction to enjoin violations or threatened violations of this chapter, and for the return of items taken in violation of the provisions hereof. The venue of such actions shall lie in the county in which the activity sought to be enjoined is alleged to be taking place, or in the county from which the items were taken.

SECTION 86. Section 41-7-79, Mississippi Code of 1972, is amended as follows:

41-7-79. Each state institution shall have the power to assess and collect charges from patients, patients' estates and from all persons legally liable for the cost of care of such



5425 patients in such state institution. The maximum charges which may
5426 be made shall be based on the estimated cost of operating the
5427 institution, and such costs shall include a reasonable amount for
5428 depreciation. The director or the governing board of each
5429 institution, as appropriate, shall investigate or cause to be
5430 investigated the financial ability of each patient, his or her
5431 estate, and all other persons legally liable for the cost or care
5432 of the patient, and the charges assessed shall be in accordance
5433 with the ability of the person assessed to pay.

5434 The Director of the Mississippi Children's Rehabilitation
5435 Center or the governing board of the center, as appropriate, upon
5436 conclusion of the investigation of the financial ability of each
5437 patient and all other persons legally liable for the cost of care
5438 of the patient, shall assess a fee against each patient based on
5439 the financial ability of such patient or others legally liable for
5440 such patient to pay. The fee shall be adjustable and commensurate
5441 with the patient's financial ability to pay. In order to receive
5442 the benefits of the sliding scale fee each patient is required to
5443 provide for the Children's Rehabilitation Center sufficient
5444 financial information in order to allow the center to make a
5445 determination as to whether or not a reduced fee is appropriate.
5446 The center shall not utilize such fee scale for any patient unless
5447 the patient has a need for additional treatment, and has no
5448 insurance covering his treatment or such insurance is exhausted.
5449 The Children's Rehabilitation Center shall make every effort to



5450 collect the total charges from a patient, the patient's estate and
5451 from all persons legally liable for the cost of care of the
5452 patient before it may utilize a sliding fee scale for the patient.

5453 After three (3) good faith attempts have been made to collect
5454 a remaining balance of such charges, and upon the recommendation
5455 of the Children's Rehabilitation Center fiscal officer, said
5456 balance may be declared uncollectible and worthless, and no longer
5457 listed as an asset.

5458 In the determination of ability to pay, the director or
5459 governing board shall not work an undue hardship on any patient or
5460 person legally responsible for such a patient. The value of a
5461 homestead shall not be considered in determining the ability to
5462 pay. The number of dependents of a patient or the party legally
5463 responsible for such patient shall be considered in determining
5464 ability to pay. The value of real and/or personal property may
5465 also be considered.

5466 The director or the governing board, as appropriate, shall
5467 have authority to enter into agreements with the patients or
5468 others legally liable whereby periodic payments can be made on
5469 said accounts. The director or governing board may accept notes,
5470 secured or open, or any other evidences of indebtedness.

5471 The director or the governing board, as appropriate, of each
5472 state institution shall have the right to institute suits where
5473 necessary or advisable, and it shall be the duty of the Attorney
5474 General to institute such suits, subject to the provisions of



5475 Sections 1 and 2 of this act, either in the name of the
5476 institution or in the name of the State of Mississippi. Except in
5477 matters involving the administration of estates, the probate of
5478 wills or the appointment of guardians or conservators, venue for
5479 such suits shall lie in the county in which the institution is
5480 located, and the venue shall not be subject to change.

5481 **SECTION 87.** Section 41-9-35, Mississippi Code of 1972, is
5482 amended as follows:

5483 41-9-35. Notwithstanding the existence or pursuit of any
5484 other remedy, the licensing agency, may in the manner provided by
5485 law, upon the advice of the Attorney General who, except as
5486 otherwise authorized in Section 7-5-39, shall represent the
5487 licensing agency in the proceedings, maintain an action in the
5488 name of the state for an injunction or other process against any
5489 person or governmental unit to restrain or prevent the
5490 establishment, conduct, management or operation of a hospital
5491 without a license as provided for in Section 41-9-11, subject to
5492 the provisions of Sections 1 and 2 of this act.

5493 **SECTION 88.** Section 41-51-33, Mississippi Code of 1972, is
5494 amended as follows:

5495 41-51-33. The Attorney General of the State of Mississippi
5496 may bring an action in the name of the people of the State of
5497 Mississippi to enjoin the continued operation of any disposal or
5498 rendering plant found to be operating within this state for which
5499 no license has been obtained under this chapter or for which such



5500 license has been suspended or revoked, subject to the provisions
5501 of Sections 1 and 2 of this act.

5502 **SECTION 89.** Section 41-71-21, Mississippi Code of 1972, is
5503 amended as follows:

5504 41-71-21. Any person or persons or other entity or entities
5505 establishing, managing or operating a home health agency or
5506 conducting the business of a home health agency without the
5507 required license, or which otherwise violate any of the provisions
5508 of this chapter or the rules, regulations or standards promulgated
5509 and established in furtherance of this chapter, shall be guilty of
5510 a misdemeanor and, upon conviction thereof, shall be fined not
5511 more than Five Hundred Dollars (\$500.00) for each offense. Each
5512 day of a continuing violation shall be considered a separate
5513 offense. The licensing agency may seek injunctive relief in the
5514 event it deems such action necessary after consulting with the
5515 State Attorney General, subject to the provisions of Sections 1
5516 and 2 of this act.

5517 **SECTION 90.** Section 43-11-27, Mississippi Code of 1972, is
5518 amended as follows:

5519 43-11-27. Notwithstanding the existence or pursuit of any
5520 other remedy, the licensing agency may, in the manner provided by
5521 law, upon the advice of the Attorney General who, except as
5522 otherwise authorized in Section 7-5-39, shall represent the
5523 licensing agency in the proceedings, maintain an action in the
5524 name of the state for injunction or other process against any



5525 person to restrain or prevent the establishment, conduct,
5526 management or operation of an institution for the aged or infirm
5527 without a license under this chapter, subject to the provisions of
5528 Sections 1 and 2 of this act.

5529 **SECTION 91.** Section 43-13-145, Mississippi Code of 1972, is
5530 amended as follows:

5531 43-13-145. (1) (a) Upon each nursing facility licensed by
5532 the State of Mississippi, there is levied an assessment in an
5533 amount set by the division, equal to the maximum rate allowed by
5534 federal law or regulation, for each licensed and occupied bed of
5535 the facility.

5536 (b) A nursing facility is exempt from the assessment
5537 levied under this subsection if the facility is operated under the
5538 direction and control of:

5539 (i) The United States Veterans Administration or
5540 other agency or department of the United States government;

5541 (ii) The State Veterans Affairs Board; or

5542 (iii) The University of Mississippi Medical
5543 Center.

5544 (2) (a) Upon each intermediate care facility for
5545 individuals with intellectual disabilities licensed by the State
5546 of Mississippi, there is levied an assessment in an amount set by
5547 the division, equal to the maximum rate allowed by federal law or
5548 regulation, for each licensed and occupied bed of the facility.



5549 (b) An intermediate care facility for individuals with
5550 intellectual disabilities is exempt from the assessment levied
5551 under this subsection if the facility is operated under the
5552 direction and control of:

5553 (i) The United States Veterans Administration or
5554 other agency or department of the United States government;

5555 (ii) The State Veterans Affairs Board; or

5556 (iii) The University of Mississippi Medical
5557 Center.

5558 (3) (a) Upon each psychiatric residential treatment
5559 facility licensed by the State of Mississippi, there is levied an
5560 assessment in an amount set by the division, equal to the maximum
5561 rate allowed by federal law or regulation, for each licensed and
5562 occupied bed of the facility.

5563 (b) A psychiatric residential treatment facility is
5564 exempt from the assessment levied under this subsection if the
5565 facility is operated under the direction and control of:

5566 (i) The United States Veterans Administration or
5567 other agency or department of the United States government;

5568 (ii) The University of Mississippi Medical Center;
5569 or

5570 (iii) A state agency or a state facility that
5571 either provides its own state match through intergovernmental
5572 transfer or certification of funds to the division.

5573 (4) Hospital assessment.



5574 (a) (i) Subject to and upon fulfillment of the
5575 requirements and conditions of paragraph (f) below, and
5576 notwithstanding any other provisions of this section, effective
5577 for state fiscal year 2016, fiscal year 2017 and fiscal year 2018,
5578 an annual assessment on each hospital licensed in the state is
5579 imposed on each non-Medicare hospital inpatient day as defined
5580 below at a rate that is determined by dividing the sum prescribed
5581 in this subparagraph (i), plus the nonfederal share necessary to
5582 maximize the Disproportionate Share Hospital (DSH) and inpatient
5583 Medicare Upper Payment Limits (UPL) Program payments and inpatient
5584 hospital access payments, by the total number of non-Medicare
5585 hospital inpatient days as defined below for all licensed
5586 Mississippi hospitals, except as provided in paragraph (d) below.
5587 If the state matching funds percentage for the Mississippi
5588 Medicaid program is sixteen percent (16%) or less, the sum used in
5589 the formula under this subparagraph (i) shall be Seventy-four
5590 Million Dollars (\$74,000,000.00). If the state matching funds
5591 percentage for the Mississippi Medicaid program is twenty-four
5592 percent (24%) or higher, the sum used in the formula under this
5593 subparagraph (i) shall be One Hundred Four Million Dollars
5594 (\$104,000,000.00). If the state matching funds percentage for the
5595 Mississippi Medicaid program is between sixteen percent (16%) and
5596 twenty-four percent (24%), the sum used in the formula under this
5597 subparagraph (i) shall be a pro rata amount determined as follows:
5598 the current state matching funds percentage rate minus sixteen



5599 percent (16%) divided by eight percent (8%) multiplied by Thirty
5600 Million Dollars (\$30,000,000.00) and add that amount to
5601 Seventy-four Million Dollars (\$74,000,000.00). However, no
5602 assessment in a quarter under this subparagraph (i) may exceed the
5603 assessment in the previous quarter by more than Three Million
5604 Seven Hundred Fifty Thousand Dollars (\$3,750,000.00) (which would
5605 be Fifteen Million Dollars (\$15,000,000.00) on an annualized
5606 basis). The division shall publish the state matching funds
5607 percentage rate applicable to the Mississippi Medicaid program on
5608 the tenth day of the first month of each quarter and the
5609 assessment determined under the formula prescribed above shall be
5610 applicable in the quarter following any adjustment in that state
5611 matching funds percentage rate. The division shall notify each
5612 hospital licensed in the state as to any projected increases or
5613 decreases in the assessment determined under this subparagraph
5614 (i). However, if the Centers for Medicare and Medicaid Services
5615 (CMS) does not approve the provision in Section 43-13-117(39)
5616 requiring the division to reimburse crossover claims for inpatient
5617 hospital services and crossover claims covered under Medicare Part
5618 B for dually eligible beneficiaries in the same manner that was in
5619 effect on January 1, 2008, the sum that otherwise would have been
5620 used in the formula under this subparagraph (i) shall be reduced
5621 by Seven Million Dollars (\$7,000,000.00).

5622 (ii) In addition to the assessment provided under
5623 subparagraph (i), effective for state fiscal year 2016, fiscal



5624 year 2017 and fiscal year 2018, an additional annual assessment on
5625 each hospital licensed in the state is imposed on each
5626 non-Medicare hospital inpatient day as defined below at a rate
5627 that is determined by dividing twenty-five percent (25%) of any
5628 provider reductions in the Medicaid program as authorized in
5629 Section 43-13-117(F) for that fiscal year up to the following
5630 maximum amount, plus the nonfederal share necessary to maximize
5631 the Disproportionate Share Hospital (DSH) and inpatient Medicare
5632 Upper Payment Limits (UPL) Program payments and inpatient hospital
5633 access payments, by the total number of non-Medicare hospital
5634 inpatient days as defined below for all licensed Mississippi
5635 hospitals: in fiscal year 2010, the maximum amount shall be
5636 Twenty-four Million Dollars (\$24,000,000.00); in fiscal year 2011,
5637 the maximum amount shall be Thirty-two Million Dollars
5638 (\$32,000,000.00); and in fiscal year 2012 and thereafter, the
5639 maximum amount shall be Forty Million Dollars (\$40,000,000.00).
5640 Any such deficit in the Medicaid program shall be reviewed by the
5641 PEER Committee as provided in Section 43-13-117(F).

5642 (iii) In addition to the assessments provided in
5643 subparagraphs (i) and (ii), effective for state fiscal year 2016,
5644 fiscal year 2017 and fiscal year 2018, an additional annual
5645 assessment on each hospital licensed in the state is imposed
5646 pursuant to the provisions of Section 43-13-117(F) if the cost
5647 containment measures described therein have been implemented and
5648 there are insufficient funds in the Health Care Trust Fund to



5649 reconcile any remaining deficit in any fiscal year. If the
5650 Governor institutes any other additional cost containment measures
5651 on any program or programs authorized under the Medicaid program
5652 pursuant to Section 43-13-117(F), hospitals shall be responsible
5653 for twenty-five percent (25%) of any such additional imposed
5654 provider cuts, which shall be in the form of an additional
5655 assessment not to exceed the twenty-five percent (25%) of provider
5656 expenditure reductions. Such additional assessment shall be
5657 imposed on each non-Medicare hospital inpatient day in the same
5658 manner as assessments are imposed under subparagraphs (i) and
5659 (ii).

5660 (b) Payment and definitions.

5661 (i) The hospital assessment as described in this
5662 subsection (4) * * * shall be assessed and collected monthly no
5663 later than the fifteenth calendar day of each month; provided,
5664 however, that the first three (3) monthly payments shall be
5665 assessed but not be collected until collection is satisfied for
5666 the third monthly (September) payment and the second three (3)
5667 monthly payments shall be assessed but not be collected until
5668 collection is satisfied for the sixth monthly (December) payment
5669 and provided that the portion of the assessment related to the DSH
5670 payments shall be paid in three (3) one-third (1/3) installments
5671 due no later than the fifteenth calendar day of the payment month
5672 of the DSH payments required by Section 43-13-117(A)(18), which
5673 shall be paid during the second, third and fourth quarters of the



state fiscal year, and provided that the assessment related to any inpatient UPL payment(s) shall be paid no later than the fifteenth calendar day of the payment month of the UPL payment(s) and provided assessments related to inpatient hospital access payments will be collected beginning the initial month that the division funds MHAP.

(ii) Definitions. For purposes of this subsection (4):

1. "Non-Medicare hospital inpatient day" means total hospital inpatient days including subcomponent days less Medicare inpatient days including subcomponent days from the hospital's 2013 Medicare cost report on file with CMS.

a. Total hospital inpatient days shall be the sum of Worksheet S-3, Part 1, column 8 row 14, column 8 row 16, and column 8 row 17, excluding column 8 rows 5 and 6.

b. Hospital Medicare inpatient days shall be the sum of Worksheet S-3, Part 1, column 6 row 14, column 6 row 16.00, and column 6 row 17, excluding column 6 rows 5 and 6.

c. Inpatient days shall not include residential treatment or long-term care days.

2. "Subcomponent inpatient day" means the number of days of care charged to a beneficiary for inpatient hospital rehabilitation and psychiatric care services in units of full days. A day begins at midnight and ends twenty-four (24) hours later. A part of a day, including the day of admission and



5699 day on which a patient returns from leave of absence, counts as a
5700 full day. However, the day of discharge, death, or a day on which
5701 a patient begins a leave of absence is not counted as a day unless
5702 discharge or death occur on the day of admission. If admission
5703 and discharge or death occur on the same day, the day is
5704 considered a day of admission and counts as one (1) subcomponent
5705 inpatient day.

5706 (c) The assessment provided in this subsection is
5707 intended to satisfy and not be in addition to the assessment and
5708 intergovernmental transfers provided in Section 43-13-117(A) (18).
5709 Nothing in this section shall be construed to authorize any state
5710 agency, division or department, or county, municipality or other
5711 local governmental unit to license for revenue, levy or impose any
5712 other tax, fee or assessment upon hospitals in this state not
5713 authorized by a specific statute.

5714 (d) Hospitals operated by the United States Department
5715 of Veterans Affairs and state-operated facilities that provide
5716 only inpatient and outpatient psychiatric services shall not be
5717 subject to the hospital assessment provided in this subsection.

5718 (e) Multihospital systems, closure, merger and new
5719 hospitals.

5720 (i) If a hospital conducts, operates or maintains
5721 more than one (1) hospital licensed by the State Department of
5722 Health, the provider shall pay the hospital assessment for each
5723 hospital separately.



5724 (ii) Notwithstanding any other provision in this
5725 section, if a hospital subject to this assessment operates or
5726 conducts business only for a portion of a fiscal year, the
5727 assessment for the state fiscal year shall be adjusted by
5728 multiplying the assessment by a fraction, the numerator of which
5729 is the number of days in the year during which the hospital
5730 operates, and the denominator of which is three hundred sixty-five
5731 (365). Immediately upon ceasing to operate, the hospital shall
5732 pay the assessment for the year as so adjusted (to the extent not
5733 previously paid).

5734 (f) Applicability.

5735 The hospital assessment imposed by this subsection shall not
5736 take effect and/or shall cease to be imposed if:

5737 (i) The assessment is determined to be an
5738 impermissible tax under Title XIX of the Social Security Act; or

5739 (ii) CMS revokes its approval of the division's
5740 2009 Medicaid State Plan Amendment for the methodology for DSH
5741 payments to hospitals under Section 43-13-117(A)(18).

5742 This subsection (4) is repealed on July 1, 2018.

5743 (5) Each health care facility that is subject to the
5744 provisions of this section shall keep and preserve such suitable
5745 books and records as may be necessary to determine the amount of
5746 assessment for which it is liable under this section. The books
5747 and records shall be kept and preserved for a period of not less
5748 than five (5) years, during which time those books and records



5749 shall be open for examination during business hours by the
5750 division, the Department of Revenue, the Office of the Attorney
5751 General and the State Department of Health.

5752 (6) Except as provided in subsection (4) of this section,
5753 the assessment levied under this section shall be collected by the
5754 division each month beginning on March 31, 2005.

5755 (7) All assessments collected under this section shall be
5756 deposited in the Medical Care Fund created by Section 43-13-143.

5757 (8) The assessment levied under this section shall be in
5758 addition to any other assessments, taxes or fees levied by law,
5759 and the assessment shall constitute a debt due the State of
5760 Mississippi from the time the assessment is due until it is paid.

5761 (9) (a) If a health care facility that is liable for
5762 payment of an assessment levied by the division does not pay the
5763 assessment when it is due, the division shall give written notice
5764 to the health care facility by certified or registered mail
5765 demanding payment of the assessment within ten (10) days from the
5766 date of delivery of the notice. If the health care facility fails
5767 or refuses to pay the assessment after receiving the notice and
5768 demand from the division, the division shall withhold from any
5769 Medicaid reimbursement payments that are due to the health care
5770 facility the amount of the unpaid assessment and a penalty of ten
5771 percent (10%) of the amount of the assessment, plus the legal rate
5772 of interest until the assessment is paid in full. If the health
5773 care facility does not participate in the Medicaid program, the



5774 division shall turn over to the Office of the Attorney General,
5775 subject to the provisions of Sections 1 and 2 of this act, the
5776 collection of the unpaid assessment by civil action. In any such
5777 civil action, the Office of the Attorney General shall collect the
5778 amount of the unpaid assessment and a penalty of ten percent (10%)
5779 of the amount of the assessment, plus the legal rate of interest
5780 until the assessment is paid in full.

5781 (b) As an additional or alternative method for
5782 collecting unpaid assessments levied by the division, if a health
5783 care facility fails or refuses to pay the assessment after
5784 receiving notice and demand from the division, the division may
5785 file a notice of a tax lien with the chancery clerk of the county
5786 in which the health care facility is located, for the amount of
5787 the unpaid assessment and a penalty of ten percent (10%) of the
5788 amount of the assessment, plus the legal rate of interest until
5789 the assessment is paid in full. Immediately upon receipt of
5790 notice of the tax lien for the assessment, the chancery clerk
5791 shall forward the notice to the circuit clerk who shall enter the
5792 notice of the tax lien as a judgment upon the judgment roll and
5793 show in the appropriate columns the name of the health care
5794 facility as judgment debtor, the name of the division as judgment
5795 creditor, the amount of the unpaid assessment, and the date and
5796 time of enrollment. The judgment shall be valid as against
5797 mortgagees, pledgees, entrusters, purchasers, judgment creditors
5798 and other persons from the time of filing with the clerk. The



5799 amount of the judgment shall be a debt due the State of
5800 Mississippi and remain a lien upon the tangible property of the
5801 health care facility until the judgment is satisfied. The
5802 judgment shall be the equivalent of any enrolled judgment of a
5803 court of record and shall serve as authority for the issuance of
5804 writs of execution, writs of attachment or other remedial writs.

5805 (10) As soon as possible after July 1, 2009, the Division of
5806 Medicaid shall submit to the Centers for Medicare and Medicaid
5807 Services (CMS) a state plan amendment or amendments (SPA)
5808 regarding the hospital assessment established under subsection (4)
5809 of this section. In addition to defining the assessment
5810 established in subsection (4) of this section, the state plan
5811 amendment or amendments shall include any amendments necessary to
5812 provide for the following additional annual Medicare Upper Payment
5813 Limits (UPL) Program and Disproportionate Share Hospital (DSH)
5814 payments to hospitals located in Mississippi that participate in
5815 the Medicaid program:

5816 (a) Privately operated and nonstate government operated
5817 hospitals, within the meaning of 42 CFR Section 447.272, that have
5818 fifty (50) or fewer licensed beds as of January 1, 2009, shall
5819 receive an additional inpatient UPL payment equal to sixty-five
5820 percent (65%) of their fiscal year 2013 hospital specific
5821 inpatient UPL gap, before any payments under this subsection.

5822 (b) General acute care hospitals licensed within the
5823 class of state hospitals shall receive an additional inpatient UPL



5824 payment equal to twenty-eight percent (28%) of their fiscal year
5825 2013 inpatient payments, excluding DSH and UPL payments.

5826 (c) General acute care hospitals licensed within the
5827 class of nonstate government hospitals shall receive an additional
5828 inpatient UPL payment determined by multiplying inpatient
5829 payments, excluding DSH and UPL, by the uniform percentage
5830 necessary to exhaust the maximum amount of inpatient UPL payments
5831 permissible under federal regulations. (For state fiscal year
5832 2015 and fiscal year 2016, the state shall use 2013 inpatient
5833 payment data).

5834 (d) In addition to other payments provided above, all
5835 hospitals licensed within the class of private hospitals shall
5836 receive an additional inpatient UPL payment determined by
5837 multiplying inpatient payments, excluding DSH and UPL, by the
5838 uniform percentage necessary to exhaust the maximum amount of UPL
5839 inpatient payments permissible under federal regulations. For
5840 state fiscal year 2015 and fiscal year 2016, the state shall use
5841 2013 data.

5842 (e) All hospitals satisfying the minimum federal DSH
5843 eligibility requirements (Section 1923(d) of the Social Security
5844 Act) shall, subject to OBRA 1993 payment limitations, receive an
5845 additional DSH payment. This additional DSH payment shall expend
5846 the balance of the federal DSH allotment and associated state
5847 share not utilized in DSH payments to state-owned institutions for
5848 treatment of mental diseases. The payment to each hospital shall



5849 be calculated by applying a uniform percentage to the uninsured
5850 costs of each eligible hospital, excluding state-owned
5851 institutions for treatment of mental diseases; however, that
5852 percentage for a state-owned teaching hospital located in Hinds
5853 County shall be multiplied by a factor of two (2).

5854 (11) The portion of the hospital assessment provided in
5855 subsection (4) of this section associated with the MHAP shall not
5856 be in effect or implemented until the approval by CMS for the MHAP
5857 is obtained.

5858 (12) The division shall implement DSH and UPL calculation
5859 methodologies that result in the maximization of available federal
5860 funds.

5861 (13) The DSH and inpatient UPL payments shall be paid on or
5862 before December 31, March 31, and June 30 of each fiscal year, in
5863 increments of one-third (1/3) of the total calculated DSH and
5864 inpatient UPL amounts.

5865 (14) The hospital assessment as described in subsection (4)
5866 above shall be assessed and collected monthly no later than the
5867 fifteenth calendar day of each month; provided, however, that the
5868 first three (3) monthly payments shall be assessed but not be
5869 collected until collection is satisfied for the third monthly
5870 (September) payment and the second three (3) monthly payments
5871 shall be assessed but not be collected until collection is
5872 satisfied for the sixth monthly (December) payment and provided
5873 that the portion of the assessment related to the DSH payments



5874 shall be paid in three (3) one-third (1/3) installments due no
5875 later than the fifteenth calendar day of the payment month of the
5876 DSH payments required by Section 43-13-117(A)(18), which shall be
5877 paid during the second, third and fourth quarters of the state
5878 fiscal year, and provided that the assessment related to any
5879 inpatient UPL payment(s) shall be paid no later than the fifteenth
5880 calendar day of the payment month of the UPL payment(s) and
5881 provided assessments related to MHAP will be collected beginning
5882 the initial month that the division funds MHAP.

5883 (15) If for any reason any part of the plan for additional
5884 annual DSH and inpatient UPL payments to hospitals provided under
5885 subsection (10) of this section is not approved by CMS, the
5886 remainder of the plan shall remain in full force and effect.

5887 (16) Nothing in this section shall prevent the Division of
5888 Medicaid from facilitating participation in Medicaid supplemental
5889 hospital payment programs by a hospital located in a county
5890 contiguous to the State of Mississippi that is also authorized by
5891 federal law to submit intergovernmental transfers (IGTs) to the
5892 State of Mississippi to fund the state share of the hospital's
5893 supplemental and/or MHAP payments.

5894 (17) Subsections (10) through (16) of this section shall
5895 stand repealed on July 1, 2018.

5896 **SECTION 92.** Section 43-13-221, Mississippi Code of 1972, is
5897 brought forward as follows:



5898 43-13-221. The Attorney General, acting through the Director
5899 of the Fraud Control Unit, may, in any case involving alleged
5900 violations of this article, conduct an investigation or
5901 prosecution. In conducting such actions, the Attorney General,
5902 acting through the director, shall have all the powers of a
5903 district attorney, including the powers to issue or cause to be
5904 issued subpoenas or other process.

5905 Persons employed by the Attorney General as investigators in
5906 the Medicaid Fraud Control Unit shall serve as law enforcement
5907 officers as defined in Section 45-6-3, and they shall be empowered
5908 to make arrests and to serve and execute search warrants and other
5909 valid legal process anywhere within the State of Mississippi.

5910 **SECTION 93.** Section 43-15-6, Mississippi Code of 1972, is
5911 amended as follows:

5912 43-15-6. (1) Any person, institution, facility, clinic,
5913 organization or other entity that provides services to children in
5914 a residential setting where care, lodging, maintenance, and
5915 counseling or therapy for alcohol or controlled substance abuse or
5916 for any other emotional disorder or mental illness is provided for
5917 children, whether for compensation or not, that holds himself,
5918 herself, or itself out to the public as providing such services,
5919 and that is entrusted with the care of the children to whom he,
5920 she, or it provides services, because of the nature of the
5921 services and the setting in which the services are provided shall
5922 be subject to the provisions of this section.



5923 (2) Each entity to which this section applies shall
5924 complete, through the appropriate governmental authority, a
5925 national criminal history record information check and a child
5926 abuse registry check for each owner, operator, employee,
5927 prospective employee, volunteer or prospective volunteer of the
5928 entity and/or any other that has or may have unsupervised access
5929 to a child served by the entity. In order to determine the
5930 applicant's suitability for employment, the entity shall ensure
5931 that the applicant be fingerprinted by local law enforcement, and
5932 the results forwarded to the Department of Public Safety. If no
5933 disqualifying record is identified at the state level, the
5934 fingerprints shall be forwarded by the Department of Public Safety
5935 to the FBI for a national criminal history record check.

5936 (3) An owner, operator, employee, prospective employee,
5937 volunteer or prospective volunteer of the entity and/or any other
5938 that has or may have unsupervised access to a child who has a
5939 criminal history of conviction or pending indictment of a crime,
5940 whether a misdemeanor or a felony, that bears upon an individual's
5941 fitness to have responsibility for the safety and well-being of
5942 children as set forth in this chapter may not provide child care
5943 or operate, or be licensed as, a residential child care program,
5944 foster parent, or foster home.

5945 (4) All fees incurred in compliance with this section shall
5946 be borne by the individual or entity to which subsection (1)
5947 applies.



5948 (5) The Department of Human Services shall have the
5949 authority to set fees, to exclude a particular crime or crimes or
5950 a substantiated finding of child abuse and/or neglect as
5951 disqualifying individuals or entities from providing foster care
5952 or residential child care, and adopt such other rules and
5953 regulations as may be required to carry out the provisions of this
5954 section.

5955 (6) Any entity that violates the provisions of this section
5956 by failure to complete sex offense criminal history record
5957 information and felony conviction record information checks, as
5958 required under subsection (3) of this section, shall be subject to
5959 a penalty of up to Ten Thousand Dollars (\$10,000.00) for each such
5960 violation and may be enjoined from further operation until it
5961 complies with this section in actions maintained by the Attorney
5962 General, subject to the provisions of Sections 1 and 2 of this
5963 act.

5964 (7) The Department of Human Services and/or its officers,
5965 employees, attorneys, agents and representatives shall not be held
5966 civilly liable for any findings, recommendations or actions taken
5967 pursuant to this section.

5968 **SECTION 94.** Section 43-15-121, Mississippi Code of 1972, is
5969 amended as follows:

5970 43-15-121. In addition to, and notwithstanding, any other
5971 remedy provided by law, the division may, in a manner provided by
5972 law and upon the advice of the Attorney General who, except as



5973 otherwise authorized in Section 7-5-39, shall represent the
5974 division in the proceedings, maintain an action, subject to the
5975 provisions of Sections 1 and 2 of this act, in the name of the
5976 state for injunction or other process against any person or entity
5977 to restrain or prevent the establishment, management or operation
5978 of a program or facility or performance of services in violation
5979 of this article or rules of the division.

5980 **SECTION 95.** Section 43-16-21, Mississippi Code of 1972, is
5981 amended as follows:

5982 43-16-21. Notwithstanding the existence of any other remedy,
5983 the department may, in the manner provided by law, in termtime or
5984 in vacation, upon the advice of the Attorney General who, except
5985 as otherwise authorized in Section 7-5-39, shall represent the
5986 department in the proceedings, maintain an action, subject to the
5987 provisions of Sections 1 and 2 of this act as applicable, in the
5988 name of the state for an injunction or restraining order to cease
5989 the operation of the home, and to provide for the appropriate
5990 removal of the children from the home and placement in the custody
5991 of the parents or legal guardians, the Department of Human
5992 Services, or any other appropriate entity in the discretion of the
5993 court. Such action shall be brought in the chancery court or the
5994 youth court, as appropriate, of the county in which such child
5995 residential home is located, and shall only be initiated for the
5996 following violations:



5997 (a) Providing supervision, care, lodging or maintenance
5998 for any children in such home without filing notification in
5999 accordance with this chapter.

6000 (b) Failure to satisfactorily comply with local health
6001 department or State Fire Marshal inspections made pursuant to
6002 Section 43-16-15, regarding the health, nutrition, cleanliness,
6003 safety, sanitation, written records and discipline policy of such
6004 home.

6005 (c) Suspected abuse and/or neglect of the children
6006 served by such home, as defined in Section 43-21-105.

6007 **SECTION 96.** Section 43-20-21, Mississippi Code of 1972, is
6008 amended as follows:

6009 43-20-21. Notwithstanding the existence of any other remedy,
6010 the licensing agency may, in the manner provided by law, in
6011 termtime or in vacation, upon the advice of the Attorney General
6012 who, except as otherwise authorized in Section 7-5-39, shall
6013 represent the licensing agency in the proceedings, maintain an
6014 action, subject to the provisions of Sections 1 and 2 of this act,
6015 in the name of the state for an injunction or other proper remedy
6016 against any person to restrain or prevent the establishment,
6017 conduct, management or operation of a child care facility without
6018 license under this chapter, or otherwise in violation of this
6019 chapter.

6020 **SECTION 97.** Section 43-25-101, Mississippi Code of 1972, is
6021 brought forward as follows:



43-25-101. The Governor, on behalf of this state, may execute a compact in substantially the following form, and the Legislature signifies in advance its approval and ratification of the compact:

THE INTERSTATE COMPACT FOR JUVENILES

ARTICLE I

PURPOSE

The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 USCS Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of this compact, through means of joint and cooperative action among the compacting states to:

(a) Ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state;



6047 (b) Ensure that the public safety interests of the
6048 citizens, including the victims of juvenile offenders, in both the
6049 sending and receiving states are adequately protected.

6050 (c) Return juveniles who have run away, absconded or
6051 escaped from supervision or control or have been accused of an
6052 offense to the state requesting their return;

6053 (d) Make contracts for the cooperative
6054 institutionalization in public facilities in member states for
6055 delinquent youth needing special services;

6056 (e) Provide for the effective tracking and supervision
6057 of juveniles;

6058 (f) Equitably allocate the costs, benefits and
6059 obligations of the compacting states;

6060 (g) Establish procedures to manage the movement between
6061 states of juvenile offenders released to the community under the
6062 jurisdiction of courts, juvenile departments, or any other
6063 criminal or juvenile justice agency that has jurisdiction over
6064 juvenile offenders;

6065 (h) Ensure immediate notice to jurisdictions where
6066 defined offenders are authorized to travel or to relocate across
6067 state lines;

6068 (i) Establish procedures to resolve pending charges
6069 (detainers) against juvenile offenders before transfer or release
6070 to the community under the terms of this compact.



6071 (j) Establish a system of uniform data collection on
6072 information pertaining to juveniles subject to this compact that
6073 allows access by authorized juvenile justice and criminal justice
6074 officials, and regular reporting of compact activities to heads of
6075 state, executive, judicial, and legislative branches and juvenile
6076 and criminal justice administrators;

6077 (k) Monitor compliance with rules governing interstate
6078 movement of juveniles and initiate interventions to address and
6079 correct noncompliance;

6080 (l) Coordinate training and education regarding the
6081 regulation of interstate movement of juveniles for officials
6082 involved in that activity; and

6083 (m) Coordinate the implementation and operation of the
6084 compact with the Interstate Compact for the Placement of Children,
6085 the Interstate Compact for Adult Offender Supervision and other
6086 compacts affecting juveniles particularly in those cases where
6087 concurrent or overlapping supervision issues arise.

6088 It is the policy of the compacting states that the activities
6089 conducted by the Interstate Commission created by this compact are
6090 the formation of public policies and therefore are public
6091 business. Furthermore, the compacting states shall cooperate and
6092 observe their individual and collective duties and
6093 responsibilities for the prompt return and acceptance of juveniles
6094 subject to the provisions of this compact. The provisions of this



6095 compact shall be reasonably and liberally construed to accomplish
6096 the purposes and policies of the compact.

6097 **ARTICLE II**

6098 **DEFINITIONS**

6099 As used in this Compact, unless the context clearly requires
6100 a different construction:

6101 (a) "Bylaws" means those bylaws established by the
6102 Interstate Commission for its governance, or for directing or
6103 controlling its actions or conduct.

6104 (b) "Compact administrator" means the individual in
6105 each compacting state appointed under the terms of this compact,
6106 responsible for the administration and management of the state's
6107 supervision and transfer of juveniles subject to the terms of this
6108 compact, the rules adopted by the Interstate Commission and
6109 policies adopted by the State Council under this compact.

6110 (c) "Compacting state" means any state that has enacted
6111 the enabling legislation for this compact.

6112 (d) "Commissioner" means the voting representative of
6113 each compacting state appointed pursuant to Article III of this
6114 compact.

6115 (e) "Court" means any court having jurisdiction over
6116 delinquent, neglected or dependent children.

6117 (f) "Deputy compact administrator" means the
6118 individual, if any, in each compacting state appointed to act on
6119 behalf of a compact administrator under the terms of this compact



6120 responsible for the administration and management of the state's
6121 supervision and transfer of juveniles subject to the terms of this
6122 compact, the rules adopted by the Interstate Commission and
6123 policies adopted by the State Council under this compact.

6124 (g) "Interstate Commission" means the Interstate
6125 Commission for Juveniles created by Article III of this compact.

6126 (h) "Juvenile" means any person defined as a juvenile
6127 in any member state or by the rules of the Interstate Commission,
6128 including:

6129 (i) Accused delinquent, which is a person charged
6130 with an offense that, if committed by an adult, would be a
6131 criminal offense;

6132 (ii) Adjudicated delinquent, which is a person
6133 found to have committed an offense that, if committed by an adult,
6134 would be a criminal offense;

6135 (iii) Accused status offender, which is a person
6136 charged with an offense that would not be a criminal offense if
6137 committed by an adult;

6138 (iv) Adjudicated status offender, which is a
6139 person found to have committed an offense that would not be a
6140 criminal offense if committed by an adult; and

6141 (v) Nonoffender, which is a person in need of
6142 supervision who has not been accused or adjudicated a status
6143 offender or delinquent.



(i) "Noncompacting state" means any state that has not enacted the enabling legislation for this compact.

(j) "Probation or parole" means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

(k) "Rules" means a written statement by the Interstate Commission promulgated under Article VI of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal or suspension of an existing rule.

(l) "State" means a state of the United States, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa and the Northern Marianas Islands.

ARTICLE III

INTERSTATE COMMISSION FOR JUVENILES

(1) The compacting states create the "Interstate Commission for Juveniles." The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers and duties set forth in this compact, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.



6169 (2) The Interstate Commission shall consist of commissioners
6170 appointed by the appropriate appointing authority in each state
6171 pursuant to the rules and requirements of each compacting state
6172 and in consultation with the State Council for Interstate Juvenile
6173 Supervision created under this compact. The commissioner shall be
6174 the compact administrator, deputy compact administrator or
6175 designee from that state who shall serve on the Interstate
6176 Commission in such capacity under the applicable law of the
6177 compacting state.

6178 (3) In addition to the commissioners who are the voting
6179 representatives of each state, the Interstate Commission shall
6180 include individuals who are not commissioners, but who are members
6181 of interested organizations. Those noncommissioner members must
6182 include a member of the national organizations of governors,
6183 legislators, state chief justices, attorneys general, Interstate
6184 Compact for Adult Offender for Adult Offender Supervision,
6185 Interstate Compact for the Placement of Children, juvenile justice
6186 and juvenile corrections officials and crime victims. All
6187 noncommissioner members of the Interstate Commission shall be ex
6188 officio nonvoting members. The Interstate Commission may provide
6189 in its bylaws for additional ex officio nonvoting members,
6190 including members of other national organizations, in such numbers
6191 as determined by the commission.

6192 (4) Each compacting state represented at any meeting of the
6193 commission is entitled to one (1) vote. A majority of the



6194 compacting states shall constitute a quorum for the transaction of
6195 business, unless a larger quorum is required by the bylaws of the
6196 Interstate Commission.

6197 (5) The commission shall meet at least once each calendar
6198 year. The chairperson may call additional meetings and, upon the
6199 request of a simple majority of the compacting states, shall call
6200 additional meetings. Public notice shall be given of all meetings
6201 and meetings shall be open to the public.

6202 (6) The Interstate Commission shall establish an executive
6203 committee, which shall include commission officers, members and
6204 others as determined by the bylaws. The executive committee shall
6205 have the power to act on behalf of the Interstate Commission
6206 during periods when the Interstate Commission is not in session,
6207 with the exception of rule making and/or amendment to the compact.
6208 The executive committee shall oversee the day-to-day activities of
6209 the administration of the compact managed by an executive director
6210 and Interstate Commission staff; administers enforcement and
6211 compliance with the provisions of the compact, its bylaws and
6212 rules and performs such other duties as directed by the Interstate
6213 Commission or set forth in the bylaws.

6214 (7) Each member of the Interstate Commission shall have the
6215 right and power to cast a vote to which that compacting state is
6216 entitled and to participate in the business and affairs of the
6217 Interstate Commission. A member shall vote in person and shall
6218 not delegate a vote to another compacting state. However, a



6219 commissioner, in consultation with the State Council, shall
6220 appoint another authorized representative, in the absence of the
6221 commissioner from that state, to cast a vote on behalf of the
6222 compacting state at a specified meeting. The bylaws may provide
6223 for members' participation in meetings by telephone or other means
6224 of telecommunication or electronic communication.

6225 (8) The Interstate Commission's bylaws shall establish
6226 conditions and procedures under which the Interstate Commission
6227 shall make its information and official records available to the
6228 public for inspection or copying. The Interstate Commission may
6229 exempt from disclosure any information or official records to the
6230 extent they would adversely affect personal privacy rights or
6231 proprietary interests.

6232 (9) Public notice shall be given of all meetings and all
6233 meetings shall be open to the public, except as set forth in the
6234 rules or as otherwise provided in the compact. The Interstate
6235 Commission and any of its committees may close a meeting to the
6236 public where it determines by two-thirds (2/3) vote that an open
6237 meeting would be likely to:

6238 (a) Relate solely to the Interstate Commission's
6239 internal personnel practice and procedures;

6240 (b) Disclose matters specifically exempted from
6241 disclosure by statute;

6242 (c) Disclose trade secrets or commercial or financial
6243 information that is privileged or confidential;



6244 (d) Involve accusing any person of a crime, or formally
6245 censuring any person;

6246 (e) Disclose information of a personal nature where
6247 disclosure would constitute a clearly unwarranted invasion of
6248 personal privacy;

6249 (f) Disclose investigative records compiled for law
6250 enforcement purposes;

6251 (g) Disclose information contained in or related to
6252 examination, operating or condition reports prepared by, or on
6253 behalf of or for the use of, the Interstate Commission with
6254 respect to a regulated person or entity for the purpose of
6255 regulation or supervision of the person or entity;

6256 (h) Disclose information, the premature disclosure of
6257 which would significantly endanger the stability of a regulated
6258 person or entity; or

6259 (i) Specifically relate to the Interstate Commission's
6260 issuance of a subpoena, or its participation in a civil action or
6261 other legal proceeding.

6262 (10) For every meeting closed under this provision, the
6263 Interstate Commission's legal counsel shall publicly certify that,
6264 in the legal counsel's opinion, the meeting may be closed to the
6265 public, and shall reference each relevant exemptive provision.
6266 The Interstate Commission shall keep minutes that shall fully and
6267 clearly describe all matters discussed in any meeting and shall
6268 provide a full and accurate summary of any actions taken, and the



6269 reasons therefor, including a description of each of the views
6270 expressed on any item and the record of any roll call vote
6271 (reflected in the vote of each member on the question). All
6272 documents considered in connection with any action shall be
6273 identified in the minutes.

6274 (11) The Interstate Commission shall collect standardized
6275 data concerning the interstate movement of juveniles as directed
6276 through its rules, which shall specify the data to be collected,
6277 the means of collection, data exchange and reporting requirements.
6278 Those methods of data collection, exchange and reporting shall,
6279 insofar as is reasonably possible, conform to up-to-date
6280 technology and coordinate its information functions with the
6281 appropriate repository of records.

6282 **ARTICLE IV**

6283 **POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

6284 The commission shall have the following powers and duties:

6285 (a) To provide for dispute resolution among compacting
6286 states.

6287 (b) To promulgate rules to effect the purposes and
6288 obligations as enumerated in this compact, which shall have the
6289 force and effect of statutory law and shall be binding in the
6290 compacting states to the extent and in the manner provided in this
6291 compact.



6292 (c) To oversee, supervise and coordinate the interstate
6293 movement of juveniles subject to the terms of this compact and any
6294 bylaws adopted and rules promulgated by the Interstate Commission.

6295 (d) To enforce compliance with the compact provisions,
6296 the rules promulgated by the Interstate Commission, and the
6297 bylaws, using all necessary and proper means, including, but not
6298 limited to, the use of judicial process.

6299 (e) To establish and maintain offices, which shall be
6300 located within one or more of the compacting states.

6301 (f) To purchase and maintain insurance and bonds.

6302 (g) To borrow, accept, hire or contract for services of
6303 personnel.

6304 (h) To establish and appoint committees and hire staff
6305 that it deems necessary for the carrying out of its functions
6306 including, but not limited to, an executive committee as required
6307 by Article III, which shall have the power to act on behalf of the
6308 Interstate Commission in carrying out its powers and duties under
6309 this compact.

6310 (i) To elect or appoint officers, attorneys, employees,
6311 agents or consultants, and to fix their compensation, define their
6312 duties and determine their qualifications; and to establish
6313 the Interstate Commission's personnel policies and programs
6314 relating to, inter alia, conflicts of interest, rates of
6315 compensation and qualifications of personnel.



6316 (j) To accept any and all donations and grants of
6317 money, equipment, supplies, materials and services, and to
6318 receive, utilize and dispose of it.

6319 (k) To lease, purchase, accept contributions or
6320 donations of or otherwise to own, hold, improve or use any
6321 property, real, personal or mixed.

6322 (l) To sell, convey, mortgage, pledge, lease, exchange,
6323 abandon or otherwise dispose of any property, real, personal or
6324 mixed.

6325 (m) To establish a budget and make expenditures and
6326 levy dues as provided in Article VIII of this compact.

6327 (n) To sue and be sued.

6328 (o) To adopt a seal and bylaws governing the management
6329 and operation of the Interstate Commission.

6330 (p) To perform such functions as may be necessary or
6331 appropriate to achieve the purposes of this compact.

6332 (q) To report annually to the legislatures, governors,
6333 judiciary, and State Councils of the compacting states concerning
6334 the activities of the Interstate Commission during the preceding
6335 year. Those reports also shall include any recommendations that
6336 may have been adopted by the Interstate Commission.

6337 (r) To coordinate education, training and public
6338 awareness regarding the interstate movement of juveniles for
6339 officials involved in that activity.



(s) To establish uniform standards of the reporting,
collecting and exchanging of data.

(t) To maintain its corporate books and records in
accordance with the bylaws.

ARTICLE V

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(1) **Bylaws.** The Interstate Commission shall, by a majority
of the members present and voting, within twelve (12) months after
the first Interstate Commission meeting, adopt bylaws to govern
its conduct as may be necessary or appropriate to carry out the
purposes of the compact, including, but not limited to:

(a) Establishing the fiscal year of the Interstate
Commission;

(b) Establishing an executive committee and such other
committees as may be necessary;

(c) Providing for the establishment of committees
governing any general or specific delegation of any authority or
function of the Interstate Commission;

(d) Providing reasonable procedures for calling and
conducting meetings of the Interstate Commission, and ensuring
reasonable notice of each such meeting;

(e) Establishing the titles and responsibilities of the
officers of the Interstate Commission;

(f) Providing a mechanism for concluding the operations
of the Interstate Commission and the return of any surplus funds



6365 that may exist upon the termination of the compact after the
6366 payment and/or reserving of all of its debts and obligations;

6367 (g) Providing "start-up" rules for initial
6368 administration of the compact; and

6369 (h) Establishing standards and procedures for
6370 compliance and technical assistance in carrying out the compact.

6371 (2) **Officers and Staff.** (a) The Interstate Commission
6372 shall, by a majority of the members, elect annually from among its
6373 members a chairperson and a vice chairperson each of whom shall
6374 have such authority and duties as may be specified in the bylaws.
6375 The chairperson or, in the chairperson's absence or disability,
6376 the vice chairperson shall preside at all meetings of the
6377 Interstate Commission. The officers so elected shall serve
6378 without compensation or remuneration from the Interstate
6379 Commission; however, subject to the availability of budgeted
6380 funds, the officers shall be reimbursed for any ordinary and
6381 necessary costs and expenses incurred by them in the performance
6382 of their duties and responsibilities as officers of the Interstate
6383 Commission.

6384 (b) The Interstate Commission shall, through its
6385 executive committee, appoint or retain an executive director for
6386 such period, upon such terms and conditions and for such
6387 compensation as the Interstate Commission may deem appropriate.
6388 The executive director shall serve as secretary to the Interstate
6389 Commission, but shall not be a member and shall hire and supervise



6390 such other staff as may be authorized by the Interstate
6391 Commission.

6392 (3) **Qualified Immunity, Defense and Indemnification.** (a)

6393 The commission's executive director and employees shall be immune
6394 from suit and liability, either personally or in their official
6395 capacity, for any claim for damage to or loss of property,
6396 personal injury or other civil liability caused or arising out of
6397 or relating to any actual or alleged act, error, or omission that
6398 occurred, or that the person had a reasonable basis for believing
6399 occurred within the scope of commission employment, duties or
6400 responsibilities; however, any such person shall not be protected
6401 from suit or liability for any damage, loss, injury or liability
6402 caused by the intentional or willful and wanton misconduct of any
6403 such person.

6404 (b) The liability of any commissioner, or the employee
6405 of an agent of a commissioner, acting within the scope of the
6406 person's employment or duties for acts, errors or omissions
6407 occurring within the person's state, may not exceed the limits of
6408 liability set forth under the Constitution and laws of that state
6409 for state officials, employees and agents. Nothing in this
6410 subsection shall be construed to protect any such person from suit
6411 or liability for any damage, loss, injury or liability caused by
6412 the intentional or willful and wanton misconduct of any such
6413 person.



6414 (c) The Interstate Commission shall defend the
6415 executive director or the employees or representatives of the
6416 Interstate Commission and, subject to the approval of the Attorney
6417 General of the state represented by any commissioner of a
6418 compacting state, shall defend the commissioner or the
6419 commissioner's representatives or employees in any civil action
6420 seeking to impose liability arising out of any actual or alleged
6421 act, error or omission that occurred within the scope of
6422 interstate commission employment, duties or responsibilities, or
6423 that the defendant has a reasonable basis for believing occurred
6424 within the scope of interstate commission employment, duties or
6425 responsibilities, provided that the actual or alleged act, error
6426 or omission did not result from intentional or willful and wanton
6427 misconduct on the part of the person.

6428 (d) The Interstate Commission shall indemnify and hold
6429 the commissioner of a compacting state, or the commissioner's
6430 representatives or employees or the Interstate Commission's
6431 representatives or employees, harmless in the amount of any
6432 settlement or judgment obtained against those persons arising out
6433 of any actual or alleged act, error or omission that occurred
6434 within the scope of interstate commission employment, duties or
6435 responsibilities, or that those persons had a reasonable basis for
6436 believing occurred within the scope of interstate commission
6437 employment, duties or responsibilities, provided that the actual



or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE VI

RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(1) The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

(2) Rule making shall occur using the criteria set forth in this article and the bylaws and rules adopted under this article. That rule making shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Volume 15, page 1 (2000), or such other administrative procedures act, as the Interstate Commission deems appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the commission.

(3) When promulgating a rule, the Interstate Commission shall, at a minimum:

(a) Publish the proposed rule's entire text stating the reason(s) for that proposed rule;

(b) Allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record, and be made publicly available;



6463 (c) Provide an opportunity for an informal hearing if
6464 petitioned by ten (10) or more persons; and

6465 (d) Promulgate a final rule and its effective date, if
6466 appropriate, based on input from state or local officials, or
6467 interested parties.

6468 (4) Allow not later than sixty (60) days after a rule is
6469 promulgated, any interested person to file a petition in the
6470 United States District Court for the District of Columbia or in
6471 the Federal District Court where the Interstate Commission's
6472 principal office is located for judicial review of the rule. If
6473 the court finds that the Interstate Commission's action is not
6474 supported by substantial evidence in the rule-making record, the
6475 court shall hold the rule unlawful and set it aside. For purposes
6476 of this subsection, evidence is substantial if it would be
6477 considered substantial evidence under the Model State
6478 Administrative Procedures Act.

6479 (5) If a majority of the legislatures of the compacting
6480 states rejects a rule, those states may, by enactment of a statute
6481 or resolution in the same manner used to adopt the compact, cause
6482 that the rule shall have no further force and effect in any
6483 compacting state.

6484 (6) The existing rules governing the operation of the
6485 Interstate Compact on Juveniles superceded by this act shall be
6486 null and void twelve (12) months after the first meeting of the
6487 Interstate Commission created under this compact.



(7) Upon determination by the Interstate Commission that a state of emergency exists, it may promulgate an emergency rule that shall become effective immediately upon adoption, provided that the usual rule-making procedures provided under this article retroactively applied to the rule as soon as reasonably possible, but no later than ninety (90) days after the effective date of the emergency rule.

ARTICLE VII

OVERSIGHT, ENFORCEMENT AND DISPUTES RESOLUTION

BY THE INTERSTATE COMMISSION

(1) **Oversight.** (a) The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor those activities being administered in noncompacting states that may significantly affect compacting states.

(b) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated under this compact shall be received by all the judges, public officers, commissions and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter



of this compact that may affect the powers, responsibilities or actions of the Interstate Commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

(2) **Dispute Resolution.** (a) The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact, as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules.

(b) The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues that are subject to the compact and that may arise among compacting states and between compacting and noncompacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(c) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Article XI of this compact.

ARTICLE VIII

FINANCE

(1) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.



(2) The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state, and shall promulgate a rule binding upon all compacting states which governs the assessment.

(3) The Interstate Commission shall not incur any obligations of any kind before securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

(4) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE IX



6563 **THE STATE COUNCIL**

6564 Each member state shall create a State Council for Interstate
6565 Juvenile Supervision. While each state may determine the
6566 membership of its own State Council, its membership must include
6567 at least one (1) representative from the legislative, judicial,
6568 and executive branches of government, victims groups, and the
6569 compact administrator or designee. Each compacting state retains
6570 the right to determine the qualifications of the compact
6571 administrator or deputy compact administrator. Each State Council
6572 will advise and may exercise oversight and advocacy concerning the
6573 state's participation in Interstate Commission activities and
6574 other duties as may be determined by that state, including, but
6575 not limited to, development of policy concerning operations and
6576 procedures of the compact within that state.

6577 **ARTICLE X**

6578 **COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT**

6579 (1) Any state, the District of Columbia (or its designee),
6580 the Commonwealth of Puerto Rico, the United States Virgin Islands,
6581 Guam, American Samoa and the Northern Marianas Islands as defined
6582 in Article II of this compact is eligible to become a compacting
6583 state.

6584 (2) The compact shall become effective and binding upon
6585 legislative enactment of the compact into law by no less than
6586 thirty-five (35) of the states. The initial effective date shall
6587 be the later of July 1, 2004, or upon enactment into law by the



6588 thirty-fifth jurisdiction. Thereafter, it shall become effective
6589 and binding as to any other compacting state upon enactment of the
6590 compact into law by that state. The governors of nonmember states
6591 or their designees shall be invited to participate in the
6592 activities of the Interstate Commission on a nonvoting basis
6593 before adoption of the compact by all states and territories of
6594 the United States.

6595 (3) The Interstate Commission may propose amendments to the
6596 compact for enactment by the compacting states. No amendment
6597 shall become effective and binding upon the Interstate Commission
6598 and the compacting states unless and until it is enacted into law
6599 by unanimous consent of the compacting states.

6600 **ARTICLE XI**

6601 **WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT**

6602 (1) **Withdrawal.** (a) Once effective, the compact shall
6603 continue in force and remain binding upon each and every
6604 compacting state; however, a compacting state may withdraw from
6605 the compact by specifically repealing the statute that enacted the
6606 compact into law.

6607 (b) The effective date of withdrawal is the effective
6608 date of the repeal.

6609 (c) The withdrawing state shall immediately notify the
6610 Chairperson of the Interstate Commission in writing upon the
6611 introduction of legislation repealing this compact in the
6612 withdrawing state. The Interstate Commission shall notify the



6613 other compacting states of the withdrawing state's intent to
6614 withdraw within sixty (60) days of its receipt thereof.

6615 (d) The withdrawing state is responsible for all
6616 assessments, obligations and liabilities incurred through the
6617 effective date of withdrawal, including any obligations, the
6618 performance of which extend beyond the effective date of
6619 withdrawal.

6620 (e) Reinstatement following withdrawal of any
6621 compacting state shall occur upon the withdrawing state reenacting
6622 the compact or upon such later date as determined by the
6623 Interstate Commission.

6624 (2) **Technical Assistance, Fines, Suspension, Termination and**
6625 **Default.** (a) If the Interstate Commission determines that any
6626 compacting state has at any time defaulted in the performance of
6627 any of its obligations or responsibilities under this compact, or
6628 the bylaws or duly promulgated rules, the Interstate Commission
6629 may impose any or all of the following penalties:

6630 (i) Remedial training and technical assistance as
6631 directed by the Interstate Commission;

6632 (ii) Alternative dispute resolution;

6633 (iii) Fines, fees and costs in such amounts as are
6634 deemed to be reasonable as fixed by the Interstate Commission; and

6635 (iv) Suspension or termination of membership in
6636 the compact, which shall be imposed only after all other
6637 reasonable means of securing compliance under the bylaws and rules



6638 have been exhausted and the Interstate Commission has therefore
6639 determined that the offending state is in default. Immediate
6640 notice of suspension shall be given by the Interstate Commission
6641 to the governor, the chief justice or the chief judicial officer
6642 of the state, the majority and minority leaders of the defaulting
6643 state's legislature and the State Council. The grounds for
6644 default include, but are not limited to, failure of a compacting
6645 state to perform the obligations or responsibilities imposed upon
6646 it by this compact, the bylaws or duly promulgated rules and any
6647 other grounds designated in commission bylaws and rules. The
6648 Interstate Commission shall immediately notify the defaulting
6649 state in writing of the penalty imposed by the Interstate
6650 Commission and of the default pending a cure of the default. The
6651 commission shall stipulate the conditions and the time period
6652 within which the defaulting state must cure its default. If the
6653 defaulting state fails to cure the default within the time period
6654 specified by the commission, the defaulting state shall be
6655 terminated from the compact upon an affirmative vote of a majority
6656 of the compacting states and all rights, privileges and benefits
6657 conferred by this compact shall be terminated from the effective
6658 date of termination.

6659 (b) Within sixty (60) days of the effective date of
6660 termination of a defaulting state, the commission shall notify the
6661 governor, the chief justice or the chief judicial officer, the



6662 majority and minority leaders of the defaulting state's
6663 legislature, and the State Council of that termination.

6664 (c) The defaulting state is responsible for all
6665 assessments, obligations and liabilities incurred through the
6666 effective date of termination including any obligations, the
6667 performance of which extends beyond the effective date of
6668 termination.

6669 (d) The Interstate Commission shall not bear any costs
6670 relating to the defaulting state unless otherwise mutually agreed
6671 upon in writing between the Interstate Commission and the
6672 defaulting state.

6673 (e) Reinstatement following termination of any
6674 compacting state requires both a reenactment of the compact by the
6675 defaulting state and the approval of the Interstate Commission
6676 pursuant to the rules.

6677 (3) **Judicial Enforcement.** The Interstate Commission may, by
6678 majority vote of the members, initiate legal action in the United
6679 States District Court for the District of Columbia or, at the
6680 discretion of the Interstate Commission, in the federal district
6681 court where the Interstate Commission has its offices, to enforce
6682 compliance with the provisions of the compact, its duly
6683 promulgated rules and bylaws, against any compacting state in
6684 default. If judicial enforcement is necessary, the prevailing
6685 party shall be awarded all costs of the litigation, including
6686 reasonable attorney's fees.



6712 (2) **Binding Effect of the Compact.** (a) All lawful actions
6713 of the Interstate Commission, including all rules and bylaws
6714 promulgated by the Interstate Commission, are binding upon the
6715 compacting states.

6716 (b) All agreements between the Interstate Commission
6717 and the compacting states are binding in accordance with their
6718 terms.

6719 (c) Upon the request of a party to a conflict over
6720 meaning or interpretation of Interstate Commission actions, and
6721 upon a majority vote of the compacting states, the Interstate
6722 Commission may issue advisory opinions regarding that meaning or
6723 interpretation.

6724 (d) If any provision of this compact exceeds the
6725 constitutional limits imposed on the legislature of any compacting
6726 state, the obligations, duties, powers or jurisdiction sought to
6727 be conferred by that provision upon the Interstate Commission
6728 shall be ineffective and those obligations, duties, powers or
6729 jurisdiction shall remain in the compacting state and shall be
6730 exercised by the agency thereof to which those obligations,
6731 duties, powers or jurisdiction are delegated by law in effect at
6732 the time this compact becomes effective.

6733 **SECTION 98.** Section 45-9-53, Mississippi Code of 1972, is
6734 amended as follows:



6735 45-9-53. (1) This section and Section 45-9-51 do not affect
6736 the authority that a county or municipality may have under another
6737 law:

6738 (a) To require citizens or public employees to be armed
6739 for personal or national defense, law enforcement, or another
6740 lawful purpose;

6741 (b) To regulate the discharge of firearms within the
6742 limits of the county or municipality. A county or municipality
6743 may not apply a regulation relating to the discharge of firearms
6744 or other weapons in the extraterritorial jurisdiction of the
6745 county or municipality or in an area annexed by the county or
6746 municipality after September 1, 1981, if the firearm or other
6747 weapon is:

6748 (i) A shotgun, air rifle or air pistol, BB gun or
6749 bow and arrow discharged:

6750 1. On a tract of land of ten (10) acres or
6751 more and more than one hundred fifty (150) feet from a residence
6752 or occupied building located on another property; and

6753 2. In a manner not reasonably expected to
6754 cause a projectile to cross the boundary of the tract; or

6755 (ii) A center fire or rimfire rifle or pistol or a
6756 muzzle-loading rifle or pistol of any caliber discharged:

6757 1. On a tract of land of fifty (50) acres or
6758 more and more than three hundred (300) feet from a residence or
6759 occupied building located on another property; and



6760 2. In a manner not reasonably expected to
6761 cause a projectile to cross the boundary of the tract;

6762 (c) To regulate the use of property or location of
6763 businesses for uses therein pursuant to fire code, zoning
6764 ordinances, or land-use regulations, so long as such codes,
6765 ordinances and regulations are not used to circumvent the intent
6766 of Section 45-9-51 or paragraph (e) of this subsection;

6767 (d) To regulate the use of firearms in cases of
6768 insurrection, riots and natural disasters in which the city finds
6769 such regulation necessary to protect the health and safety of the
6770 public. However, the provisions of this section shall not apply
6771 to the lawful possession of firearms, ammunition or components of
6772 firearms or ammunition;

6773 (e) To regulate the storage or transportation of
6774 explosives in order to protect the health and safety of the
6775 public, with the exception of black powder which is exempt up to
6776 twenty-five (25) pounds per private residence and fifty (50)
6777 pounds per retail dealer;

6778 (f) To regulate the carrying of a firearm at: (i) a
6779 public park or at a public meeting of a county, municipality or
6780 other governmental body; (ii) a political rally, parade or
6781 official political meeting; or (iii) a nonfirearm-related school,
6782 college or professional athletic event; or

6783 (g) To regulate the receipt of firearms by pawnshops.



6784 (2) The exception provided by subsection (1)(f) of this
6785 section does not apply if the firearm was in or carried to and
6786 from an area designated for use in a lawful hunting, fishing or
6787 other sporting event and the firearm is of the type commonly used
6788 in the activity.

6789 (3) This section and Section 45-9-51 do not authorize a
6790 county or municipality or their officers or employees to act in
6791 contravention of Section 33-7-303.

6792 (4) No county or a municipality may use the written notice
6793 provisions of Section 45-9-101(13) to prohibit concealed firearms
6794 on property under their control except:

6795 (a) At a location listed in Section 45-9-101(13)
6796 indicating that a license issued under Section 45-9-101 does not
6797 authorize the holder to carry a firearm into that location, as
6798 long as the sign also indicates that carrying a firearm is
6799 unauthorized only for license holders without a training
6800 endorsement or that it is a location included in Section
6801 97-37-7(2) where carrying a firearm is unauthorized for all
6802 license holders; and

6803 (b) At any location under the control of the county or
6804 municipality aside from a location listed in subsection (1)(f) of
6805 this section or Section 45-9-101(13) indicating that the
6806 possession of a firearm is prohibited on the premises, as long as
6807 the sign also indicates that it does not apply to a person
6808 properly licensed under Section 45-9-101 or Section 97-37-7(2) to



6809 carry a concealed firearm or to a person lawfully carrying a
6810 firearm that is not concealed.

6811 (5) (a) A citizen of this state, or a person licensed to
6812 carry a concealed pistol or revolver under Section 45-9-101, or a
6813 person licensed to carry a concealed pistol or revolver with the
6814 endorsement under Section 97-37-7, who is adversely affected by an
6815 ordinance or posted written notice adopted by a county or
6816 municipality in violation of this section may file suit for
6817 declarative and injunctive relief against a county or municipality
6818 in the circuit court which shall have jurisdiction over the county
6819 or municipality where the violation of this section occurs.

6820 (b) Before instituting suit under this subsection, the
6821 party adversely impacted by the ordinance or posted written notice
6822 shall notify the Attorney General in writing of the violation and
6823 include evidence of the violation. The Attorney General shall,
6824 within thirty (30) days, investigate whether the county or
6825 municipality adopted an ordinance or posted written notice in
6826 violation of this section and provide the chief administrative
6827 officer of the county or municipality notice of his findings,
6828 including, if applicable, a description of the violation and
6829 specific language of the ordinance or posted written notice found
6830 to be in violation. The county or municipality shall have thirty
6831 (30) days from receipt of that notice to cure the violation. If
6832 the county or municipality fails to cure the violation within that
6833 thirty-day time period, a suit under paragraph (a) of this



6834 subsection may proceed, subject to the provisions of Sections 1
6835 and 2 of this act when the suit is filed by the Attorney General.
6836 The findings of the Attorney General shall constitute a "Public
6837 Record" as defined by the Mississippi Public Records Act of 1983,
6838 Section 25-61-1 et seq.

6839 (c) If the circuit court finds that a county or
6840 municipality adopted an ordinance or posted written notice in
6841 violation of this section and failed to cure that violation in
6842 accordance with paragraph (b) of this subsection, the circuit
6843 court shall issue a permanent injunction against a county or
6844 municipality prohibiting it from enforcing the ordinance or posted
6845 written notice. Any elected county or municipal official under
6846 whose jurisdiction the violation occurred may be civilly liable in
6847 a sum not to exceed One Thousand Dollars (\$1,000.00), plus all
6848 reasonable attorney's fees and costs incurred by the party
6849 bringing the suit. Public funds may not be used to defend or
6850 reimburse officials who are found by the court to have violated
6851 this section.

6852 (d) It shall be an affirmative defense to any claim
6853 brought against an elected county or municipal official under this
6854 subsection (5) that the elected official:

6855 (i) Did not vote in the affirmative for the
6856 adopted ordinance or posted written notice deemed by the court to
6857 be in violation of this section;



6858 (ii) Did attempt to take recorded action to cure
6859 the violation as noticed by the Attorney General in paragraph (b)
6860 of this subsection; or

6861 (iii) Did attempt to take recorded action to
6862 rescind the ordinance or remove the posted written notice deemed
6863 by the court to be in violation of this section.

6864 (6) No county or municipality or their officers or employees
6865 may participate in any program in which individuals are given a
6866 thing of value provided by another individual or other entity in
6867 exchange for surrendering a firearm to the county, municipality or
6868 other governmental body unless:

6869 (a) The county or municipality has adopted an ordinance
6870 authorizing the participation of the county or municipality, or
6871 participation by an officer or employee of the county or
6872 municipality in such a program; and

6873 (b) Any ordinance enacted pursuant to this section must
6874 require that any firearm received shall be offered for sale at
6875 auction as provided by Sections 19-3-85 and 21-39-21 to federally
6876 licensed firearms dealers, with the proceeds from such sale at
6877 auction reverting to the general operating fund of the county,
6878 municipality or other governmental body. Any firearm remaining in
6879 possession of the county, municipality or other governmental body
6880 after attempts to sell at auction may be disposed of in a manner
6881 that the body deems appropriate.



6882 **SECTION 99.** Section 45-12-11, Mississippi Code of 1972, is
6883 amended as follows:

6884 45-12-11. (1) A manufacturer, wholesale dealer, agent or
6885 any other person or entity who knowingly sells or offers to sell
6886 cigarettes, other than through retail sale, in violation of
6887 Section 45-12-5, shall be subject to a civil penalty not to exceed
6888 One Hundred Dollars (\$100.00) for each pack of such cigarettes
6889 sold or offered for sale, provided that in no case shall the
6890 penalty against any such person or entity exceed One Hundred
6891 Thousand Dollars (\$100,000.00) during any thirty-day period.

6892 (2) A retail dealer who knowingly sells or offers to sell
6893 cigarettes in violation of Section 45-12-5 shall be subject to a
6894 civil penalty not to exceed One Hundred Dollars (\$100.00) for each
6895 pack of such cigarettes sold or offered for sale, provided that in
6896 no case shall the penalty against any retail dealer exceed
6897 Twenty-five Thousand Dollars (\$25,000.00) for sales or offers to
6898 sale during any thirty-day period.

6899 (3) In addition to any penalty prescribed by law, any
6900 corporation, partnership, sole proprietor, limited partnership or
6901 association engaged in the manufacture of cigarettes that
6902 knowingly makes a false certification pursuant to Section 45-12-7
6903 shall be subject to a civil penalty of at least Seventy-five
6904 Thousand Dollars (\$75,000.00) and not to exceed Two Hundred Fifty
6905 Thousand Dollars (\$250,000.00) for each such false certification.



6906 (4) Any person violating any other provision in this section
6907 shall be liable for a civil penalty for a first offense not to
6908 exceed One Thousand Dollars (\$1,000.00), and for a subsequent
6909 offense shall be liable for a civil penalty not to exceed Five
6910 Thousand Dollars (\$5,000.00), for each such violation.

6911 (5) Whenever any law enforcement personnel or duly
6912 authorized representative of the State Fire Marshal shall discover
6913 any cigarettes (a) for which no certification has been filed as
6914 required by Section 45-12-7, or (b) that have not been marked as
6915 required by Section 45-12-9, such personnel is hereby authorized
6916 and empowered to seize and take possession of such cigarettes.
6917 Cigarettes seized pursuant to this section shall be destroyed;
6918 provided, however, that prior to the destruction of any cigarette
6919 seized pursuant to these provisions, the true holder of the
6920 trademark rights in the cigarette brand shall be permitted to
6921 inspect the cigarette.

6922 (6) In addition to any other remedy provided by law, the
6923 Attorney General may file an action, subject to the provisions of
6924 Sections 1 and 2 of this act, in the circuit court of the county
6925 in which such alleged violation of this chapter occurred,
6926 including petitioning (a) for preliminary or permanent injunctive
6927 relief against any manufacturer, importer, wholesale dealer,
6928 retail dealer, agent or any other person or entity to enjoin such
6929 entity from selling, offering to sell, or affixing tax stamps to
6930 any cigarette that does not comply with the requirements of this



chapter, or (b) to recover any costs or damages suffered by the state because of a violation of this chapter, including enforcement costs relating to the specific violation and attorney's fees. Each violation of this chapter or of rules or regulations adopted under this chapter constitutes a separate civil violation for which the State Fire Marshal or Attorney General may obtain relief. Upon obtaining judgment for injunctive relief under this section, the State Fire Marshal or Attorney General shall provide a copy of the judgment to all wholesale dealers and agents to which the cigarette has been sold.

SECTION 100. Section 45-14-27, Mississippi Code of 1972, is amended as follows:

45-14-27. (1) Upon completion of any project or activity regarding emergency response to and coordination of decontamination of radiation accidents or perpetual maintenance and custody of radioactive materials, each agency of the state that has participated by furnishing personnel, equipment or material shall deliver to the agency record of the expenses incurred by that agency. The amount of incurred expenses shall be disbursed by the Secretary and Executive Officer of the State Board of Health to each agency from funds available therefor. Upon completion of such project or activity, the agency shall prepare a statement of all expenses and costs for the project or activity expended by the state and shall make demand for payment upon the person having control over the radioactive materials or



6956 the release thereof which necessitated said project or activity.
6957 Any person having control over the radioactive materials or the
6958 release thereof and any other person causing or contributing to an
6959 incident necessitating such project or activity stated in this
6960 subsection shall be directly liable to the state for the necessary
6961 expenses incurred thereby and the state shall have a cause of
6962 action to recover from any or all such persons. If the person
6963 having control over the radioactive materials or the release
6964 thereof shall fail or refuse to pay the sum expended by the state,
6965 the agency shall refer the matter to the Attorney General of
6966 Mississippi who shall institute an action, subject to the
6967 provisions of Sections 1 and 2 of this act, in the name of the
6968 state in the chancery court of the county in which the project or
6969 activity was undertaken by the state to recover such cost and
6970 expenses.

6971 (2) In any action instituted by the Attorney General under
6972 this chapter, a verified and itemized statement of the expenses
6973 incurred by the state in any project or activity stated in
6974 subsection (1) of this section, shall be filed with the complaint
6975 and shall constitute a prima facie case, and the state shall be
6976 entitled to a judgment thereon in the absence of allegation and
6977 proof on the part of the defendant or defendants that:

6978 (a) The statement of expenses incurred by the state is
6979 not correct because of an error in the calculation of the amount
6980 due; or



6981 (b) The statement of the amount due is not correct
6982 because of an error in not properly crediting the account with any
6983 cash payment, or payments, or other satisfaction, which may have
6984 been made thereon.

6985 **SECTION 101.** Section 47-5-75, Mississippi Code of 1972, is
6986 amended as follows:

6987 47-5-75. The department is authorized to bring and maintain
6988 suits for the collection and enforcement of all demands and debts
6989 owing to the correctional system. No bond for costs, appeal bond,
6990 supersedeas bond or other security shall at any time be required
6991 of the department in any civil suit of any kind brought by or
6992 against it or its employees in their official capacity, except
6993 such suits as may be brought against it or them by the State of
6994 Mississippi. The Attorney General, subject to the provisions of
6995 Sections 1 and 2 of this act, of the State of Mississippi is
6996 hereby directed to assist the department in the filing and
6997 prosecution of any suits filed herein.

6998 The department shall have the further power and authority, in
6999 its discretion, to take adequate liability insurance on the
7000 operation of said correctional system, including liability
7001 insurance to protect the commissioner and other regular employees
7002 of the correctional system from tort actions in any state or
7003 federal court.

7004 **SECTION 102.** Section 47-5-901, Mississippi Code of 1972, is
7005 brought forward as follows:



7006 47-5-901. (1) Any person committed, sentenced or otherwise
7007 placed under the custody of the Department of Corrections, on
7008 order of the sentencing court and subject to the other conditions
7009 of this subsection, may serve all or any part of his sentence in
7010 the county jail of the county wherein such person was convicted if
7011 the Commissioner of Corrections determines that physical space is
7012 not available for confinement of such person in the state
7013 correctional institutions. Such determination shall be promptly
7014 made by the Department of Corrections upon receipt of notice of
7015 the conviction of such person. The commissioner shall certify in
7016 writing that space is not available to the sheriff or other
7017 officer having custody of the person. Any person serving his
7018 sentence in a county jail shall be classified in accordance with
7019 Section 47-5-905.

7020 (2) If state prisoners are housed in county jails due to a
7021 lack of capacity at state correctional institutions, the
7022 Department of Corrections shall determine the cost for food and
7023 medical attention for such prisoners. The cost of feeding and
7024 housing offenders confined in such county jails shall be based on
7025 actual costs or contract price per prisoner. In order to maximize
7026 the potential use of county jail space, the Department of
7027 Corrections is encouraged to negotiate a reasonable per day cost
7028 per prisoner, which in no event may exceed Twenty Dollars (\$20.00)
7029 per day per offender.



7030 (3) (a) Upon vouchers submitted by the board of supervisors
7031 of any county housing persons due to lack of space at state
7032 institutions, the Department of Corrections shall pay to such
7033 county, out of any available funds, the actual cost of food, or
7034 contract price per prisoner, not to exceed Twenty Dollars (\$20.00)
7035 per day per offender, as determined under subsection (2) of this
7036 section for each day an offender is so confined beginning the day
7037 that the Department of Corrections receives a certified copy of
7038 the sentencing order and will terminate on the date on which the
7039 offender is released or otherwise removed from the custody of the
7040 county jail. The department, or its contracted medical provider,
7041 will pay to a provider of a medical service for any and all
7042 incarcerated persons from a correctional or detention facility an
7043 amount based upon negotiated fees as agreed to by the medical care
7044 service providers and the department and/or its contracted medical
7045 provider. In the absence of negotiated discounted fee schedule,
7046 medical care service providers will be paid by the department, or
7047 its contracted medical service provider, an amount no greater than
7048 the reimbursement rate applicable based on the Mississippi
7049 Medicaid reimbursement rate. The board of supervisors of any
7050 county shall not be liable for any cost associated with medical
7051 attention for prisoners who are pretrial detainees or for
7052 prisoners who have been convicted that exceeds the Mississippi
7053 Medicaid reimbursement rate or the reimbursement provided by the
7054 Department of Corrections, whichever is greater. This limitation



7055 applies to all medical care services, durable and nondurable
7056 goods, prescription drugs and medications. Such payment shall be
7057 placed in the county general fund and shall be expended only for
7058 food and medical attention for such persons.

7059 (b) Upon vouchers submitted by the board of supervisors
7060 of any county housing offenders in county jails pending a
7061 probation or parole revocation hearing, the department shall pay
7062 the reimbursement costs provided in paragraph (a).

7063 (c) If the probation or parole of an offender is
7064 revoked, the additional cost of housing the offender pending the
7065 revocation hearing shall be assessed as part of the offender's
7066 court cost and shall be remitted to the department.

7067 (4) A person, on order of the sentencing court, may serve
7068 not more than twenty-four (24) months of his sentence in a county
7069 jail if the person is classified in accordance with Section
7070 47-5-905 and the county jail is an approved county jail for
7071 housing state inmates under federal court order. The sheriff of
7072 the county shall have the right to petition the Commissioner of
7073 Corrections to remove the inmate from the county jail. The county
7074 shall be reimbursed in accordance with subsection (2) of this
7075 section.

7076 (5) The Attorney General of the State of Mississippi shall
7077 defend the employees of the Department of Corrections and
7078 officials and employees of political subdivisions against any



7079 action brought by any person who was committed to a county jail
7080 under the provisions of this section.

7081 (6) This section does not create in the Department of
7082 Corrections, or its employees or agents, any new liability,
7083 express or implied, nor shall it create in the Department of
7084 Corrections any administrative authority or responsibility for the
7085 construction, funding, administration or operation of county or
7086 other local jails or other places of confinement which are not
7087 staffed and operated on a full-time basis by the Department of
7088 Corrections. The correctional system under the jurisdiction of
7089 the Department of Corrections shall include only those facilities
7090 fully staffed by the Department of Corrections and operated by it
7091 on a full-time basis.

7092 (7) An offender returned to a county for post-conviction
7093 proceedings shall be subject to the provisions of Section 99-19-42
7094 and the county shall not receive the per-day allotment for such
7095 offender after the time prescribed for returning the offender to
7096 the Department of Corrections as provided in Section 99-19-42.

7097 **SECTION 103.** Section 47-5-903, Mississippi Code of 1972, is
7098 brought forward as follows:

7099 47-5-903. (1) A person committed, sentenced or otherwise
7100 placed under the custody of the Department of Corrections, on
7101 order of the sentencing court, may serve his sentence in the
7102 county jail of the county where convicted if all of the following
7103 conditions are complied with:



7104 (a) The person must be classified in accordance with
7105 Section 47-5-905;

7106 (b) The person must not be classified as in need of
7107 close supervision;

7108 (c) The sheriff of the county where the person will
7109 serve his sentence must request in writing that the person be
7110 allowed to serve his sentence in that county jail;

7111 (d) After the person is classified and returned to the
7112 county, the county shall assume the full and complete
7113 responsibility for the care and expenses of housing such person;
7114 and

7115 (e) The county jail must be an approved county jail for
7116 housing state inmates under federal court order.

7117 (2) This section does not apply to inmates housed in county
7118 jails due to lack of space at state correctional facilities. The
7119 department shall not reimburse the county for the expense of
7120 housing an inmate under this section.

7121 (3) The Attorney General of the State of Mississippi shall
7122 defend the employees of the Department of Corrections and
7123 officials and employees of political subdivisions against any
7124 action brought by any person who was committed to a county jail
7125 under the provisions of this section.

7126 (4) The state, the Department of Corrections, and its
7127 employees or agents, shall not be liable to any person or entity
7128 for an inmate held in a county jail under this section.



7129 **SECTION 104.** Section 47-5-1219, Mississippi Code of 1972, is
7130 brought forward as follows:

7131 47-5-1219. A contract for correctional services shall not be
7132 entered into unless the following requirements are met:

7133 (a) In addition to fire and casualty insurance, the
7134 contractor provides at least Ten Million Dollars (\$10,000,000.00)
7135 of liability insurance, specifically including insurance for civil
7136 rights claims. The liability insurance shall be issued by an
7137 insurance company with a rating of at least an A- according to
7138 A.M. Best standards. In determining the adequacy of such
7139 insurance, the Department of Finance and Administration shall
7140 determine whether:

7141 (i) The insurance is adequate to protect the state
7142 from any and all actions by a third party against the contractor
7143 or the state as a result of the contract;

7144 (ii) The insurance is adequate to protect the
7145 state against any and all claims arising as a result of any
7146 occurrence during the term of the contract;

7147 (iii) The insurance is adequate to assure the
7148 contractor's ability to fulfill its contract with the state in all
7149 respects, and to assure that the contractor is not limited in this
7150 ability because of financial liability which results from
7151 judgments; and



7152 (iv) The insurance is adequate to satisfy such
7153 other requirements specified by the independent risk
7154 management/actuarial firm.

7155 (b) The sovereign immunity of the state shall not apply
7156 to the contractor. Neither the contractor nor the insurer of the
7157 contractor may plead the defense of sovereign immunity in any
7158 action arising out of the performance of the contract.

7159 (c) The contractor shall post a performance bond to
7160 assure the contractor's faithful performance of the specifications
7161 and conditions of the contract. The bond is required throughout
7162 the term of the contract. The terms and conditions must be
7163 approved by the Department of Corrections and the Department of
7164 Finance and Administration and such approval is a condition
7165 precedent to the contract taking effect.

7166 (d) The contractor shall defend any suit or claim
7167 brought against the State of Mississippi arising out of any act or
7168 omission in the operation of a private facility, and shall hold
7169 the State of Mississippi harmless from such claim or suit. The
7170 contractor shall be solely responsible for the payment of any
7171 legal or other costs relative to any such claim or suit. The
7172 contractor shall reimburse the State of Mississippi for any costs
7173 that it may incur as a result of such claim or suit immediately
7174 upon being submitted a statement therefor by the Attorney General.

7175 The duties and obligations of the contractor pursuant to
7176 this subsection shall include, but not be limited to, any claim or



7177 suit brought under any federal or state civil rights or prisoners
7178 rights statutes or pursuant to any such rights recognized by
7179 common law or case law, or federal or state constitutions.

7180 Any suit brought or claim made arising out of any act or
7181 omission in the operation of a private facility shall be made or
7182 brought against the contractor and not the State of Mississippi.

7183 The Attorney General retains all rights and emoluments
7184 of his office which include direction and control over any
7185 litigation or claim involving the State of Mississippi.

7186 **SECTION 105.** Section 49-4-21, Mississippi Code of 1972, is
7187 amended as follows:

7188 49-4-21. The Attorney General shall be counsel and attorney
7189 for the commission and Department of Wildlife, Fisheries and
7190 Parks, subject to the provisions of Sections 1 and 2 of this act.

7191 The Attorney General shall designate one (1) of his deputies or
7192 assistants to be counsel and attorney for the commission and the
7193 department in all actions, proceedings and hearings. The deputy
7194 or assistant so designated shall be legal advisor of the
7195 commission and the department in all matters relating to the
7196 commission and the department and to the powers and duties of its
7197 officers.

7198 **SECTION 106.** Section 49-17-71, Mississippi Code of 1972, is
7199 amended as follows:

7200 49-17-71. The Governor, on behalf of this state, is hereby
7201 authorized to execute a compact, in substantially the following



7202 form, with any one or more of the States of Alabama, Georgia,
7203 Kentucky, North Carolina, Tennessee and Virginia, and the
7204 legislature hereby signifies in advance its approval and
7205 ratification of such compact:

7206 Article I

7207 The purpose of this compact is to promote effective control
7208 and reduction of pollution in the waters of the Tennessee River
7209 Basin through increased co-operation of the states of the basin,
7210 co-ordination of pollution control activities and programs in the
7211 basin, and the establishment of a joint interstate commission to
7212 assist in these efforts.

7213 Article II

7214 The party states hereby create the "Tennessee River Basin
7215 Water Pollution Control Commission," hereinafter referred to as
7216 the "commission," which shall be an agency of each party state
7217 with the powers and duties set forth herein, and such others as
7218 shall be conferred upon it by the party states or by the Congress
7219 of the United States concurred in by the party states.

7220 Article III

7221 A. The party states hereby create the "Tennessee River
7222 Basin Water Pollution Control District," hereinafter called the
7223 "district," which consists of the area drained by the Tennessee
7224 River and its tributaries.

7225 B. From time to time the commission may conduct surveys
7226 of the basin, study the pollution problems of the basin, and make



7227 comprehensive reports concerning the prevention or reduction of
7228 water pollution therein. The commission may draft and recommend
7229 to the parties hereto suggested legislation dealing with the
7230 pollution of waters within the basin or any portion thereof. Upon
7231 request of a state water pollution control agency, and in a manner
7232 agreed upon by such agency and the commission, the commission
7233 shall render advice concerning the various governments,
7234 communities, municipalities, persons, corporations or other
7235 entities with regard to particular problems connected with the
7236 pollution of waters. The commission shall present to the
7237 appropriate officials of any government or agency thereof its
7238 recommendations relating to enactments to be made by any
7239 legislature in furthering the intents and purposes of this
7240 article. The commission, upon request of a member state or upon
7241 its own instance may, after proper study, and after conducting
7242 public hearings, recommend minimum standards of water quality to
7243 be followed in the several areas of the district.

7244 Article IV

7245 The commission shall consist of three (3) commissioners
7246 from each state, each of whom shall be a resident voter of such
7247 state. The commissioners shall be chosen in the manner and for
7248 the terms provided by the laws of the state from which they are
7249 appointed, and each commissioner may be removed or suspended from
7250 office as provided by the law of the state from which he is
7251 appointed.



Article V

A. The commission shall elect annually from its members a chairman and a vice chairman to serve at its pleasure. It shall adopt a seal and suitable bylaws for its management and control. The commission is hereby authorized to adopt, prescribe and promulgate rules and regulations for administering and enforcing all provisions of this compact. It may maintain one or more offices for the transaction of its business. Meetings shall be held at least once each year. It may determine duties, qualifications and compensation for and appoint such employees and consultants as may be necessary and remove or replace them.

B. The commission shall not compensate the commissioners for their services but shall pay their actual expenses incurred in and incidental to the performance of their duties.

C. The commission may acquire, by gift or otherwise, and may hold and dispose of such real and personal property as may be appropriate to the performance of its functions. In the event of sale of real property, proceeds may be distributed among the several party states, each state's share being computed in a ratio to its contributions; and in the event of dissolution of the commission, the property and assets shall be disposed of and proceeds distributed in a like manner.

D. Each commissioner shall have one vote. One or more commissioners from a majority of the party states shall constitute



7277 a quorum for the transaction of business, but no action of the
7278 commission imposing any obligation on any party state or any
7279 municipality, person, corporation or other entity therein shall be
7280 binding unless a majority of all of the members from such party
7281 state shall have voted in favor thereof. The commission shall
7282 keep accurate accounts of all receipts and disbursements, and
7283 shall submit to the governor and the legislature of each party
7284 state an annual report concerning its activities, and shall make
7285 recommendations for any legislative, executive or administrative
7286 action deemed advisable.

7287 E. The commission shall at the proper time submit to
7288 the governor of each party state for his approval an estimate of
7289 its proposed expenditures. The commission shall subsequently
7290 adopt a budget and submit appropriation requests to the party
7291 states in accordance with the laws and procedures of such states.

7292 F. The commission shall not pledge the credit of any of
7293 the party states. The Commission may meet any of its obligations
7294 in whole or in part with funds available to it, from gifts,
7295 grants, appropriations or otherwise, provided that the commission
7296 takes specific action setting aside such funds prior to the
7297 incurring of any obligation to be met in whole or in part in this
7298 manner. Except where the commission makes use of funds already
7299 available to it, the commission shall not incur any obligations
7300 prior to the making of appropriations adequate to meet the same.



7301 G. The accounts of the commission shall be open at any
7302 reasonable time to the inspection of such representatives of the
7303 respective party states as may be duly constituted for that
7304 purpose. All receipts and disbursements of funds handled by the
7305 commission shall be audited yearly by a qualified public
7306 accountant, and the report of the audit shall be included in and
7307 become a part of the annual report of the commission. The
7308 commission shall appoint an executive director. The commission
7309 shall also appoint a treasurer who may be a member of the
7310 commission. The executive director shall be custodian of the
7311 records of the commission with authority to attest to and certify
7312 such records and copies thereof under the seal of the commission.
7313 The commission shall require bonds of its executive director and
7314 treasurer in the amount of at least twenty-five per cent (25%) of
7315 the annual budget of the commission.

7316 Article VI

7317 Each of the commission's budgets of estimated
7318 expenditures shall contain specific recommendations of the amount
7319 or amounts to be appropriated by each of the party states. In
7320 determining these amounts, the commission shall prorate one half
7321 (1/2) of its budget among the several states in proportion to
7322 their land area within the district, and shall prorate the other
7323 half among the several states in proportion to their population
7324 within the district at the last preceding federal census.

7325 Article VII



7326 A. It is recognized, owing to such variable factors as
7327 location, size, character and flow and the many varied uses of the
7328 waters subject to the terms of this compact, that no single
7329 standard of sewage and waste treatment and no single standard of
7330 quality of receiving waters is practical and that the degree of
7331 treatment of sewage and industrial wastes should take into account
7332 the classification of the receiving waters according to present
7333 and proposed highest use, such as for drinking water supply,
7334 industrial and agricultural uses, bathing and other recreational
7335 purposes, maintenance and propagation of fish life, navigation and
7336 disposal of wastes.

7337 B. The commission may establish reasonable physical,
7338 chemical and bacteriological standards of water quality
7339 satisfactory for various classifications of use. It is agreed
7340 that each of the signatory states through appropriate agencies
7341 will prepare a classification of its interstate waters in the
7342 district in entirety or by portions according to present and
7343 proposed highest use, and for this purpose technical experts
7344 employed by appropriate state water pollution control agencies are
7345 authorized to confer on questions relating to classification of
7346 interstate waters affecting two or more states. Each signatory
7347 state agrees to submit its classification of its interstate waters
7348 to the commission for approval. It is agreed that after such
7349 approval, all signatory states through their appropriate state
7350 water pollution control agencies will work to establish programs



7351 of treatment of sewage and industrial wastes which will meet
7352 standards established by the commission for classified waters.
7353 The commission may from time to time make such changes in
7354 definitions of classifications and in standards as may be required
7355 by changed conditions or as may be necessary for uniformity and in
7356 a manner similar to that in which these standards and
7357 classifications were originally established.

7358 Article VIII

7359 A. A state pollution control agency of any party state
7360 may certify to the commission an alleged violation of the
7361 commission's standards of quality of water entering said state.
7362 Upon such certification the commission may call a hearing at which
7363 the appropriate state pollution agencies shall be represented. If
7364 the commission finds a violation has occurred, is occurring or is
7365 likely to recur, it shall make recommendations as to the manner of
7366 abatement of the pollution to the appropriate water pollution
7367 control agency of the party state within which the violation has
7368 occurred, is occurring or is likely to recur. In the event that
7369 commission recommendations made pursuant to the preceding
7370 provisions of this article do not result in compliance within a
7371 reasonable time, the commission may, after such further
7372 investigation if any as is deemed necessary and proper and after a
7373 hearing held in the state where a violation occurs or has
7374 occurred, issue an order or orders upon any municipality, person,
7375 corporation or other entity within said party state violating



7376 provisions of this compact by discharging sewage or industrial
7377 wastes into the waters of the district which flow through, into or
7378 border upon any party state. Such order or orders may prescribe
7379 the date on or before which such discharge shall be wholly or
7380 partially discontinued, modified or treated or otherwise disposed
7381 of. The commission shall give reasonable and proper notice in
7382 writing of the time and place of the hearing to the municipality,
7383 person, corporation or other entity against which such order is
7384 proposed except that when the commission shall find that a public
7385 health emergency exists, it may issue such an order pending
7386 hearing. In all such instances, the hearing shall be promptly
7387 held and the order shall be withdrawn, modified or made permanent
7388 within thirty (30) days after hearing. No order prescribing the
7389 date on or before which such discharge shall be wholly or
7390 partially discontinued, modified or treated or otherwise disposed
7391 of shall go into effect upon a municipality, person, corporation
7392 or other entity in any state unless and until it receives the
7393 approval of a majority of the commissioners from each of not less
7394 than a majority of the party states, provided that such order
7395 receives the assent of not less than a majority of the
7396 commissioners from such state.

7397 B. It shall be the duty of the municipality, person,
7398 corporation or other entity within a party state to comply with
7399 any such order against it or him by the commission, and any court
7400 of competent jurisdiction in any of the party states shall have



jurisdiction, by mandamus, injunction, specific performance or other form of remedy, to enforce any such order against any municipality, person, corporation or other entity domiciled, located or doing business within such state; provided, however, such court may review the order and affirm, reverse or modify the same in any appropriate proceeding brought and upon any of the grounds customarily applicable in proceedings for court review of administrative decisions. The commission or, at its request, the Attorney General, subject to the provisions of Sections 1 and 2 of this act, or other law enforcing official of the appropriate state shall have power to institute in such court any action for the enforcement of such order.

Article IX

Nothing in this compact shall be construed to limit the powers of any party state, or to repeal or prevent the enactment of any legislation, or the enforcement of any requirement by any party state, imposing any additional conditions and restrictions to further reduce or prevent the pollution of waters within its jurisdiction.

Article X

A. Nothing contained in this compact shall be construed so as to conflict with any provision of the Ohio River Valley Water Sanitation Compact or to impose obligations on any party state inconsistent with those which it has undertaken or may undertake by virtue of its membership in said compact; provided



7426 that nothing contained in this article shall be deemed to limit
7427 the commission's power to set higher standards for the waters of
7428 the Tennessee River Basin Water Pollution Control District or any
7429 portion thereof than those required for the Ohio River Valley
7430 Water Sanitation District.

7431 B. Nothing contained in this compact shall be deemed to
7432 give the commission any power or jurisdiction over any aspect of
7433 pollution abatement or control within the district unless existing
7434 or future pollution of such waters does or is likely to affect
7435 adversely the quality of water flowing among, between, into or
7436 through the territory of more than one party state.

7437 Article XI

7438 Any two (2) or more of the party states by legislative
7439 action may enter into supplementary agreements for further
7440 regulation and abatement of water pollution in other areas within
7441 the party states and for the establishment of common or joint
7442 services or facilities for such purpose and designate the
7443 commission to act as their joint agency in regard thereto. Except
7444 in those cases where all member states join in such supplementary
7445 agreement and designation, the representatives in the commission
7446 of any group of such designating states shall constitute a
7447 separate section of the commission for the performance of the
7448 function or functions so designated and with such voting rights
7449 for these purposes as may be stipulated in such agreement;
7450 provided that, if any additional expense is involved, the member



7451 states so acting shall appropriate the necessary funds for this
7452 purpose. No supplementary agreement shall be valid to the extent
7453 that it conflicts with the purposes of this compact and the
7454 creation of such a section as a joint agency shall not affect the
7455 privileges, powers, responsibilities or duties of the member
7456 states participating therein as embodied in the other articles of
7457 this compact.

7458 Article XII

7459 This compact shall enter into force and become effective
7460 and binding when it has been enacted by the legislature of
7461 Tennessee and by the legislatures of any one or more of the states
7462 of Alabama, Georgia, Kentucky, Mississippi, North Carolina and
7463 Virginia and upon approval by the Congress of the United States
7464 and thereafter shall enter into force and become effective and
7465 binding as to any other of said states when enacted by the
7466 legislature thereof.

7467 Article XIII

7468 This compact shall continue in force and remain binding
7469 upon each party state until renounced by act of the legislature of
7470 such state, in such form and manner as it may choose; provided
7471 that such renunciation shall not become effective until six (6)
7472 months after the effective date of the action taken by the
7473 legislature. Notice of such renunciation shall be given to the
7474 other party states by the secretary of state of the party state so
7475 renouncing upon passage of the act.



7476 Article XIV

7477 The provisions of this compact or of agreements
7478 thereunder shall be severable and if any phrase, clause, sentence
7479 or provision of this compact, or such agreement, is declared to be
7480 contrary to the constitution of any participating state or of the
7481 United States or the applicability thereof to any state, agency,
7482 person or circumstances is held invalid, the constitutionality of
7483 the remainder of this compact or of any agreement thereunder and
7484 the applicability thereof to any state, agency, person or
7485 circumstance shall not be affected thereby, provided further that
7486 if this compact or any agreement thereunder shall be held contrary
7487 to the Constitution of the United States or of any state
7488 participating therein, the compact or any agreement thereunder
7489 shall remain in full force and effect as to the remaining states
7490 and in full force and effect as to the state affected as to all
7491 severable matters. It is the legislative intent that the
7492 provisions of this compact shall be reasonably and liberally
7493 construed.

7494 **SECTION 107.** Section 49-27-51, Mississippi Code of 1972, is
7495 amended as follows:

7496 49-27-51. (1) (a) If a person in violation of this chapter
7497 submits a proper application for any unauthorized work and the
7498 commission determines that the work has been conducted in
7499 accordance with the public policy as set forth in Section 49-27-3,



the commission shall issue after-the-fact authorization for the work.

(b) For conducting the work without first obtaining a current and valid permit and other violations of this chapter, the commission may order and levy a penalty of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) per day for each day the violation has existed for residential type regulated activity and a penalty of not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00) per day for each day the violation has existed for commercial and industrial type regulated activity.

(2) If the person continues the violation, the Attorney General of the State of Mississippi at the request of the commission subject to the provisions of Sections 1 and 2 of this act, a district attorney having jurisdiction, or a county attorney having jurisdiction may initiate the civil or criminal actions, or both civil and criminal actions, as described in this chapter against the person.

(3) The Attorney General subject to the provisions of Sections 1 and 2 of this act, commission, district attorney or county attorney may initiate action to enjoin any person in violation of this chapter.

SECTION 108. Section 53-3-19, Mississippi Code of 1972, is amended as follows:



53-3-19. Apart from, and in addition to, any other remedy or procedure which may be available to the state oil and gas board, or any penalty which may be sought against or imposed upon any person with respect to violations relating to illegal oil, illegal gas, or illegal product, all illegal oil, illegal gas and illegal product shall, except under such circumstances as are stated herein, be contraband and shall be seized and sold, and the proceeds applied as herein provided. Such sale shall not take place unless the court shall find, in the proceeding provided for in this paragraph, that the commodity involved is contraband. Whenever the board believes that illegal oil, illegal gas or illegal product is subject to seizure and sale, as provided herein, it shall, through the Attorney General subject to the provisions of Sections 1 and 2 of this act, bring a civil action in rem for that purpose in the circuit court of the county where the commodity is found, or the action may be maintained in connection with any suit or cross-action for injunction or for penalty relating to any prohibited transaction involving such illegal oil, illegal gas or illegal product. Any interested person who may show himself to be adversely affected by any such seizure and sale shall have the right to intervene in such suit to protect his rights.

The action referred to above shall be strictly in rem and shall proceed in the name of the state as plaintiff against the illegal oil, illegal gas or illegal product mentioned in the



7549 complaint, as defendant, and no bond or bonds shall be required of
7550 the plaintiff in connection therewith. Upon the filing of the
7551 complaint, the clerk of the court shall issue a summons directed
7552 to the sheriff of the county, or to such officer or person as the
7553 court may authorize to serve process, requiring him to summon any
7554 and all persons (without undertaking to name them) who may be
7555 interested in the illegal oil, illegal gas, or illegal product
7556 mentioned in the complaint to appear and answer within thirty days
7557 after the issuance and service of such summons. The summons shall
7558 contain the style and number of the suit and a very brief
7559 statement of the nature of the cause of action. It shall be
7560 served by posting one copy thereof at the courthouse door of the
7561 county where the commodity involved in the suit is alleged to be
7562 located and by posting another copy thereof near the place where
7563 the commodity is alleged to be located. Copy of such summons
7564 shall be posted at least five (5) days before the return day
7565 stated therein, and the posting of such copy shall constitute
7566 constructive possession of such commodity by the state. A copy of
7567 the summons shall also be published once each week for three (3)
7568 weeks in some newspaper published in the county where the suit is
7569 pending or having a bona fide circulation therein. No judgment
7570 shall be pronounced by any court condemning such commodity as
7571 contraband until after the lapse of five (5) days from the last
7572 publication of said summons. Proof of service of said summons,
7573 and the manner thereof, shall be as provided by general law.



7574 Where it appears by a verified pleading on the part of the
7575 plaintiff, or by affidavit, or affidavits, that grounds for the
7576 seizure and sale exist, the clerk, in addition to the summons,
7577 shall issue an order of seizure, which shall be signed by the
7578 clerk and bear the seal of the court. Such order of seizure shall
7579 specifically describe the illegal oil, illegal gas, or illegal
7580 product, so that the same may be identified with reasonable
7581 certainty. It shall direct the sheriff to whom it is addressed to
7582 take into his custody, actual or constructive, the illegal oil,
7583 illegal gas or illegal product, described therein, and to hold the
7584 same subject to the orders of the court. Said order of seizure
7585 shall be executed as a writ of attachment is executed. No bond
7586 shall be required before the issuance of such order of seizure,
7587 and the sheriff shall be responsible upon his official bond for
7588 the proper execution thereof. For his service hereunder, the
7589 sheriff shall receive a fee as in like cases of seizure of
7590 personal property and to be assessed as other cost in the cause.

7591 Sales of illegal oil, illegal gas or illegal product, seized
7592 under the authority of this section, and notice of such sales,
7593 shall be in accordance with the laws of this state relating to the
7594 sale of personal property under execution. For his services
7595 hereunder the sheriff shall receive a fee and expenses in like
7596 sales of personal property to be paid out of the proceeds of the
7597 sale or sales to be fixed by the court ordering such sale.



7598 The court may order that the commodity be sold in specified
7599 lots or portions, and at specified intervals, instead of being
7600 sold at one time. Title to the amount sold shall pass as of the
7601 date of the act which is found by the court to make the commodity
7602 contraband. The judgment shall provide for payment of the
7603 proceeds of the sale into the state oil and gas fund, after first
7604 deducting the costs in connection with the proceedings and sale,
7605 and after paying to any royalty owner intervening as an interested
7606 party in the suit, the value of his interest in the said oil or
7607 gas, provided he has established his title to the said oil or gas
7608 royalty interest. The amount sold shall be treated as legal oil,
7609 legal gas or legal product, as the case may be, in the hands of
7610 the purchaser, but the purchaser and the commodity shall be
7611 subject to all applicable laws, and rules, regulations and orders
7612 with respect to further sale or purchase or acquisition, and with
7613 respect to the transportation, refining, processing, or handling
7614 in any other way, of the commodity purchased.

7615 The producer, owner, or any other party contesting the
7616 validity of any such seizure and having an interest in securing
7617 the release of the seized oil, gas or other product, may obtain
7618 the release thereof upon furnishing a bond issued by a corporate
7619 surety company, duly qualified to do business in the state in an
7620 amount double the current market value of the oil, gas or other
7621 product held under seizure, which bond shall be conditioned and
7622 approved in the same manner as a replevin bond.



Nothing in this section shall deny or abridge any cause of action a royalty owner, or a lien holder, or any other claimant, may have, because of the forfeiture of the illegal oil, illegal gas, or illegal product, against the person whose act resulted in such forfeiture. All oil, gas or other illegal product sold as provided in this section shall be sold in like cases of personal property sold under execution.

SECTION 109. Section 53-9-67, Mississippi Code of 1972, is amended as follows:

53-9-67. (1) Except as provided in subsection (2) of this section, any interested party may commence a civil action to compel compliance with this chapter:

(a) Against the state or a state instrumentality or agency which is alleged to be in violation of this chapter or any rule, regulation, order or permit issued under this chapter, or against any other person who is alleged to be in violation of this chapter or any rule, regulation, order or permit issued under this chapter; or

(b) Against the department, commission or permit board if there is alleged a failure of any one or more of them to perform any nondiscretionary act or duty under this chapter.

(2) No action may be commenced:

(a) Under subsection (1)(a) of this section, (i) before sixty (60) days after the plaintiff has given notice in writing of the violation to the executive director, chief legal counsel of



7648 the department, the Attorney General subject to the provisions of
7649 Sections 1 and 2 of this act of the state and to any alleged
7650 violator, or (ii) if the commission has commenced and is
7651 diligently prosecuting a civil action in a court of the state or
7652 the United States to require compliance with this chapter, or any
7653 rule, regulation, order or permit issued under this chapter, but
7654 in any action any interested party may intervene as a matter of
7655 right;

7656 (b) Under subsection (1)(b) of this section before
7657 sixty (60) days after the plaintiff has given notice in writing of
7658 the action to the executive director, chief legal counsel of the
7659 department and commission, in the manner as the commission shall
7660 by regulation prescribe. That action may be brought immediately
7661 after the notification if the violation or order complained of
7662 constitutes an imminent threat to the health or safety of the
7663 plaintiff or would immediately affect a legal interest of the
7664 plaintiff.

7665 (3) (a) Any action under this section alleging a violation
7666 of this chapter or any rule or regulation promulgated under this
7667 chapter may be brought only in the chancery court of the judicial
7668 district in which the surface coal mining operation complained of
7669 is located, except any action brought under subsection (1)(b) of
7670 this section shall be brought in the chancery court of the First
7671 Judicial District of Hinds County.



7672 (b) In any action under this section the permit board
7673 or commission, if not a party, may intervene as a matter of right.

7674 (4) The court, in issuing a final order in any action
7675 brought under subsection (1) of this section, may award costs of
7676 litigation, including attorney and expert witness fees, to any
7677 party, whenever the court determines that award is appropriate,
7678 but the permittee shall not be entitled to an award of attorney's
7679 fees unless the court determines that the action of the person
7680 opposing the permittee was frivolous, unreasonable or without
7681 foundation. No award of attorney's fees or expert witness fees
7682 shall be made against a person having an interest in real property
7683 that is or may be adversely affected by the surface coal mining
7684 operations. The court may, if a preliminary injunction is sought,
7685 require the filing of a bond or equivalent security in accordance
7686 with state law.

7687 (5) Nothing in this section shall restrict any right which
7688 any person or class of persons may have under any statute or the
7689 common law, to seek enforcement of this chapter and the rules and
7690 regulations promulgated under this chapter, or to seek any other
7691 relief, including relief against the department, commission or the
7692 permit board.

7693 (6) Any provisions of this section and chapter regarding
7694 liability for the costs of clean-up, removal, remediation or
7695 abatement of any pollution, hazardous waste or solid waste shall



7696 be limited as provided in Section 49-17-42 and rules under that
7697 section.

7698 **SECTION 110.** Section 55-13-21, Mississippi Code of 1972, is
7699 amended as follows:

7700 55-13-21. The Highway Commission is hereby authorized to
7701 call upon the Attorney General, subject to the provisions of
7702 Sections 1 and 2 of this act, or any district attorney in his
7703 district, or any county attorney in his county, to assist in the
7704 preparation and trial of any condemnation suit for right-of-way
7705 for the Natchez Trace, and it is further authorized to pay the
7706 actual and necessary traveling expenses of any such officer
7707 assisting in any such suit.

7708 **SECTION 111.** Section 57-1-29, Mississippi Code of 1972, is
7709 amended as follows:

7710 57-1-29. A municipality, having been authorized by the
7711 executive director, as herein provided, may expend, for acquiring
7712 and operating such municipal enterprise under rules and
7713 regulations adopted by the executive director, any funds of the
7714 municipality then on hand or available and not already
7715 appropriated or necessary for other municipal purposes. A
7716 municipality, after the terms and conditions have been fixed by
7717 the executive director and with his approval, is hereby authorized
7718 from and after July 1, 1944, to issue bonds of such municipality
7719 for the purpose of effectuating the provisions of Sections 57-1-1
7720 through 57-1-51 and promoting thereby the public policy of this



7721 state in bringing about the general welfare of its people. When,
7722 if and to the extent that a bond issue shall be approved by the
7723 executive director, then the same may be authorized by the
7724 governing authority of the municipality, and to secure such bond
7725 issue the municipality may mortgage or pledge property used and
7726 useful for the industrial enterprise; and the income therefrom,
7727 and confer upon the holders of such bonds the rights of a first
7728 mortgage bondholder. Such bond issue shall be first approved by
7729 the executive director, and thereafter shall be authorized by
7730 resolution or ordinance of the governing board of the municipality
7731 in such form and with such provisions, terms and conditions as may
7732 be fixed in the resolution or ordinance not inconsistent with the
7733 provisions of Sections 57-1-1 through 57-1-51. Present
7734 limitations on the amount of other bonds that may be issued by
7735 such municipality shall not apply to bonds issued hereunder other
7736 than as herein otherwise provided. All such bonds shall be
7737 lithographed or engraved, and printed in two (2) or more colors to
7738 prevent counterfeiting, and shall be in sums not less than One
7739 Thousand Dollars (\$1,000.00) or multiples thereof, and shall be
7740 numbered in a regular series from one (1) upward, be executed by
7741 the manual or facsimile signature of the president of the board of
7742 supervisors and the clerk of such board; or by the mayor and clerk
7743 of the municipality, and either of such clerks shall impress the
7744 county or municipal seal, as the case may be, upon each bond as it
7745 is issued. At least one (1) signature on each bond shall be a



7746 manual signature, as specified in the issuing resolution. The
7747 coupons may bear only the facsimile signatures of such president
7748 and clerk of the board of supervisors or such mayor and clerk, as
7749 the case may be. Every such bond shall specify on its face the
7750 purpose for which it was issued, the total amount authorized to be
7751 issued, and each shall be made payable to bearer, and on request
7752 of any holder of such bonds the same may be registered as to
7753 principal by the clerk of the issuing board. The governing
7754 authorities shall annually levy a tax, or shall otherwise provide
7755 funds sufficient for paying interest on such bonds, and the bonds
7756 maturing within one (1) year and shall provide a sinking fund for
7757 the redemption of the bonds issued. Such bonds shall be issued
7758 maturing annually with all maturities not longer than twenty (20)
7759 years with not less than one-fiftieth ($1/50$) of the total issue to
7760 mature each year during the first five (5) years of the life of
7761 the bonds, and not less than one-twenty-fifth ($1/25$) of the total
7762 issue to mature annually during the succeeding ten-year period of
7763 the life of the bonds, and the remainder to be amortized, as to
7764 the principal and interest, into approximately equal payments, one
7765 (1) payment to mature during each year for the remaining life of
7766 the bonds. Such bonds shall not bear a greater overall maximum
7767 rate of interest than that allowed in Section 75-17-101,
7768 Mississippi Code of 1972. No bond shall bear more than one (1)
7769 rate of interest; each bond shall bear interest from its date to
7770 its stated maturity date at the interest rate specified in the



7771 bid; all bonds of the same maturity shall bear the same rate of
7772 interest from date to maturity; all interest accruing on such
7773 bonds so issued shall be payable semiannually or annually, except
7774 that the first interest coupon attached to any such bond may be
7775 for any period not exceeding one (1) year.

7776 No interest payment shall be evidenced by more than one (1)
7777 coupon and neither cancelled nor supplemental coupons shall be
7778 permitted; the lowest interest rate specified for any bonds issued
7779 shall not be less than seventy percent (70%) of the highest
7780 interest rate specified for the same bond issue. The interest
7781 rate of any one (1) interest coupon shall not exceed the maximum
7782 interest rate allowed on such bonds.

7783 Each interest rate specified in any bid must be in multiples
7784 of one-eighth of one percent ($1/8$ of 1%) or in multiples of
7785 one-tenth of one percent ($1/10$ of 1%).

7786 The denomination, form and place of payment shall be fixed in
7787 the authorization therefor, and for the payment thereof the full
7788 faith, credit and resources of the municipality shall be pledged
7789 and a tax levied on all taxable property in the municipality,
7790 adequate to pay principal and interest on such bonds as the same
7791 fall due. Proceeds of such bonds shall be placed in the municipal
7792 treasury as a special fund and shall be used for no other purpose
7793 than the purpose set forth in the original resolution, and any
7794 officer diverting or assisting to divert any such fund to any
7795 other purpose than the purpose originally set forth in the



7796 resolution of the governing authority of the municipality shall be
7797 guilty of a misdemeanor, shall be punished accordingly, and shall
7798 also be liable both personally and on his official bond for such
7799 diversion, together with the costs of collection and reasonable
7800 attorney's fees. The Attorney General subject to the provisions
7801 of Sections 1 and 2 of this act is authorized to proceed by action
7802 for injunction or mandamus to require compliance with the original
7803 resolution by any officer or municipal board.

7804 **SECTION 112.** Section 57-64-23, Mississippi Code of 1972, is
7805 brought forward as follows:

7806 57-64-23. (1) In the event that an agreement made pursuant
7807 to this chapter shall deal in whole or in part with the provision
7808 of services or facilities with regard to which an officer, unit or
7809 agency of the state government has constitutional or statutory
7810 powers of control, the agreement shall, as a condition precedent
7811 to its being in force, be submitted to the state officer, unit or
7812 agency having such power of control and shall be approved or
7813 disapproved by him or it as to all matters within his or its
7814 jurisdiction in the same manner and subject to the same
7815 requirements governing action of the Attorney General pursuant to
7816 subsection (2) of this section.

7817 (2) Every agreement made by a local government unit under
7818 this chapter shall, prior to and as a condition precedent to its
7819 entry into force, be submitted to the Attorney General of this
7820 state who shall determine whether the agreement is in proper form



7821 and compatible with the laws of this state. The Attorney General
7822 shall approve any such agreement submitted to him hereunder unless
7823 he shall find that it does not meet the conditions set forth
7824 herein and elsewhere in the laws of this state and shall detail in
7825 writing addressed to the governing bodies of the units concerned
7826 the specific respects in which the proposed agreement fails to
7827 meet the requirements of law.

7828 Failure to disapprove an agreement submitted hereunder within
7829 sixty (60) days of its submission shall constitute approval
7830 thereof.

7831 (3) Prior to its being in force, an agreement made pursuant
7832 to this chapter shall be filed with the chancery clerk of each of
7833 the counties wherein a participating local government unit is
7834 located and with the Secretary of State. The chancery clerk and
7835 the Secretary of State shall preserve such agreements as public
7836 records and index and docket the same separate and apart from all
7837 other records in his office.

7838 **SECTION 113.** Section 63-17-85, Mississippi Code of 1972, is
7839 amended as follows:

7840 63-17-85. The commission may deny an application for a
7841 license, or revoke or suspend a license after it has been granted,
7842 for any of the following reasons:

7843 (a) On satisfactory proof of unfitness of the applicant
7844 or the licensee, as the case may be, under the standards



7845 established and set out in the Mississippi Motor Vehicle
7846 Commission Law.

7847 (b) For fraud practiced or any material misstatement
7848 made by an applicant in any application for license under the
7849 provisions of Section 63-17-75.

7850 (c) For any willful failure to comply with any
7851 provision of said law or with any rule or regulation promulgated
7852 by the commission under authority vested in it by said law.

7853 (d) Change of condition after license is granted or
7854 failure to maintain the qualifications for license.

7855 (e) Continued or flagrant violation of any of the
7856 provisions of said law or of any of the rules or regulations of
7857 the commission.

7858 (f) For any willful violation of any law relating to
7859 the sale, distribution or financing of motor vehicles.

7860 (g) Willfully defrauding any retail buyer to the
7861 buyer's damage.

7862 (h) Willful failure to perform any written agreement
7863 with any retail buyer.

7864 (i) Being a manufacturer who, for the protection of the
7865 buying public, fails to specify the delivery and preparation
7866 obligations of its motor vehicle dealers prior to delivery of new
7867 motor vehicles to retail buyers. A copy of the delivery and
7868 preparation obligations of its motor vehicle dealers and a
7869 schedule of the compensation to be paid to its motor vehicle



7870 dealers for the work and services they shall be required to
7871 perform in connection with such delivery and preparation
7872 obligations shall be filed with the commission by every licensed
7873 motor vehicle manufacturer and shall constitute any such dealer's
7874 only responsibility for product liability as between such dealer
7875 and such manufacturer. The compensation as set forth on said
7876 schedule shall be reasonable and the reasonableness thereof shall
7877 be subject to the approval of the commission. Any mechanical,
7878 body or parts defects arising from any express or implied
7879 warranties of any such manufacturer shall constitute such
7880 manufacturer's product or warranty liability.

7881 (j) On satisfactory proof that any manufacturer,
7882 distributor, wholesaler, distributor branch or division, factory
7883 branch or division, or wholesaler branch or division has unfairly
7884 and without due regard to the equities of the parties or to the
7885 detriment of the public welfare failed to properly fulfill any
7886 warranty agreement or to adequately and fairly compensate any of
7887 its motor vehicle dealers for labor, parts and/or incidental
7888 expenses incurred by any such dealer with regard to factory
7889 warranty agreements performed by any such dealer. In no event
7890 shall any such manufacturer, distributor, wholesaler, distributor
7891 branch or division, factory branch or division, or wholesaler
7892 branch or division pay to any of its motor vehicle dealers a labor
7893 rate per hour for warranty work less than that charged by any such
7894 dealer to its retail customers. No such dealer shall charge to



7895 its manufacturer, distributor, wholesaler, distributor branch or
7896 division, factory branch or division, or wholesaler branch or
7897 division, a labor rate per hour in excess of the rate charged to
7898 its retail customers. All claims made by motor vehicle dealers
7899 hereunder for such labor, parts and/or incidental expenses shall
7900 be paid within thirty (30) days following their approval. All
7901 such claims shall be either approved or disapproved within thirty
7902 (30) days after their receipt, and when any such claim is
7903 disapproved the motor vehicle dealer who submits it shall be
7904 notified in writing of its disapproval within said period, and
7905 each such notice shall state the specific grounds upon which the
7906 disapproval is based.

7907 (k) For the commission of any act prohibited by
7908 Sections 63-17-73 through 63-17-83 or the failure to perform any
7909 of the requirements of said sections.

7910 If the commission finds, after notice and hearing in the
7911 manner provided for under the Mississippi Motor Vehicle Commission
7912 Law, that there is sufficient cause upon which to base the
7913 revocation of the license of any licensee involved in the hearing,
7914 the commission may in lieu of revoking such license assess a civil
7915 penalty against the guilty licensee not to exceed Ten Thousand
7916 Dollars (\$10,000.00). If the commission finds, after such notice
7917 and hearing, that sufficient cause exists for the suspension only
7918 of the license of any licensee, the commission may in lieu of
7919 suspending such license assess a civil penalty against the guilty



licensee of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) per day for each day such license would otherwise be suspended. However, the amount of such penalty shall not exceed an aggregate of Seven Thousand Five Hundred Dollars (\$7,500.00). Failure of the licensee to pay all penalties so assessed within the time allowed by the commission for the payment thereof, which time shall in no case exceed ninety (90) days from the date of the commission's order making such assessment, shall, unless an appeal is taken and perfected within the time and in the manner provided by the Mississippi Motor Vehicle Commission Law, result in an automatic revocation of such licensee's license. Any such penalties assessed by the commission remaining unpaid at the expiration of the time for payment may be recovered by an action in the name of the commission. All such actions shall be brought by the Attorney General, subject to the provisions of Sections 1 and 2 of this act, of the State of Mississippi upon the written request of the commission to do so, and shall be brought in the chancery court of the county or the chancery court of the judicial district of the county to which the commission's order making such assessment is appealable under the provisions of Section 63-17-99. All civil penalties assessed and collected by the commission under the authority of this subsection shall be deposited in the General Fund of the State Treasury.

SECTION 114. Section 63-21-39, Mississippi Code of 1972, is amended as follows:



7945 63-21-39. (1) (a) An owner who scraps, dismantles or
7946 destroys a vehicle and a person who purchases a vehicle as scrap
7947 or to be dismantled or destroyed shall indicate same on the back
7948 of the certificate of title and shall immediately cause the
7949 certificate of title and any other documents required by the
7950 Department of Revenue to be mailed or delivered to the Department
7951 of Revenue for cancellation. A certificate of title of the
7952 vehicle shall not again be issued except upon application
7953 containing the information the Department of Revenue requires,
7954 accompanied by a certificate of inspection in the form and content
7955 specified in Section 63-21-15(5) and proof of payment of a fee as
7956 provided in subsection (2) of this section.

7957 (b) Notwithstanding any other provision of this chapter
7958 to the contrary, if the owner or authorized agent of the owner has
7959 not obtained a title in his or her name for the vehicle to be
7960 transferred, has lost the title for the vehicle to be transferred,
7961 or has returned the title to the Department of Revenue in
7962 accordance with Section 63-21-39(1)(a), he or she may sign a
7963 statement swearing that, in addition to the foregoing conditions,
7964 the vehicle is at least ten (10) model years old. The statement
7965 described in this paragraph may be used only to transfer such a
7966 vehicle to a licensed used motor vehicle parts dealer or scrap
7967 metal processor. The department shall promulgate a form for the
7968 statement which shall include, but not be limited to:



7969 (i) A statement that the vehicle shall never be
7970 titled again; it must be dismantled or scrapped;
7971 (ii) A description of the vehicle including the
7972 year, make, model and vehicle identification number;
7973 (iii) The name, address, and driver's license
7974 number of the owner;
7975 (iv) A certification that the owner:
7976 1. Never obtained a title to the vehicle in
7977 his or her name; or
7978 2. Was issued a title for the vehicle, but
7979 the title was lost or stolen;
7980 (v) A certification that the vehicle:
7981 1. Is at least ten (10) model years old; and
7982 2. Is not subject to any security interest or
7983 lien;
7984 (vi) An acknowledgment that the owner and buyer of
7985 the vehicle realizes this form will be filed with the department
7986 and that:
7987 1. It is a misdemeanor, punishable by a fine
7988 of not more than One Thousand Dollars (\$1,000.00) or imprisonment
7989 for not more than six (6) months, or both, for conviction of a
7990 first offense of knowingly falsifying any information on this
7991 statement; and
7992 2. It is a felony, punishable by a fine of
7993 not less than One Thousand Dollars (\$1,000.00) nor more than Five



7994 Thousand Dollars (\$5,000.00) or imprisonment for not less than one
7995 (1) year nor more than five (5) years, or both, for conviction of
7996 a second or subsequent offense of knowingly falsifying any
7997 information on this statement;

7998 (vii) The owner's signature and the date of the
7999 transaction;

8000 (viii) The name and address of the business
8001 acquiring the vehicle;

8002 (ix) The National Motor Vehicle Title Information
8003 System identification number; and

8004 (x) The business agent's signature and date along
8005 with a printed name and title if the agent is signing on behalf of
8006 a corporation.

8007 (c) Until such time as the department makes available
8008 an Internet-based system, the used motor vehicle parts dealer or
8009 scrap metal processor shall mail or otherwise deliver the
8010 statement required under paragraph (b) of this subsection (1) to
8011 the Department of Revenue within three (3) business days of the
8012 completion of the transaction, requesting that the department
8013 cancel the Mississippi certificate of title and registration.
8014 Once the department develops an Internet-based system, the used
8015 motor vehicle parts dealer or scrap metal processor shall utilize
8016 such system and within two (2) business days electronically submit
8017 the information contained in the statement using that system.



8018 (d) Within two (2) business days of each day's close of
8019 business, the used motor vehicle parts dealer or scrap metal
8020 processor who purchases or receives motor vehicles for scrap or
8021 for parts shall deliver in a format approved by the department, by
8022 electronic means once developed and made available by the
8023 department, a list of all such vehicles purchased that day for
8024 scrap or for parts. That list shall contain the following
8025 information:

8026 (i) The name, address and contact information for
8027 the reporting entity;

8028 (ii) The vehicle identification numbers of such
8029 vehicles;

8030 (iii) The dates such vehicles were obtained;

8031 (iv) The names of the individuals or entities from
8032 whom the vehicles were obtained, for use by law enforcement
8033 personnel and appropriate governmental agencies only;

8034 (v) A statement of whether the vehicles were, or
8035 will be, crushed or disposed of, or offered for sale or other
8036 purposes;

8037 (vi) A statement of whether the vehicle is
8038 intended for export out of the United States; and

8039 (vii) The National Motor Vehicle Title Information
8040 System identification number of the business acquiring the
8041 vehicle.



8042 (e) (i) For purposes of this subsection, the term
8043 "motor vehicle" shall not include a vehicle which has been crushed
8044 or flattened by mechanical means such that it is no longer the
8045 motor vehicle as described by the certificate of title, or such
8046 that the vehicle identification number is no longer visible or
8047 accessible.

8048 (ii) In cases in which crushed or flattened
8049 vehicles are purchased or received, the purchasing or receiving
8050 used motor vehicle parts dealer or scrap metal processor shall
8051 verify that the seller has reported the vehicles in accordance
8052 with this subsection. Such verification may be in the form of a
8053 certification from the seller or a contract between the seller and
8054 the purchasing or receiving used motor vehicle parts dealer or
8055 scrap metal processor attesting to the seller's compliance with
8056 the reporting requirements of this subsection. Such verification
8057 must clearly identify the seller by a government issued photograph
8058 identification card or employer identification number, and the
8059 verification and copy of the identification card or number shall
8060 be maintained by the purchasing or receiving used motor vehicle
8061 parts dealer or scrap metal processor for a period of not less
8062 than two (2) years.

8063 (f) The information obtained by the department in
8064 accordance with paragraph (d) of this subsection (1) shall be
8065 reported to the National Motor Vehicle Title Information System,
8066 in a format that will satisfy the requirement for reporting this



8067 information, in accordance with rules adopted by the United States
8068 Department of Justice in 28 C.F.R. 25.56.

8069 (g) Until such time as the department develops and
8070 makes available the Internet-based system described in paragraph
8071 (d) of this subsection, the used motor vehicle parts dealer or
8072 scrap metal processor who purchases or receives motor vehicles for
8073 scrap or for parts shall deliver the information required by
8074 paragraph (d) to the National Motor Vehicle Title Information
8075 System through any data consolidator approved by such system,
8076 within forty-eight (48) hours of the day the vehicle was purchased
8077 or acquired by such used motor vehicle parts dealer or scrap metal
8078 processor which shall satisfy the requirements of paragraph (d).

8079 (h) The information obtained by the department in
8080 accordance with paragraph (d) of this subsection (1) shall be made
8081 available only to law enforcement agencies and for purposes of
8082 canceling certificates of title. The information shall otherwise
8083 be considered to be confidential business information of the
8084 respective reporting entities.

8085 (i) All records required under the provisions of this
8086 subsection shall be maintained for a period of two (2) years by
8087 the reporting entity and shall include a scanned or photocopied
8088 copy of the seller's or seller's representative's driver's license
8089 or state issued identification card.

8090 (j) A person who knowingly and willfully violates this
8091 subsection (1), or any person who knowingly and willfully



8092 falsifies or assists another person in falsifying the statement or
8093 information required under paragraphs (b) or (d) of this
8094 subsection, or any person who knowingly and willfully sells a
8095 vehicle upon which there is an unsatisfied lien or security
8096 interest, or who purchases a vehicle without complying with either
8097 subsection (1)(a) or (1)(b) of this section and who knowingly and
8098 willfully destroys or dismantles a vehicle upon which he knows
8099 that there is an unsatisfied lien or security interest shall:

8100 (i) Be guilty of a misdemeanor, punishable by a
8101 fine not more than One Thousand Dollars (\$1,000.00) or
8102 imprisonment for not more than six (6) months, or both, for
8103 conviction of a first offense; or

8104 (ii) Upon conviction of a second or subsequent
8105 offense, a felony, punishable by imprisonment for not less than
8106 one (1) year nor more than five (5) years or a fine of not less
8107 than One Thousand Dollars (\$1,000.00) nor more than Five Thousand
8108 Dollars (\$5,000.00), or both.

8109 In addition, the court may order each person convicted to pay
8110 restitution to any party suffering monetary loss in the amount of
8111 such loss. No part of any sentence imposed by the court shall be
8112 suspended unless such restitution has been paid in full.

8113 (k) A person who knowingly and willfully fails to
8114 deliver the title as required under paragraph (a) of this
8115 subsection, or the statement required under paragraph (b) of this
8116 subsection to the Department of Revenue within seventy-two (72)



8117 hours of the completion of the transaction, or who, until such
8118 time as the department develops and makes available the
8119 Internet-based system described in paragraph (d), fails to deliver
8120 the information required by paragraph (d) to the National Motor
8121 Vehicle Title Information System through any data consolidator
8122 approved by such system, within two (2) business days of the day
8123 the vehicle was purchased or acquired by such used motor vehicle
8124 parts dealer or scrap metal processor shall be in violation of
8125 this section, and subject to a civil penalty of up to One Thousand
8126 Dollars (\$1,000.00) per violation. Actions to impose this penalty
8127 may be brought by any local or state law enforcement agency,
8128 district attorney, or by the Attorney General, subject to the
8129 provisions of Sections 1 and 2 of this act, in any court of
8130 competent jurisdiction. One-half (1/2) of the monies generated
8131 from such civil penalties shall be deposited in a special fund
8132 created in the State Treasury for use by the Department of
8133 Revenue's Title Bureau, and one-half (1/2) of the monies generated
8134 from such civil penalties shall be deposited in the general fund
8135 of the municipality if the suit was brought in a municipal court,
8136 or in the general fund of the county if the suit was brought in
8137 the court of a county.

8138 (2) For the purpose of requesting a clear title or a branded
8139 title on a vehicle with a salvage certificate of title, every
8140 owner of a vehicle that has been issued a salvage certificate of
8141 title in this state or any other state which has been restored in



8142 this state to its operating condition which existed prior to the
8143 event which caused the salvage certificate of title to be issued
8144 shall make application to the Department of Revenue, accompanied
8145 by a certificate of inspection issued by the Department of Public
8146 Safety in the form and content specified in Section 63-21-15(5)
8147 and the payment of a fee of Seventy-five Dollars (\$75.00) for each
8148 motor vehicle for which a certificate of inspection is issued. In
8149 addition, the Department of Public Safety may charge such a person
8150 a fee in the amount of Twenty-five Dollars (\$25.00) for performing
8151 any vehicle identification number verification required by federal
8152 law or regulation for the vehicle for which the person is applying
8153 for a title. All such monies shall be collected by the Department
8154 of Public Safety and paid to the State Treasurer for deposit in a
8155 special fund that is hereby created in the State Treasury to be
8156 known as the "Salvage Certificate of Title Fund." Monies in the
8157 special fund may be expended by the Department of Public Safety,
8158 upon appropriation by the Legislature. The Department of Revenue
8159 shall establish by regulation the minimum requirements by which a
8160 vehicle which has been issued a salvage certificate of title may
8161 be issued a clear title.

8162 (3) Before a clear title or a branded title may be issued
8163 for a vehicle for which a salvage certificate of title has been
8164 issued, the applicant shall submit, by hand delivery or mail, such
8165 documents and information to the Department of Public Safety as
8166 the department may require for the purpose of determining if the



8167 vehicle complies with the requirements of this section and all
8168 applicable regulations promulgated by the Commissioner of Public
8169 Safety and the Department of Revenue. The Department of Public
8170 Safety also may require that an applicant bring a vehicle for
8171 which application for a clear title or a branded title is being
8172 made to a Highway Patrol facility for a visual inspection whenever
8173 the department deems that a visual inspection is necessary or
8174 advisable. Nothing in this section shall be construed to prohibit
8175 inspectors of the Mississippi Highway Patrol from conducting
8176 on-site inspections and investigations of motor vehicle rebuilders
8177 or motor vehicle repair businesses to determine if such businesses
8178 are in compliance with all applicable laws relating to the motor
8179 vehicle title laws of this state and regulations promulgated by
8180 the Commissioner of Public Safety and the Department of Revenue.

8181 **SECTION 115.** Section 67-1-89, Mississippi Code of 1972, is
8182 amended as follows:

8183 67-1-89. In addition to any other rights and remedies which
8184 it may have, the commission, in the name of the chairman thereof,
8185 shall have the right to resort to and apply for injunctive relief,
8186 both temporary and permanent, in any court of competent
8187 jurisdiction to enforce compliance with the provisions of this
8188 chapter and to restrain and prevent violations and threatened
8189 violations thereof. The Attorney General, subject to the
8190 provisions of Sections 1 and 2 of this act, district attorneys and
8191 county attorneys of this state, shall aid and assist the



8192 commission in all such actions when requested by the chairman so
8193 to do.

8194 **SECTION 116.** Section 69-2-15, Mississippi Code of 1972, is
8195 amended as follows:

8196 69-2-15. (1) Any lender which has made a loan to a farmer
8197 to finance the nonland capital costs of establishing production of
8198 an emerging crop on land in Mississippi may make application to
8199 the department for payment of the interest on the loan during the
8200 period from beginning of production to harvest or initial sale of
8201 the product, which payment shall be made from the fund. The
8202 maximum amount of interest loans from the fund for the benefit of
8203 any one (1) farmer shall be Fifty Thousand Dollars (\$50,000.00).
8204 During the period that the department pays the interest on a loan,
8205 the maximum rate of interest which may be charged on the loan by
8206 the lender shall be four percent (4%) per annum above the New York
8207 prime rate. By payment of the interest on a loan, neither the
8208 department nor the State of Mississippi shall be a guarantor of
8209 the loan, but the state shall have a lien junior to any lien that
8210 the lender may have on the loan.

8211 (2) If a farmer defaults on the interest loan the Attorney
8212 General of the State of Mississippi shall take the necessary legal
8213 action, subject to the provisions of Sections 1 and 2 of this act,
8214 as soon as practicable, to recover the monies due and owing to the
8215 State of Mississippi. A suit against a defaulting party under



8216 this section may be brought in the county in which the lender is
8217 located, or in any Hinds County court.

8218 **SECTION 117.** Section 69-23-11, Mississippi Code of 1972, is
8219 amended as follows:

8220 69-23-11. (1) The commissioner or his employees, with
8221 proper identification and during normal working hours, shall have
8222 free access to all places of business, factories, buildings,
8223 carriages, cars, stores, warehouses and other places where
8224 pesticides are offered for sale or kept for sale or distribution
8225 or use and application, and shall have authority to inspect or
8226 open any container of pesticide and to take a sample for the
8227 purpose of examination and analysis. It shall be the duty of the
8228 commissioner to take such samples and deliver them to the State
8229 Chemist for examination and analysis.

8230 (2) It shall be the duty of the State Chemist to cause as
8231 many analyses to be made of samples delivered to him by the
8232 commissioner as may be necessary to properly carry into effect the
8233 intent of this chapter. He shall make reports of such analysis to
8234 the commissioner and to the manufacturer, firm or person
8235 responsible for placing on the market the pesticide represented by
8236 the samples.

8237 (3) If it appears that any pesticide fails to comply with
8238 the provisions of this chapter, or if provisions of this chapter
8239 are violated, the commissioner may proceed with appropriate action
8240 as provided in this chapter or under the administrative hearing



8241 procedures provided in Section 69-25-51 et seq. If, in the
8242 opinion of the commissioner, it appears that the provisions of the
8243 chapter have been violated, the commissioner may refer the facts
8244 to the county attorney, district attorney or Attorney General,
8245 subject to the provisions of Sections 1 and 2 of this act.

8246 (4) It shall be the duty of each county attorney, district
8247 attorney or Attorney General to whom any such violation is
8248 reported to cause appropriate proceedings to be instituted and
8249 prosecuted in the appropriate court without delay.

8250 (5) The commissioner shall, by publication in such manner as
8251 he may prescribe, give notice of all judgments entered in actions
8252 instituted under the authority of this chapter.

8253 **SECTION 118.** Section 69-35-27, Mississippi Code of 1972, is
8254 amended as follows:

8255 69-35-27. (1) In the event a majority of the bulk tank
8256 units eligible for participation in such referendum and voting
8257 therein shall vote in favor of such assessment, then the said
8258 assessment shall be collected monthly for the number of years set
8259 forth in the call for such referendum, and the collection of such
8260 assessment shall be under such method, rules and regulations as
8261 may be determined by the state ADA conducting the same; and the
8262 said assessment so collected shall be paid into the treasury of
8263 the state ADA to be used together with other funds from other
8264 sources. Funds to be collected pursuant to a referendum conducted
8265 under this act shall be withheld and paid by each handler,



including producer handlers, to the state ADA by the last calendar day of the month succeeding the month in which the milk was received by the handler.

(2) In the event of a failure to pay part or all of an assessment levied pursuant to this act, the Attorney General, subject to the provisions of Sections 1 and 2 of this act of the state shall, upon the request of the state ADA, enforce the provisions of this act and collect such monies for payment to the state ADA. In the alternative to requesting the Attorney General to enforce the provisions of this act, the state ADA may bring a civil action to collect assessment from a handler failing to pay such assessments. A handler found to have failed to pay assessments pursuant to this act shall also be liable for reasonable attorney's fees and costs in the collection of such assessments.

SECTION 119. Section 71-5-17, Mississippi Code of 1972, is amended as follows:

71-5-17. (1) In any civil action to enforce the provisions of this chapter, the commission, the board of review, and the state may be represented by any qualified attorney who is employed by the commission and is designated by it for this purpose or, at the commission's request, by the Attorney General.

(2) All criminal actions for violation of any provision of this chapter, or of any rules and regulations issued pursuant thereto, shall be prosecuted by the Attorney General of the State



8291 subject to the provisions of Sections 1 and 2 of this act or, at
8292 his request and under his direction, by the prosecuting attorney
8293 of any county in which the employer has a place of business or the
8294 violator resides.

8295 **SECTION 120.** Section 71-5-529, Mississippi Code of 1972, is
8296 brought forward as follows:

8297 71-5-529. Any decision of the Board of Review, in the
8298 absence of an appeal therefrom as herein provided, shall become
8299 final ten (10) days after the date of notification; and judicial
8300 review thereof shall be permitted only after any party claiming to
8301 be aggrieved thereby has exhausted his administrative remedies as
8302 provided by this chapter. The department shall be deemed to be a
8303 party to any judicial action involving any such decision, and may
8304 be represented in any such judicial action by any qualified
8305 attorney employed by the department and designated by it for that
8306 purpose or, at the department's request, by the Attorney General.

8307 **SECTION 121.** Section 73-6-29, Mississippi Code of 1972, is
8308 amended as follows:

8309 73-6-29. Anyone failing to comply with the provisions of
8310 this chapter shall be guilty of a misdemeanor and upon conviction
8311 thereof shall be punished by a fine of not less than Five Hundred
8312 Dollars (\$500.00) nor more than Two Thousand Five Hundred Dollars
8313 (\$2,500.00), and/or by imprisonment in the county jail for not
8314 less than thirty (30) days nor more than one (1) year.



8315 All subsequent offenses shall be separate and distinct
8316 offenses, and punishable in like manner.

8317 The State Board of Chiropractic Examiners or the district
8318 attorney or county attorney of the county in which the defendant
8319 may reside or the Attorney General of Mississippi may institute
8320 legal action subject to the provisions of Sections 1 and 2 of this
8321 act as provided by law against any person violating the provisions
8322 of this chapter, and the chancery court of the county in which any
8323 such violation occurred or in which any such person resides or
8324 practices shall have jurisdiction to grant injunctive relief
8325 against the continuation of any such violation.

8326 **SECTION 122.** Section 73-15-35, Mississippi Code of 1972, is
8327 amended as follows:

8328 73-15-35. The practice of nursing as a registered nurse or
8329 the practice of nursing as a licensed practical nurse by any
8330 person who has not been issued a license or who does not hold the
8331 privilege to practice under the provisions of this article, or
8332 whose license or privilege to practice has been suspended or
8333 revoked, or has expired and not been reinstated, or has
8334 negligently or willfully practiced nursing in a manner that fails
8335 to meet generally accepted standards of such nursing practice, is
8336 declared to be a danger to the public health and welfare and shall
8337 be enjoined through appropriate court action. In addition to and
8338 not in lieu of any other civil, criminal or disciplinary remedy,
8339 the Attorney General, subject to the provisions of Sections 1 and



2 of this act, the Board of Nursing or the prosecuting attorney of any county where a person is practicing or purporting to practice as a registered nurse or as a licensed practical nurse in violation of this article may, in accordance with the laws of this state governing injunctions, maintain an action to enjoin that person from practicing as a registered nurse or a licensed practical nurse until in compliance with this article. The court may issue a temporary injunction without notice or without bond enjoining a defendant from further practicing as a registered nurse or a licensed practical nurse. If it is established to the satisfaction of the court that the defendant has been or is practicing as a registered nurse or a licensed practical nurse without being licensed or privileged to practice and in good standing as provided herein, the court may enter a decree perpetually enjoining the defendant from such further activities, and a subsequent violation of which may be considered as contempt of court by any court of competent jurisdiction. Such injunction and contempt proceedings may be in addition to and not in lieu of any other penalties and remedies provided by this article.

SECTION 123. Section 73-25-101, Mississippi Code of 1972, is amended as follows:

73-25-101. The Interstate Medical Licensure Compact is enacted into law and entered into by this state with any and all states legally joining in the Compact in accordance with its terms, in the form substantially as follows:



8365 **INTERSTATE MEDICAL LICENSURE COMPACT**

8366 **SECTION 1**

8367 **Purpose**

8368 In order to strengthen access to health care, and in
8369 recognition of the advances in the delivery of health care, the
8370 member states of the Interstate Medical Licensure Compact have
8371 allied in common purpose to develop a comprehensive process that
8372 complements the existing licensing and regulatory authority of
8373 state medical boards, provides a streamlined process that allows
8374 physicians to become licensed in multiple states, thereby
8375 enhancing the portability of a medical license and ensuring the
8376 safety of patients. The Compact creates another pathway for
8377 licensure and does not otherwise change a state's existing Medical
8378 Practice Act. The Compact also adopts the prevailing standard for
8379 licensure and affirms that the practice of medicine occurs where
8380 the patient is located at the time of the physician-patient
8381 encounter, and therefore, requires the physician to be under the
8382 jurisdiction of the state medical board where the patient is
8383 located. State medical boards that participate in the Compact
8384 retain the jurisdiction to impose an adverse action against a
8385 license to practice medicine in that state issued to a physician
8386 through the procedures in the Compact.

8387 **SECTION 2**

8388 **Definitions**

8389 In this Compact:



8390 (a) "Bylaws" means those bylaws established by the
8391 Interstate Commission pursuant to Section 11 for its governance,
8392 or for directing and controlling its actions and conduct.

8393 (b) "Commissioner" means the voting representative
8394 appointed by each member board pursuant to Section 11.

8395 (c) "Conviction" means a finding by a court that an
8396 individual is guilty of a criminal offense through adjudication,
8397 or entry of a plea of guilt or no contest to the charge by the
8398 offender. Evidence of an entry of a conviction of a criminal
8399 offense by the court shall be considered final for purposes of
8400 disciplinary action by a member board.

8401 (d) "Expedited license" means a full and unrestricted
8402 medical license granted by a member state to an eligible physician
8403 through the process set forth in the Compact.

8404 (e) "Interstate Commission" means the interstate
8405 commission created pursuant to Section 11.

8406 (f) "License" means authorization by a state for a
8407 physician to engage in the practice of medicine, which would be
8408 unlawful without the authorization.

8409 (g) "Medical Practice Act" means laws and regulations
8410 governing the practice of allopathic and osteopathic medicine
8411 within a member state.

8412 (h) "Member board" means a state agency in a member
8413 state that acts in the sovereign interests of the state by



8414 protecting the public through licensure, regulation, and education
8415 of physicians as directed by the state government.

8416 (i) "Member state" means a state that has enacted the
8417 Compact.

8418 (j) "Practice of medicine" means the clinical
8419 prevention, diagnosis, or treatment of human disease, injury, or
8420 condition requiring a physician to obtain and maintain a license
8421 in compliance with the Medical Practice Act of a member state.

8422 (k) "Physician" means any person who:

8423 (1) Is a graduate of a medical school accredited
8424 by the Liaison Committee on Medical Education, the Commission on
8425 Osteopathic College Accreditation, or a medical school listed in
8426 the International Medical Education Directory or its equivalent;

8427 (2) Passed each component of the United States
8428 Medical Licensing Examination (USMLE) or the Comprehensive
8429 Osteopathic Medical Licensing Examination (COMLEX-USA) within
8430 three (3) attempts, or any of its predecessor examinations
8431 accepted by a state medical board as an equivalent examination for
8432 licensure purposes;

8433 (3) Successfully completed graduate medical
8434 education approved by the Accreditation Council for Graduate
8435 Medical Education or the American Osteopathic Association;

8436 (4) Holds specialty certification or a
8437 time-unlimited specialty certificate recognized by the American



8438 Board of Medical Specialties or the American Osteopathic
8439 Association's Bureau of Osteopathic Specialists;

8440 (5) Possesses a full and unrestricted license to
8441 engage in the practice of medicine issued by a member board;

8442 (6) Has never been convicted, received
8443 adjudication, deferred adjudication, community supervision, or
8444 deferred disposition for any offense by a court of appropriate
8445 jurisdiction;

8446 (7) Has never held a license authorizing the
8447 practice of medicine subjected to discipline by a licensing agency
8448 in any state, federal, or foreign jurisdiction, excluding any
8449 action related to nonpayment of fees related to a license;

8450 (8) Has never had a controlled substance license
8451 or permit suspended or revoked by a state or the United States
8452 Drug Enforcement Administration; and

8453 (9) Is not under active investigation by a
8454 licensing agency or law enforcement authority in any state,
8455 federal, or foreign jurisdiction.

8456 (l) "Offense" means a felony, gross misdemeanor, or
8457 crime of moral turpitude.

8458 (m) "Rule" means a written statement by the Interstate
8459 Commission promulgated pursuant to Section 12 of the Compact that
8460 is of general applicability, implements, interprets, or prescribes
8461 a policy or provision of the Compact, or an organizational,
8462 procedural, or practice requirement of the Interstate Commission,



8463 and has the force and effect of statutory law in a member state,
8464 and includes the amendment, repeal, or suspension of an existing
8465 rule.

8466 (n) "State" means any state, commonwealth, district, or
8467 territory of the United States.

8468 (o) "State of principal license" means a member state
8469 where a physician holds a license to practice medicine and which
8470 has been designated as such by the physician for purposes of
8471 registration and participation in the Compact.

8472 **SECTION 3**

8473 **Eligibility**

8474 (a) A physician must meet the eligibility requirements as
8475 defined in Section 2(k) to receive an expedited license under the
8476 terms and provisions of the Compact.

8477 (b) A physician who does not meet the requirements of
8478 Section 2(k) may obtain a license to practice medicine in a member
8479 state if the individual complies with all laws and requirements,
8480 other than the Compact, relating to the issuance of a license to
8481 practice medicine in that state.

8482 **SECTION 4**

8483 **Designation of State of Principal License**

8484 (a) A physician shall designate a member state as the state
8485 of principal license for purposes of registration for expedited
8486 licensure through the Compact if the physician possesses a full



8487 and unrestricted license to practice medicine in that state, and
8488 the state is:

8489 (1) The state of primary residence for the physician,
8490 or

8491 (2) The state where at least twenty-five percent (25%)
8492 of the practice of medicine occurs, or

8493 (3) The location of the physician's employer, or

8494 (4) If no state qualifies under subsection (1),
8495 subsection (2), or subsection (3), the state designated as state
8496 of residence for purpose of federal income tax.

8497 (b) A physician may redesignate a member state as state of
8498 principal license at any time, as long as the state meets the
8499 requirements in subsection (a).

8500 (c) The Interstate Commission is authorized to develop rules
8501 to facilitate redesignation of another member state as the state
8502 of principal license.

8503 **SECTION 5**

8504 **Application and Issuance of Expedited Licensure**

8505 (a) A physician seeking licensure through the Compact shall
8506 file an application for an expedited license with the member board
8507 of the state selected by the physician as the state of principal
8508 license.

8509 (b) Upon receipt of an application for an expedited license,
8510 the member board within the state selected as the state of
8511 principal license shall evaluate whether the physician is eligible



8512 for expedited licensure and issue a letter of qualification,
8513 verifying or denying the physician's eligibility, to the
8514 Interstate Commission.

8515 (i) Static qualifications, which include verification
8516 of medical education, graduate medical education, results of any
8517 medical or licensing examination, and other qualifications as
8518 determined by the Interstate Commission through rule, shall not be
8519 subject to additional primary source verification where already
8520 primary source verified by the state of principal license.

8521 (ii) The member board within the state selected as the
8522 state of principal license shall, in the course of verifying
8523 eligibility, perform a criminal background check of an applicant,
8524 including the use of the results of fingerprint or other biometric
8525 data checks compliant with the requirements of the Federal Bureau
8526 of Investigation, with the exception of federal employees who have
8527 suitability determination in accordance with United States Code of
8528 Federal Regulation Section 731.202.

8529 (iii) Appeal on the determination of eligibility shall
8530 be made to the member state where the application was filed and
8531 shall be subject to the law of that state.

8532 (c) Upon verification in subsection (b), physicians eligible
8533 for an expedited license shall complete the registration process
8534 established by the Interstate Commission to receive a license in a
8535 member state selected pursuant to subsection (a), including the
8536 payment of any applicable fees.



(d) After receiving verification of eligibility under subsection (b) and any fees under subsection (c), a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the Medical Practice Act and all applicable laws and regulations of the issuing member board and member state.

(e) An expedited license shall be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

(f) An expedited license obtained through the Compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a nondisciplinary reason, without redesignation of a new state of principal licensure.

(g) The Interstate Commission is authorized to develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

SECTION 6

Fees for Expedited Licensure

(a) A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the Compact.

(b) The Interstate Commission is authorized to develop rules regarding fees for expedited licenses.

SECTION 7



8562 **Renewal and Continued Participation**

8563 (a) A physician seeking to renew an expedited license
8564 granted in a member state shall complete a renewal process with
8565 the Interstate Commission if the physician:

8566 (1) Maintains a full and unrestricted license in a
8567 state of principal license;

8568 (2) Has not been convicted, received adjudication,
8569 deferred adjudication, community supervision, or deferred
8570 disposition for any offense by a court of appropriate
8571 jurisdiction;

8572 (3) Has not had a license authorizing the practice of
8573 medicine subject to discipline by a licensing agency in any state,
8574 federal, or foreign jurisdiction, excluding any action related to
8575 nonpayment of fees related to a license; and

8576 (4) Has not had a controlled substance license or
8577 permit suspended or revoked by a state or the United States Drug
8578 Enforcement Administration.

8579 (b) Physicians shall comply with all continuing professional
8580 development or continuing medical education requirements for
8581 renewal of a license issued by a member state.

8582 (c) The Interstate Commission shall collect any renewal fees
8583 charged for the renewal of a license and distribute the fees to
8584 the applicable member board.

8585 (d) Upon receipt of any renewal fees collected in subsection
8586 (c), a member board shall renew the physician's license.



(e) Physician information collected by the Interstate Commission during the renewal process will be distributed to all member boards.

(f) The Interstate Commission is authorized to develop rules to address renewal of licenses obtained through the Compact.

SECTION 8

Coordinated Information System

(a) The Interstate Commission shall establish a database of all physicians licensed, or who have applied for licensure, under Section 5.

(b) Notwithstanding any other provision of law, member boards shall report to the Interstate Commission any public action or complaints against a licensed physician who has applied or received an expedited license through the Compact.

(c) Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the Interstate Commission.

(d) Member boards may report any nonpublic complaint, disciplinary, or investigatory information not required by subsection (c) to the Interstate Commission.

(e) Member boards shall share complaint or disciplinary information about a physician upon request of another member board.



(f) All information provided to the Interstate Commission or distributed by member boards shall be confidential, filed under seal, and used only for investigatory or disciplinary matters.

(g) The Interstate Commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

SECTION 9

Joint Investigations

(a) Licensure and disciplinary records of physicians are deemed investigative.

(b) In addition to the authority granted to a member board by its respective Medical Practice Act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.

(c) A subpoena issued by a member state shall be enforceable in other member states.

(d) Member boards may share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

(e) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

SECTION 10

Disciplinary Actions



8635 (a) Any disciplinary action taken by any member board
8636 against a physician licensed through the Compact shall be deemed
8637 unprofessional conduct which may be subject to discipline by other
8638 member boards, in addition to any violation of the Medical
8639 Practice Act or regulations in that state.

8640 (b) If a license granted to a physician by the member board
8641 in the state of principal license is revoked, surrendered or
8642 relinquished in lieu of discipline, or suspended, then all
8643 licenses issued to the physician by member boards shall
8644 automatically be placed, without further action necessary by any
8645 member board, on the same status. If the member board in the
8646 state of principal license subsequently reinstates the physician's
8647 license, a license issued to the physician by any other member
8648 board shall remain encumbered until that respective member board
8649 takes action to reinstate the license in a manner consistent with
8650 the Medical Practice Act of that state.

8651 (c) If disciplinary action is taken against a physician by a
8652 member board not in the state of principal license, any other
8653 member board may deem the action conclusive as to matter of law
8654 and fact decided, and:

8655 (i) Impose the same or lesser sanction(s) against the
8656 physician so long as such sanctions are consistent with the
8657 Medical Practice Act of that state; or



(ii) Pursue separate disciplinary action against the physician under its respective Medical Practice Act, regardless of the action taken in other member states.

(d) If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended, then any license(s) issued to the physician by any other member board(s) shall be suspended, automatically and immediately without further action necessary by the other member board(s), for ninety (90) days upon entry of the order by the disciplining board, to permit the member board(s) to investigate the basis for the action under the Medical Practice Act of that state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the ninety (90) day suspension period in a manner consistent with the Medical Practice Act of that state.

SECTION 11

Interstate Medical Licensure Compact Commission

(a) The member states create the "Interstate Medical Licensure Compact Commission."

(b) The purpose of the Interstate Commission is the administration of the Interstate Medical Licensure Compact, which is a discretionary state function.

(c) The Interstate Commission shall be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth in the Compact, and



such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the Compact.

(d) The Interstate Commission shall consist of two (2) voting representatives appointed by each member state who shall serve as Commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one (1) representative from each member board. A Commissioner shall be a(n):

(1) Allopathic or osteopathic physician appointed to a member board;

(2) Executive director, executive secretary, or similar executive of a member board; or

(3) Member of the public appointed to a member board.

(e) The Interstate Commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address such matters as may properly come before the Commission, including the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

(f) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.



8708 (g) Each Commissioner participating at a meeting of the
8709 Interstate Commission is entitled to one (1) vote. A majority of
8710 Commissioners shall constitute a quorum for the transaction of
8711 business, unless a larger quorum is required by the bylaws of the
8712 Interstate Commission. A Commissioner shall not delegate a vote
8713 to another Commissioner. In the absence of its Commissioner, a
8714 member state may delegate voting authority for a specified meeting
8715 to another person from that state who shall meet the requirements
8716 of subsection (d).

8717 (h) The Interstate Commission shall provide public notice of
8718 all meetings and all meetings shall be open to the public. The
8719 Interstate Commission may close a meeting, in full or in portion,
8720 where it determines by a two-thirds (2/3) vote of the
8721 Commissioners present that an open meeting would be likely to:

8722 (1) Relate solely to the internal personnel practices
8723 and procedures of the Interstate Commission;

8724 (2) Discuss matters specifically exempted from
8725 disclosure by federal statute;

8726 (3) Discuss trade secrets, commercial, or financial
8727 information that is privileged or confidential;

8728 (4) Involve accusing a person of a crime, or formally
8729 censuring a person;

8730 (5) Discuss information of a personal nature where
8731 disclosure would constitute a clearly unwarranted invasion of
8732 personal privacy;



8733 (6) Discuss investigative records compiled for law
8734 enforcement purposes; or
8735 (7) Specifically relate to the participation in a civil
8736 action or other legal proceeding.

8737 (i) The Interstate Commission shall keep minutes which shall
8738 fully describe all matters discussed in a meeting and shall
8739 provide a full and accurate summary of actions taken, including
8740 record of any roll call votes.

8741 (j) The Interstate Commission shall make its information and
8742 official records, to the extent not otherwise designated in the
8743 Compact or by its rules, available to the public for inspection.

8744 (k) The Interstate Commission shall establish an executive
8745 committee, which shall include officers, members, and others as
8746 determined by the bylaws. The executive committee shall have the
8747 power to act on behalf of the Interstate Commission, with the
8748 exception of rulemaking, during periods when the Interstate
8749 Commission is not in session. When acting on behalf of the
8750 Interstate Commission, the executive committee shall oversee the
8751 administration of the Compact including enforcement and compliance
8752 with the provisions of the Compact, its bylaws and rules, and
8753 other such duties as necessary.

8754 (l) The Interstate Commission may establish other committees
8755 for governance and administration of the Compact.

8756 **SECTION 12**

8757 **Powers and Duties of the Interstate Commission**



8758 The Interstate Commission shall have the duty and power to:

8759 (a) Oversee and maintain the administration of the Compact;

8760 (b) Promulgate rules which shall be binding to the extent

8761 and in the manner provided for in the Compact;

8762 (c) Issue, upon the request of a member state or member

8763 board, advisory opinions concerning the meaning or interpretation

8764 of the Compact, its bylaws, rules, and actions;

8765 (d) Enforce compliance with Compact provisions, the rules

8766 promulgated by the Interstate Commission, and the bylaws, using

8767 all necessary and proper means, including but not limited to the

8768 use of judicial process;

8769 (e) Establish and appoint committees, including but not

8770 limited to an executive committee as required by Section 11, which

8771 shall have the power to act on behalf of the Interstate Commission

8772 in carrying out its powers and duties;

8773 (f) Pay, or provide for the payment of the expenses related

8774 to the establishment, organization, and ongoing activities of the

8775 Interstate Commission;

8776 (g) Establish and maintain one or more offices;

8777 (h) Borrow, accept, hire, or contract for services of

8778 personnel;

8779 (i) Purchase and maintain insurance and bonds;

8780 (j) Employ an executive director who shall have such powers

8781 to employ, select or appoint employees, agents, or consultants,



8782 and to determine their qualifications, define their duties, and
8783 fix their compensation;

8784 (k) Establish personnel policies and programs relating to
8785 conflicts of interest, rates of compensation, and qualifications
8786 of personnel;

8787 (l) Accept donations and grants of money, equipment,
8788 supplies, materials and services, and to receive, utilize, and
8789 dispose of it in a manner consistent with the conflict of interest
8790 policies established by the Interstate Commission;

8791 (m) Lease, purchase, accept contributions or donations of,
8792 or otherwise to own, hold, improve or use, any property, real,
8793 personal, or mixed;

8794 (n) Sell, convey, mortgage, pledge, lease, exchange,
8795 abandon, or otherwise dispose of any property, real, personal, or
8796 mixed;

8797 (o) Establish a budget and make expenditures;

8798 (p) Adopt a seal and bylaws governing the management and
8799 operation of the Interstate Commission;

8800 (q) Report annually to the legislatures and governors of the
8801 member states concerning the activities of the Interstate
8802 Commission during the preceding year. Such reports shall also
8803 include reports of financial audits and any recommendations that
8804 may have been adopted by the Interstate Commission;

8805 (r) Coordinate education, training, and public awareness
8806 regarding the Compact, its implementation, and its operation;



(s) Maintain records in accordance with the bylaws;
(t) Seek and obtain trademarks, copyrights, and patents; and
(u) Perform such functions as may be necessary or
appropriate to achieve the purposes of the Compact.

SECTION 13

Finance Powers

(a) The Interstate Commission may levy on and collect an
annual assessment from each member state to cover the cost of the
operations and activities of the Interstate Commission and its
staff. The total assessment must be sufficient to cover the
annual budget approved each year for which revenue is not provided
by other sources. The aggregate annual assessment amount shall be
allocated upon a formula to be determined by the Interstate
Commission, which shall promulgate a rule binding upon all member
states.

(b) The Interstate Commission shall not incur obligations of
any kind prior to securing the funds adequate to meet the same.

(c) The Interstate Commission shall not pledge the credit of
any of the member states, except by, and with the authority of,
the member state.

(d) The Interstate Commission shall be subject to a yearly
financial audit conducted by a certified or licensed public
accountant and the report of the audit shall be included in the
annual report of the Interstate Commission.

SECTION 14



8832 **Organization and Operation of the Interstate Commission**

8833 (a) The Interstate Commission shall, by a majority of
8834 Commissioners present and voting, adopt bylaws to govern its
8835 conduct as may be necessary or appropriate to carry out the
8836 purposes of the Compact within twelve (12) months of the first
8837 Interstate Commission meeting.

8838 (b) The Interstate Commission shall elect or appoint
8839 annually from among its Commissioners a chairperson, a vice
8840 chairperson, and a treasurer, each of whom shall have such
8841 authority and duties as may be specified in the bylaws. The
8842 chairperson, or in the chairperson's absence or disability, the
8843 vice chairperson, shall preside at all meetings of the Interstate
8844 Commission.

8845 (c) Officers selected in subsection (b) shall serve without
8846 remuneration from the Interstate Commission.

8847 (d) The officers and employees of the Interstate Commission
8848 shall be immune from suit and liability, either personally or in
8849 their official capacity, for a claim for damage to or loss of
8850 property or personal injury or other civil liability caused or
8851 arising out of, or relating to, an actual or alleged act, error,
8852 or omission that occurred, or that such person had a reasonable
8853 basis for believing occurred, within the scope of Interstate
8854 Commission employment, duties, or responsibilities; provided that
8855 such person shall not be protected from suit or liability for



8856 damage, loss, injury, or liability caused by the intentional or
8857 willful and wanton misconduct of such person.

8858 (1) The liability of the executive director and
8859 employees of the Interstate Commission or representatives of the
8860 Interstate Commission, acting within the scope of such person's
8861 employment or duties for acts, errors, or omissions occurring
8862 within such person's state, may not exceed the limits of liability
8863 set forth under the constitution and laws of that state for state
8864 officials, employees, and agents. The Interstate Commission is
8865 considered to be an instrumentality of the states for the purposes
8866 of any such action. Nothing in this subsection shall be construed
8867 to protect such person from suit or liability for damage, loss,
8868 injury, or liability caused by the intentional or willful and
8869 wanton misconduct of such person.

8870 (2) The Interstate Commission shall defend the
8871 executive director, its employees, and subject to the approval of
8872 the Attorney General or other appropriate legal counsel of the
8873 member state represented by an Interstate Commission
8874 representative, shall defend such Interstate Commission
8875 representative in any civil action, except that any civil action
8876 initiated by the Attorney General shall be governed by Sections 1
8877 and 2 of this act, seeking to impose liability arising out of an
8878 actual or alleged act, error or omission that occurred within the
8879 scope of Interstate Commission employment, duties or
8880 responsibilities, or that the defendant had a reasonable basis for



8881 believing occurred within the scope of Interstate Commission
8882 employment, duties, or responsibilities, provided that the actual
8883 or alleged act, error, or omission did not result from intentional
8884 or willful and wanton misconduct on the part of such person.

8885 (3) To the extent not covered by the state involved,
8886 member state, or the Interstate Commission, the representatives or
8887 employees of the Interstate Commission shall be held harmless in
8888 the amount of a settlement or judgment, including attorney's fees
8889 and costs, obtained against such persons arising out of an actual
8890 or alleged act, error, or omission that occurred within the scope
8891 of Interstate Commission employment, duties, or responsibilities,
8892 or that such persons had a reasonable basis for believing occurred
8893 within the scope of Interstate Commission employment, duties, or
8894 responsibilities, provided that the actual or alleged act, error,
8895 or omission did not result from intentional or willful and wanton
8896 misconduct on the part of such persons.

8897 **SECTION 15**

8898 **Rulemaking Functions of the Interstate Commission**

8899 (a) The Interstate Commission shall promulgate reasonable
8900 rules in order to effectively and efficiently achieve the purposes
8901 of the Compact. Notwithstanding the foregoing, in the event the
8902 Interstate Commission exercises its rulemaking authority in a
8903 manner that is beyond the scope of the purposes of the Compact, or
8904 the powers granted hereunder, then such an action by the



8905 Interstate Commission shall be invalid and have no force or
8906 effect.

8907 (b) Rules deemed appropriate for the operations of the
8908 Interstate Commission shall be made pursuant to a rulemaking
8909 process that substantially conforms to the "Model State
8910 Administrative Procedure Act" of 2010, and subsequent amendments
8911 thereto.

8912 (c) Not later than thirty (30) days after a rule is
8913 promulgated, any person may file a petition for judicial review of
8914 the rule in the United States District Court for the District of
8915 Columbia or the federal district where the Interstate Commission
8916 has its principal offices, provided that the filing of such a
8917 petition shall not stay or otherwise prevent the rule from
8918 becoming effective unless the court finds that the petitioner has
8919 a substantial likelihood of success. The court shall give
8920 deference to the actions of the Interstate Commission consistent
8921 with applicable law and shall not find the rule to be unlawful if
8922 the rule represents a reasonable exercise of the authority granted
8923 to the Interstate Commission.

8924 **SECTION 16**

8925 **Oversight of Interstate Compact**

8926 (a) The executive, legislative, and judicial branches of
8927 state government in each member state shall enforce the Compact
8928 and shall take all actions necessary and appropriate to effectuate
8929 the Compact's purposes and intent. The provisions of the Compact



and the rules promulgated hereunder shall have standing as statutory law but shall not override existing state authority to regulate the practice of medicine.

(b) All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the Compact which may affect the powers, responsibilities or actions of the Interstate Commission.

(c) The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, the Compact, or promulgated rules.

SECTION 17

Enforcement of Interstate Compact

(a) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the Compact.

(b) The Interstate Commission may, by majority vote of the Commissioners, initiate legal action in the United States District Court for the District of Columbia, or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the Compact, and its promulgated



8955 rules and bylaws, against a member state in default. The relief
8956 sought may include both injunctive relief and damages. In the
8957 event judicial enforcement is necessary, the prevailing party
8958 shall be awarded all costs of such litigation including reasonable
8959 attorney's fees.

8960 (c) The remedies herein shall not be the exclusive remedies
8961 of the Interstate Commission. The Interstate Commission may avail
8962 itself of any other remedies available under state law or the
8963 regulation of a profession.

8964 **SECTION 18**

8965 **Default Procedures**

8966 (a) The grounds for default include, but are not limited to,
8967 failure of a member state to perform such obligations or
8968 responsibilities imposed upon it by the Compact, or the rules and
8969 bylaws of the Interstate Commission promulgated under the Compact.

8970 (b) If the Interstate Commission determines that a member
8971 state has defaulted in the performance of its obligations or
8972 responsibilities under the Compact, or the bylaws or promulgated
8973 rules, the Interstate Commission shall:

8974 (1) Provide written notice to the defaulting state and
8975 other member states, of the nature of the default, the means of
8976 curing the default, and any action taken by the Interstate
8977 Commission. The Interstate Commission shall specify the
8978 conditions by which the defaulting state must cure its default;
8979 and



8980 (2) Provide remedial training and specific technical
8981 assistance regarding the default.

8982 (c) If the defaulting state fails to cure the default, the
8983 defaulting state shall be terminated from the Compact upon an
8984 affirmative vote of a majority of the Commissioners and all
8985 rights, privileges, and benefits conferred by the Compact shall
8986 terminate on the effective date of termination. A cure of the
8987 default does not relieve the offending state of obligations or
8988 liabilities incurred during the period of the default.

8989 (d) Termination of membership in the Compact shall be
8990 imposed only after all other means of securing compliance have
8991 been exhausted. Notice of intent to terminate shall be given by
8992 the Interstate Commission to the Governor, the majority and
8993 minority leaders of the defaulting state's legislature, and each
8994 of the member states.

8995 (e) The Interstate Commission shall establish rules and
8996 procedures to address licenses and physicians that are materially
8997 impacted by the termination of a member state, or the withdrawal
8998 of a member state.

8999 (f) The member state which has been terminated is
9000 responsible for all dues, obligations, and liabilities incurred
9001 through the effective date of termination including obligations,
9002 the performance of which extends beyond the effective date of
9003 termination.



9004 (g) The Interstate Commission shall not bear any costs
9005 relating to any state that has been found to be in default or
9006 which has been terminated from the Compact, unless otherwise
9007 mutually agreed upon in writing between the Interstate Commission
9008 and the defaulting state.

9009 (h) The defaulting state may appeal the action of the
9010 Interstate Commission by petitioning the United States District
9011 Court for the District of Columbia or the federal district where
9012 the Interstate Commission has its principal offices. The
9013 prevailing party shall be awarded all costs of such litigation
9014 including reasonable attorney's fees.

9015 **SECTION 19**

9016 **Dispute Resolution**

9017 (a) The Interstate Commission shall attempt, upon the
9018 request of a member state, to resolve disputes which are subject
9019 to the Compact and which may arise among member states or member
9020 boards.

9021 (b) The Interstate Commission shall promulgate rules
9022 providing for both mediation and binding dispute resolution as
9023 appropriate.

9024 **SECTION 20**

9025 **Member States, Effective Date and Amendment**

9026 (a) Any state is eligible to become a member state of the
9027 Compact.



9028 (b) The Compact shall become effective and binding upon
9029 legislative enactment of the Compact into law by no less than
9030 seven (7) states. Thereafter, it shall become effective and
9031 binding on a state upon enactment of the Compact into law by that
9032 state.

9033 (c) The governors of nonmember states, or their designees,
9034 shall be invited to participate in the activities of the
9035 Interstate Commission on a nonvoting basis prior to adoption of
9036 the Compact by all states.

9037 (d) The Interstate Commission may propose amendments to the
9038 Compact for enactment by the member states. No amendment shall
9039 become effective and binding upon the Interstate Commission and
9040 the member states unless and until it is enacted into law by
9041 unanimous consent of the member states.

9042 **SECTION 21**

9043 **Withdrawal**

9044 (a) Once effective, the Compact shall continue in force and
9045 remain binding upon each and every member state; provided that a
9046 member state may withdraw from the Compact by specifically
9047 repealing the statute which enacted the Compact into law.

9048 (b) Withdrawal from the Compact shall be by the enactment of
9049 a statute repealing the same, but shall not take effect until one
9050 (1) year after the effective date of such statute and until
9051 written notice of the withdrawal has been given by the withdrawing
9052 state to the Governor of each other member state.



9053 (c) The withdrawing state shall immediately notify the
9054 chairperson of the Interstate Commission in writing upon the
9055 introduction of legislation repealing the Compact in the
9056 withdrawing state.

9057 (d) The Interstate Commission shall notify the other member
9058 states of the withdrawing state's intent to withdraw within sixty
9059 (60) days of its receipt of notice provided under subsection (c).

9060 (e) The withdrawing state is responsible for all dues,
9061 obligations and liabilities incurred through the effective date of
9062 withdrawal, including obligations, the performance of which extend
9063 beyond the effective date of withdrawal.

9064 (f) Reinstatement following withdrawal of a member state
9065 shall occur upon the withdrawing state reenacting the Compact or
9066 upon such later date as determined by the Interstate Commission.

9067 (g) The Interstate Commission is authorized to develop rules
9068 to address the impact of the withdrawal of a member state on
9069 licenses granted in other member states to physicians who
9070 designated the withdrawing member state as the state of principal
9071 license.

9072 **SECTION 22**

9073 **Dissolution**

9074 (a) The Compact shall dissolve effective upon the date of
9075 the withdrawal or default of the member state which reduces the
9076 membership in the Compact to one (1) member state.



(b) Upon the dissolution of the Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

SECTION 23

Severability and Construction

(a) The provisions of the Compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

(b) The provisions of the Compact shall be liberally construed to effectuate its purposes.

(c) Nothing in the Compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

SECTION 24

Binding Effect of Compact and Other Laws

(a) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the Compact.

(b) All laws in a member state in conflict with the Compact are superseded to the extent of the conflict.

(c) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Commission, are binding upon the member states.



9102 (d) All agreements between the Interstate Commission and the
9103 member states are binding in accordance with their terms.

9104 (e) In the event any provision of the Compact exceeds the
9105 constitutional limits imposed on the legislature of any member
9106 state, such provision shall be ineffective to the extent of the
9107 conflict with the constitutional provision in question in that
9108 member state.

9109 **SECTION 124.** Section 75-15-11, Mississippi Code of 1972, is
9110 amended as follows:

9111 75-15-11. Each application for a license shall be
9112 accompanied by:

9113 (a) Certified financial statements, reasonably
9114 satisfactory to the commissioner, showing that the applicant has a
9115 net worth of at least Twenty-five Thousand Dollars (\$25,000.00)
9116 plus Fifteen Thousand Dollars (\$15,000.00) for each location in
9117 excess of one (1) at which the applicant proposes to conduct money
9118 transmissions in this state, computed according to generally
9119 accepted accounting principles, but in no event shall the net
9120 worth be required to be in excess of Two Hundred Fifty Thousand
9121 Dollars (\$250,000.00).

9122 (b) A surety bond issued by a bonding company or
9123 insurance company authorized to do business in this state, in the
9124 principal sum of Twenty-five Thousand Dollars (\$25,000.00) or in
9125 an amount equal to outstanding money transmissions in Mississippi,
9126 whichever is greater, but in no event shall the bond be required



9127 to be in excess of Five Hundred Thousand Dollars (\$500,000.00).
9128 However, the commissioner may increase the required amount of the
9129 bond upon the basis of the impaired financial condition of a
9130 licensee as evidenced by a reduction in net worth, financial
9131 losses or other relevant criteria. The bond shall be in form
9132 satisfactory to the commissioner and shall run to the state for
9133 the use and benefit of the Department of Banking and Consumer
9134 Finance and any claimants against the applicant or his agents to
9135 secure the faithful performance of the obligations of the
9136 applicant and his agents with respect to the receipt, handling,
9137 transmission and payment of money in connection with money
9138 transmissions in Mississippi. The aggregate liability of the
9139 surety in no event shall exceed the principal sum of the bond.
9140 The surety on the bond shall have the right to cancel the bond
9141 upon giving sixty (60) days' notice in writing to the commissioner
9142 and thereafter shall be relieved of liability for any breach of
9143 condition occurring after the effective date of the cancellation.
9144 Any claimants against the applicant or his agents may themselves
9145 bring suit directly on the bond, or the Attorney General may bring
9146 suit thereon, subject to the provisions of Sections 1 and 2 of
9147 this act, in behalf of those claimants, either in one (1) action
9148 or successive actions.

9149 (c) In lieu of the corporate surety bond, the applicant
9150 may deposit with the State Treasurer bonds or other obligations of
9151 the United States or guaranteed by the United States or bonds or



9152 other obligations of this state or of any municipal corporation,
9153 county, or other political subdivision or agency of this state, or
9154 certificates of deposit of national or state banks doing business
9155 in Mississippi, having an aggregate market value at least equal to
9156 that of the corporate surety bond otherwise required. Those bonds
9157 or obligations or certificates of deposit shall be deposited with
9158 the State Treasurer to secure the same obligations as would a
9159 corporate surety bond, but the depositor shall be entitled to
9160 receive all interest and dividends thereon and shall have the
9161 right to substitute other bonds or obligations or certificates of
9162 deposit for those deposited, with the approval of the
9163 commissioner, and shall be required so to do on order of the
9164 commissioner made for good cause shown. The State Treasurer shall
9165 provide for custody of the bonds or obligations or certificates of
9166 deposits by a qualified trust company or bank located in the State
9167 of Mississippi or by any Federal Reserve Bank. The compensation,
9168 if any, of the custodian for acting as such under this section
9169 shall be paid by the depositing licensee.

9170 (d) Proof of registration as a money service business
9171 per 31 CFR Section 103.41, if applicable.

9172 (e) A set of fingerprints from any local law
9173 enforcement agency for each owner of a sole proprietorship,
9174 partners in a partnership or principal owners of a limited
9175 liability company that own at least ten percent (10%) of the
9176 voting shares of the company, shareholders owning ten percent



9177 (10%) or more of the outstanding shares of the corporation, except
9178 publically traded corporations and their subsidiaries, and any
9179 other executive officer with significant oversight duties of the
9180 business. In order to determine the applicant's suitability for
9181 license, the commissioner shall forward the fingerprints to the
9182 Department of Public Safety for a state criminal history records
9183 check, and the fingerprints shall be forwarded by the Department
9184 of Public Safety to the FBI for a national criminal history
9185 records check. The department shall not issue a license if it
9186 finds that the applicant, or any person who is an owner, partner,
9187 director or executive officer of the applicant, has been convicted
9188 of: (i) a felony in any jurisdiction; or (ii) a crime that, if
9189 committed within the state, would constitute a felony under the
9190 laws of this state; or (iii) a misdemeanor of fraud, theft,
9191 forgery, bribery, embezzlement or making a fraudulent or false
9192 statement in any jurisdiction. For the purposes of this chapter,
9193 a person shall be deemed to have been convicted of a crime if the
9194 person has pleaded guilty to a crime before a court or federal
9195 magistrate, or plea of nolo contendere, or has been found guilty
9196 of a crime by the decision or judgment of a court or federal
9197 magistrate or by the verdict of a jury, irrespective of the
9198 pronouncement of sentence or the suspension of a sentence, unless
9199 the person convicted of the crime has received a pardon from the
9200 President of the United States or the Governor or other pardoning
9201 authority in the jurisdiction where the conviction was obtained.



9202 **SECTION 125.** Section 75-21-1, Mississippi Code of 1972, is
9203 amended as follows:

9204 75-21-1. A trust or combine is a combination, contract,
9205 understanding or agreement, expressed or implied, between two (2)
9206 or more persons, corporations or firms or association of persons
9207 or between any one or more of either with one or more of the
9208 others, when inimical to public welfare and the effect of which
9209 would be:

9210 (a) To restrain trade;

9211 (b) To limit, increase or reduce the price of a
9212 commodity;

9213 (c) To limit, increase or reduce the production or
9214 output of a commodity;

9215 (d) To hinder competition in the production,
9216 importation, manufacture, transportation, sale or purchase of a
9217 commodity;

9218 (e) To engross or forestall a commodity;

9219 (f) To issue, own or hold the certificate of stock of
9220 any trust and combine within the spirit of this chapter knowing it
9221 to be such at the time of the issue or the acquisition or holding
9222 such certificate; or

9223 (g) To place the control to any extent of business or
9224 of the proceeds or earnings thereof, contrary to the spirit and
9225 meaning of this chapter, in the power of trustees, by whatever
9226 name called; or



9227 (h) To enable or empower any other person than
9228 themselves, their proper officers, agents and employees to dictate
9229 or control the management of business, contrary to the spirit and
9230 meaning of this chapter; or

9231 (i) To unite or pool interest in the importation,
9232 manufacture, production, transportation, or price of a commodity,
9233 contrary to the spirit and meaning of this chapter.

9234 Any corporation, domestic or foreign, or any partnership, or
9235 individual, or other association, or person whatsoever, who are
9236 now, or shall hereafter create, enter into, become a member of, or
9237 a party to any trust or combine as hereinabove defined shall be
9238 deemed and adjudged guilty of a conspiracy to defraud and shall be
9239 subject to the penalties hereinafter provided. Any person,
9240 association of persons, corporation, or corporations, domestic or
9241 foreign, who shall be a party or belong to a trust and combine
9242 shall be guilty of crime and upon conviction thereof shall, for a
9243 first offense be fined in any sum not less than one hundred
9244 dollars (\$100.00) nor more than five thousand dollars (\$5,000.00)
9245 and for a second or subsequent offense not less than two hundred
9246 dollars (\$200.00) nor more than ten thousand dollars (\$10,000.00),
9247 and may be enjoined by a final decree of the chancery court, in a
9248 suit by the state, subject to the provisions of Sections 1 and 2
9249 of this act, on the relation of the Attorney General, from the
9250 further prosecution of or doing of the acts constituting the trust
9251 and combine as defined in this chapter.



9252 **SECTION 126.** Section 75-21-7, Mississippi Code of 1972, is
9253 amended as follows:

9254 75-21-7. Any person, corporation, partnership, firm or
9255 association of persons and the officers and representatives of the
9256 corporation or association violating any of the provisions of this
9257 chapter shall forfeit not less than one hundred dollars (\$100.00)
9258 nor more than two thousand dollars (\$2,000.00) for every such
9259 violation. Each month in which such person, corporation or
9260 association shall violate this chapter shall be a separate
9261 violation, the forfeiture and penalty in such case to be recovered
9262 alone by suit in the name of the state on the relation of the
9263 Attorney General, subject to the provisions of Sections 1 and 2 of
9264 this act, and by the consent of the Attorney General suits may be
9265 brought by any district attorney, such suits to be brought in any
9266 court of competent jurisdiction.

9267 **SECTION 127.** Section 75-21-37, Mississippi Code of 1972, is
9268 amended as follows:

9269 75-21-37. It shall be the duty of the district attorneys in
9270 their several districts, when requested by the Attorney General,
9271 to enforce the civil features of the antitrust laws of this state
9272 by appropriate legal proceedings and suits at law or in equity;
9273 and their duty to enforce criminal features of said laws shall be
9274 the same as their duty to enforce other criminal statutes and
9275 shall be subject to the provisions of Sections 1 and 2 of this act
9276 for the Attorney General. All such suits shall be brought by and



in the name of the State of Mississippi upon the relation of the Attorney General or an authorized district attorney.

SECTION 128. Section 75-24-9, Mississippi Code of 1972, is amended as follows:

75-24-9. Whenever the Attorney General has reason to believe that any person is using, has used, or is about to use any method, act or practice prohibited by Section 75-24-5, and that proceedings would be in the public interest, he may bring an action subject to the provisions of Sections 1 and 2 of this act, in the name of the state against such person to restrain by temporary or permanent injunction the use of such method, act or practice. The action shall be brought in the chancery or county court of the county in which such person resides or has his principal place of business, or, with consent of the parties, may be brought in the chancery or county court of the county in which the State Capitol is located. The said courts are authorized to issue temporary or permanent injunctions to restrain and prevent violations of this chapter, and such injunctions shall be issued without bond.

SECTION 129. Section 75-24-15, Mississippi Code of 1972, is amended as follows:

75-24-15. (1) In addition to all other statutory and common law rights, remedies and defenses, any person who purchases or leases goods or services primarily for personal, family or household purposes and thereby suffers any ascertainable loss of



9302 money or property, real or personal, as a result of the use or
9303 employment by the seller, lessor, manufacturer or producer of a
9304 method, act or practice prohibited by Section 75-24-5 may bring an
9305 action at law in the court having jurisdiction in the county in
9306 which the seller, lessor, manufacturer or producer resides, or has
9307 his principal place of business or, where the act or practice
9308 prohibited by Section 75-24-5 allegedly occurred, to recover such
9309 loss of money or damages for the loss of such property, or may
9310 assert, by way of setoff or counterclaim, the fact of such loss in
9311 a proceeding against him for the recovery of the purchase price or
9312 rental, or any portion thereof, of the goods or services.

9313 (2) In any private action brought under this chapter, the
9314 plaintiff must have first made a reasonable attempt to resolve any
9315 claim through an informal dispute settlement program approved by
9316 the Attorney General, approval which is subject to the provisions
9317 of Sections 1 and 2 of this act.

9318 (3) In any action or counterclaim under this section of this
9319 chapter, a prevailing defendant may recover in addition to any
9320 other relief that may be provided in this section costs and a
9321 reasonable attorney's fee, if in the opinion of the court, said
9322 action or counterclaim was frivolous or filed for the purpose of
9323 harassment or delay.

9324 (4) Nothing in this chapter shall be construed to permit any
9325 class action or suit, but every private action must be maintained



9326 in the name of and for the sole use and benefit of the individual
9327 person.

9328 **SECTION 130.** Section 75-24-19, Mississippi Code of 1972, is
9329 amended as follows:

9330 75-24-19. (1) Civil remedies.

9331 (a) Any person who violated the terms of an injunction
9332 issued under Section 75-24-9 shall forfeit and pay to the state a
9333 civil penalty in a sum not to exceed Ten Thousand Dollars
9334 (\$10,000.00) per violation which shall be payable to the General
9335 Fund of the State of Mississippi. For the purposes of this
9336 section, the chancery or county court issuing an injunction shall
9337 retain jurisdiction, and the cause shall be continued, and in such
9338 cases the Attorney General acting in the name of the state may
9339 petition for recovery of civil penalties.

9340 (b) In any action brought under Section 75-24-9, if the
9341 court finds from clear and convincing evidence, that a person
9342 knowingly and willfully used any unfair or deceptive trade
9343 practice, method or act prohibited by Section 75-24-5, the
9344 Attorney General, upon petition to the court, may recover on
9345 behalf of the state a civil penalty in a sum not to exceed Ten
9346 Thousand Dollars (\$10,000.00) per violation subject to the
9347 provisions of Sections 1 and 2 of this act. One-half (1/2) of
9348 said penalty shall be payable to the Office of Consumer Protection
9349 to be deposited into the Attorney General's special fund. All
9350 monies collected under this section shall be used by the Attorney



9351 General for consumer fraud education and investigative and
9352 enforcement operations of the Office of Consumer Protection. The
9353 other one-half (1/2) shall be payable to the General Fund of the
9354 State of Mississippi. The Attorney General may also recover, in
9355 addition to any other relief that may be provided in this section,
9356 investigative costs and a reasonable attorney's fee subject to the
9357 provisions of Sections 1 and 2 of this act.

9358 (2) No penalty authorized by this section shall be deemed to
9359 limit the court's powers to insure compliance with its orders,
9360 decrees and judgments, or punish for the violations thereof.

9361 (3) For purposes of this section, a knowing and willful
9362 violation occurs when the court finds from clear and convincing
9363 evidence that the party committing the violation knew or should
9364 have known that his conduct was a violation of Section 75-24-5.

9365 **SECTION 131.** Section 75-24-21, Mississippi Code of 1972, is
9366 amended as follows:

9367 75-24-21. It shall be the duty of the district and county
9368 attorneys to lend to the Attorney General such assistance as the
9369 Attorney General may request in the commencement and prosecution
9370 of actions pursuant to this chapter subject to the provisions of
9371 Sections 1 and 2 of this act. The district attorney and county
9372 attorney shall, within their respective jurisdictions, have the
9373 same duty and responsibility under this chapter as that of the
9374 Attorney General statewide in the enforcement thereof, and they
9375 shall prosecute actions hereunder in the same manner as provided



9376 for the Attorney General. When any action is prosecuted by such
9377 district or county attorney alone or in concert, he or they shall
9378 make a full report thereon to the Attorney General, including the
9379 final disposition of the matter.

9380 When any action has been prosecuted by a district or county
9381 attorney, at the request of the Attorney General, the Attorney
9382 General is authorized to pay the actual cost and expense of such
9383 action after same has been submitted to and approved by the court
9384 in which the action was taken, subject always to the final
9385 approval of the Attorney General.

9386 The Attorney General may establish programs for the education
9387 of the public with respect to this chapter.

9388 **SECTION 132.** Section 75-24-27, Mississippi Code of 1972, is
9389 brought forward as follows:

9390 75-24-27. (1) To accomplish the objectives and to carry out
9391 the duties prescribed in this chapter, the Attorney General, or
9392 his designee, in addition to the powers conferred by this chapter,
9393 may:

- 9394 (a) Issue subpoenas and subpoenas duces tecum;
- 9395 (b) Issue cease and desist orders to persons suspected
9396 of violating any provisions of this chapter;
- 9397 (c) Administer an oath or affirmation to any person;
- 9398 (d) Conduct hearings in aid of any investigation or
9399 inquiry;



9400 (e) Compel the production of books, papers, documents,
9401 and other evidence, and call upon other state agencies for
9402 information;

9403 (f) Issue any necessary rules and regulations in order
9404 to carry out the provisions of this chapter; and

9405 (g) Enter into an assurance of voluntary compliance or
9406 an assurance of voluntary discontinuance with any person for
9407 settlement purposes.

9408 (2) Unless otherwise ordered by a court for good cause
9409 shown, no statement or documentary material produced pursuant to
9410 subpoena under this section shall be produced for inspection or
9411 copying by, nor shall the contents thereof be disclosed to any
9412 person other than the authorized employees of the Attorney General
9413 without the consent of the person who produced the material.

9414 (3) The Attorney General may use the documentary material or
9415 copies thereof in the enforcement of this chapter by presentation
9416 before any court, provided that any such material which contains
9417 trade secrets or proprietary information shall not be presented
9418 except with the approval of the court in which the action is
9419 pending after adequate notice to the person furnishing such
9420 material. However, when material containing trade secrets or
9421 proprietary information is presented with court approval, the
9422 material and the evidence pertaining thereto shall be held in
9423 camera and shall not be part of the court record or trial
9424 transcript.



9425 **SECTION 133.** Section 75-24-29, Mississippi Code of 1972, is
9426 amended as follows:

9427 75-24-29. (1) This section applies to any person who
9428 conducts business in this state and who, in the ordinary course of
9429 the person's business functions, owns, licenses or maintains
9430 personal information of any resident of this state.

9431 (2) For purposes of this section, the following terms shall
9432 have the meanings ascribed unless the context clearly requires
9433 otherwise:

9434 (a) "Breach of security" means unauthorized acquisition
9435 of electronic files, media, databases or computerized data
9436 containing personal information of any resident of this state when
9437 access to the personal information has not been secured by
9438 encryption or by any other method or technology that renders the
9439 personal information unreadable or unusable;

9440 (b) "Personal information" means an individual's first
9441 name or first initial and last name in combination with any one or
9442 more of the following data elements:

9443 (i) Social security number;

9444 (ii) Driver's license number or state
9445 identification card number; or

9446 (iii) An account number or credit or debit card
9447 number in combination with any required security code, access code
9448 or password that would permit access to an individual's financial
9449 account; "personal information" does not include publicly



9450 available information that is lawfully made available to the
9451 general public from federal, state or local government records or
9452 widely distributed media;

9453 (iv) "Affected individual" means any individual
9454 who is a resident of this state whose personal information was, or
9455 is reasonably believed to have been, intentionally acquired by an
9456 unauthorized person through a breach of security.

9457 (3) A person who conducts business in this state shall
9458 disclose any breach of security to all affected individuals. The
9459 disclosure shall be made without unreasonable delay, subject to
9460 the provisions of subsections (4) and (5) of this section and the
9461 completion of an investigation by the person to determine the
9462 nature and scope of the incident, to identify the affected
9463 individuals, or to restore the reasonable integrity of the data
9464 system. Notification shall not be required if, after an
9465 appropriate investigation, the person reasonably determines that
9466 the breach will not likely result in harm to the affected
9467 individuals.

9468 (4) Any person who conducts business in this state that
9469 maintains computerized data which includes personal information
9470 that the person does not own or license shall notify the owner or
9471 licensee of the information of any breach of the security of the
9472 data as soon as practicable following its discovery, if the
9473 personal information was, or is reasonably believed to have been,
9474 acquired by an unauthorized person for fraudulent purposes.



9475 (5) Any notification required by this section shall be
9476 delayed for a reasonable period of time if a law enforcement
9477 agency determines that the notification will impede a criminal
9478 investigation or national security and the law enforcement agency
9479 has made a request that the notification be delayed. Any such
9480 delayed notification shall be made after the law enforcement
9481 agency determines that notification will not compromise the
9482 criminal investigation or national security and so notifies the
9483 person of that determination.

9484 (6) Any notice required by the provisions of this section
9485 may be provided by one (1) of the following methods: (a) written
9486 notice; (b) telephone notice; (c) electronic notice, if the
9487 person's primary means of communication with the affected
9488 individuals is by electronic means or if the notice is consistent
9489 with the provisions regarding electronic records and signatures
9490 set forth in 15 USCS 7001; or (d) substitute notice, provided the
9491 person demonstrates that the cost of providing notice in
9492 accordance with paragraph (a), (b) or (c) of this subsection would
9493 exceed Five Thousand Dollars (\$5,000.00), that the affected class
9494 of subject persons to be notified exceeds five thousand (5,000)
9495 individuals or the person does not have sufficient contact
9496 information. Substitute notice shall consist of the following:
9497 electronic mail notice when the person has an electronic mail
9498 address for the affected individuals; conspicuous posting of the
9499 notice on the Web site of the person if the person maintains one;



9500 and notification to major statewide media, including newspapers,
9501 radio and television.

9502 (7) Any person who conducts business in this state that
9503 maintains its own security breach procedures as part of an
9504 information security policy for the treatment of personal
9505 information, and otherwise complies with the timing requirements
9506 of this section, shall be deemed to be in compliance with the
9507 security breach notification requirements of this section if the
9508 person notifies affected individuals in accordance with the
9509 person's policies in the event of a breach of security. Any
9510 person that maintains such a security breach procedure pursuant to
9511 the rules, regulations, procedures or guidelines established by
9512 the primary or federal functional regulator, as defined in 15 USCS
9513 6809(2), shall be deemed to be in compliance with the security
9514 breach notification requirements of this section, provided the
9515 person notifies affected individuals in accordance with the
9516 policies or the rules, regulations, procedures or guidelines
9517 established by the primary or federal functional regulator in the
9518 event of a breach of security of the system.

9519 (8) Failure to comply with the requirements of this section
9520 shall constitute an unfair trade practice and shall be enforced by
9521 the Attorney General, subject to the provisions of Sections 1 and
9522 2 of this act; however, nothing in this section may be construed
9523 to create a private right of action.



9524 **SECTION 134.** Section 75-24-59, Mississippi Code of 1972, is
9525 amended as follows:

9526 75-24-59. In addition to other penalties and remedies
9527 provided in Sections 75-24-51 through 75-24-61, whenever it
9528 appears that any person is engaged or is about to engage in any
9529 act or practice which constitutes a pyramid sales scheme or which
9530 is prohibited by Sections 75-24-51 through 75-24-61, the Attorney
9531 General may bring an action subject to the provisions of Sections
9532 1 and 2 of this act in the name of the state pursuant to the
9533 provisions of Section 75-24-9 in order to enjoin any such act or
9534 practice.

9535 **SECTION 135.** Section 75-24-355, Mississippi Code of 1972, is
9536 amended as follows:

9537 75-24-355. (1) The Attorney General shall have the
9538 authority under Sections 75-24-351 through 75-24-357 to conduct
9539 civil investigations and bring civil actions subject to the
9540 provisions of Sections 1 and 2 of this act.

9541 (2) In an action brought by the Attorney General subject to
9542 the provisions of Sections 1 and 2 of this act under Sections
9543 75-24-351 through 75-24-357, the court may award or impose any
9544 relief available under state law.

9545 (3) In addition to the relief provided for in Section
9546 75-24-357, upon a motion by the Attorney General and a finding by
9547 the court that there is a reasonable likelihood that a person
9548 violated Section 75-24-353, the court may require the person to



9549 post a bond in an amount equal to a good faith estimate of the
9550 costs to litigate a claim and amounts reasonably likely to be
9551 recovered if an action were to be brought under Section 75-24-355.
9552 A hearing shall be held if either party requests a hearing.

9553 **SECTION 136.** Section 75-60-21, Mississippi Code of 1972, is
9554 amended as follows:

9555 75-60-21. The commission shall petition the chancery court
9556 of the county in which a person or agent offers one or more
9557 courses of instruction subject to the provisions of this chapter
9558 or advertises for the offering of such courses without a
9559 certificate of registration for an order enjoining such offering
9560 or advertising. The court may grant such injunctive relief upon a
9561 showing that the respondent named in the petition is offering or
9562 advertising one or more courses of instruction without a
9563 certificate of registration. The Attorney General, subject to the
9564 provisions of Sections 1 and 2 of this act, or the district
9565 attorney of the district including the county in which such action
9566 is brought, shall, upon request of the commission, represent the
9567 commission in prosecuting any such action.

9568 **SECTION 137.** Section 75-75-19, Mississippi Code of 1972, is
9569 brought forward as follows:

9570 75-75-19. It shall be the duty of the sheriff of the county
9571 to require every such concern or organization doing business in
9572 his county to submit to him for inspection a valid certificate of
9573 compliance issued by the Secretary of State as provided by Section



9574 75-75-17. It shall be unlawful for any such concern or
9575 organization to do business in any county of this state until it
9576 has submitted to the sheriff of the county for inspection its
9577 valid certificate of compliance.

9578 Any person or persons or firm or corporation violating any of
9579 the provisions of Section 75-75-17 shall be guilty of a
9580 misdemeanor and on conviction thereof shall be fined not more than
9581 five hundred dollars (\$500.00), or imprisoned in the county jail
9582 not exceeding six (6) months, or by both such fine and
9583 imprisonment in the discretion of the court.

9584 Whenever any person or persons or firm or corporation
9585 operates or attempts to operate in violation of Section 75-75-17,
9586 the Attorney General of the state, the district attorney of the
9587 district, the county attorney, or any person who is a citizen of
9588 the county, may bring an action in equity in the name of the State
9589 of Mississippi, upon the relation of such Attorney General,
9590 district attorney, or county attorney, or person to abate such
9591 operation and to enjoin any person or persons or firm or
9592 corporation operating the same from further operation thereof.
9593 Orders and injunctions, both temporary and permanent, may be
9594 issued and the same procedure shall be followed therein in the
9595 same manner as the law relating to nuisances.

9596 **SECTION 138.** Section 75-76-87, Mississippi Code of 1972, is
9597 amended as follows:



9598 75-76-87. (1) Applications, returns and information
9599 contained therein filed or furnished under this chapter shall be
9600 confidential, and except in accordance with proper judicial order
9601 or as otherwise authorized by this chapter, it shall be unlawful
9602 for * * * the Commissioner of Revenue, members of the Mississippi
9603 Gaming Commission or * * * any deputy, agent, clerk or other
9604 employee of the Department of Revenue, the Mississippi Gaming
9605 Commission or the Department of Information Technology Services,
9606 or any former employee thereof to divulge or make known in any
9607 manner the amount of income or any particulars set forth or
9608 disclosed on any application, report or return required.

9609 The term "proper judicial order" as used in this chapter
9610 shall not include subpoenas or subpoenas duces tecum but shall
9611 include only those orders entered by a court of record in this
9612 state after furnishing notice and a hearing to the taxpayer and
9613 the * * * Department of Revenue. The court shall not authorize
9614 the furnishing of such information unless it is satisfied that the
9615 information is needed to pursue pending litigation wherein the
9616 return itself is in issue, or the judge is satisfied that the need
9617 for furnishing the information outweighs the rights of the
9618 taxpayer to have such information secreted.

9619 (2) Such information contained on the application, returns
9620 or reports from the licensee or the Mississippi Gaming Commission
9621 may be furnished to: (a) members and employees of the * * *
9622 Department of Revenue and the income tax department thereof, for



the purpose of auditing, comparing and correcting returns; (b) the Attorney General subject to the provisions of Sections 1 and 2 of this act, or any other attorney representing the state in any action in respect to the amount of tax under the provisions of this chapter; (c) the Mississippi Gaming Commission; or (d) the revenue department of the other states or the federal government when said states or federal government grants a like comity to Mississippi.

(3) The State Auditor and the employees of his office shall have the right to examine only such tax returns as are necessary for auditing the * * * Department of Revenue, or the Mississippi Gaming Commission and the same prohibitions against disclosure which apply to the * * * Department of Revenue shall apply to the State Auditor and his office.

(4) Nothing in this section shall prohibit the * * * Commissioner of Revenue from making available information necessary to recover taxes, fees, fines or damages owing the state pursuant to the authority granted in Section 27-75-16.

SECTION 139. Section 75-76-145, Mississippi Code of 1972, is amended as follows:

75-76-145. (1) The Attorney General, at the request of the executive director or the commission, may institute a civil action subject to the provisions of Sections 1 and 2 of this act, in any court of this state against any person subject to this chapter, to restrain a violation of this chapter.



(2) The court shall give priority over other civil actions to an action brought pursuant to this section.

(3) An action brought against a person pursuant to this section shall not preclude a criminal action or administrative proceeding against that person.

SECTION 140. Section 75-76-147, Mississippi Code of 1972, is amended as follows:

75-76-147. (1) The commission or the executive director shall initiate proceedings or actions appropriate to enforce the provisions of this chapter and may recommend that a district attorney or the Attorney General, subject to the provisions of Sections 1 and 2 of this act, prosecute any public offense committed in violation of any provision of this chapter, or in violation of Section 97-19-55 when the offense involves the use of a casino marker issued to a licensed gaming establishment.

(2) If an investigation indicates probable cause for belief that a violation of this chapter, or a violation of Section 97-19-55 when the offense involves the use of a casino marker issued to a licensed gaming establishment, has occurred, the commission or the executive director shall refer the matter and the evidence gathered during the investigation to the district attorney having jurisdiction, with a request that such violation be prosecuted (a) by presentation to the grand jury if it appears that a felony violation has occurred, or (b) either by



9672 presentation to the grand jury or by filing a criminal affidavit
9673 if it appears that a misdemeanor violation has occurred.

9674 (3) If a district attorney declines to prosecute an offense
9675 referred to him by the commission or the executive director, he
9676 shall respond in writing to the commission or the executive
9677 director within sixty (60) days following receipt of the request
9678 to prosecute and state the reasons declining to prosecute.

9679 (4) If the commission or the executive director, after
9680 reviewing a district attorney's declination to prosecute,
9681 disagrees with the decision of such district attorney, the
9682 commission or the executive director may then refer the request
9683 for criminal prosecution to the Attorney General. In conducting
9684 any such prosecution, the Attorney General shall have all powers
9685 of a district attorney, including the power to issue or cause to
9686 be issued subpoenas or other process, and the right to enter the
9687 grand jury room while the grand jury is in session and to perform
9688 services with reference to the work of the grand jury.

9689 **SECTION 141.** Section 75-91-7, Mississippi Code of 1972, is
9690 amended as follows:

9691 75-91-7. (1) Whenever the Attorney General or a district
9692 attorney has reason to believe that any person is advertising or
9693 conducting or is about to advertise or conduct a live musical
9694 performance or production in violation of Section 75-91-5 and that
9695 proceedings would be in the public interest, the Attorney General
9696 subject to the provisions of Sections 1 and 2 of this act, or



9697 district attorney may bring an action in the name of the state
9698 against the person to restrain by temporary or permanent
9699 injunction that practice.

9700 (2) Whenever any court issues a permanent injunction to
9701 restrain and prevent violations of this chapter as authorized in
9702 subsection (1) of this section, the court may, in its discretion,
9703 direct that the defendant restore to any person in interest any
9704 monies or property, real or personal, which may have been acquired
9705 by means of any violation of this chapter, under terms and
9706 conditions to be established by the court.

9707 **SECTION 142.** Section 77-1-43, Mississippi Code of 1972, is
9708 amended as follows:

9709 77-1-43. (1) The commission may apply to the circuit or
9710 chancery court, by proper proceeding, for aid in the enforcement
9711 of obedience to its process, and to compel compliance with the law
9712 and its lawful orders, decisions, and determinations. Said courts
9713 shall have jurisdiction to grant aid and relief in such cases,
9714 subject to the right of appeal to the Supreme Court by the party
9715 aggrieved. The Attorney General subject to the provisions of
9716 Sections 1 and 2 of this act, or district attorney in his
9717 district, shall institute such proceedings in the name of the
9718 commission.

9719 (2) Any action for violation of the law, or for the
9720 violation of any lawful rule, regulation or order of the



9721 commission may be instituted by the commission or by the Attorney
9722 General in any court of competent jurisdiction.

9723 (3) The remedies given by this chapter against all carriers
9724 under the supervision of the commission, are cumulative to those
9725 now in existence by law.

9726 **SECTION 143.** Section 77-2-11, Mississippi Code of 1972, is
9727 amended as follows:

9728 77-2-11. (1) A person who serves as (a) Commissioner of the
9729 Public Service Commission, (b) Executive Director of the public
9730 utilities staff, or (c) Executive Secretary of the commission
9731 shall not, while employed with or within one (1) year after
9732 leaving the commission or public utilities staff, accept
9733 employment with, receive compensation directly or indirectly from,
9734 or enter into a contractual relationship with an entity, or an
9735 affiliate company of an entity, that was subject to rate
9736 regulation by the commission at the time of his departure.

9737 (2) An entity or an affiliate company of an entity that is
9738 subject to rate regulation by the commission, or a person acting
9739 on behalf of the entity or its affiliate, shall not negotiate or
9740 offer to employ or compensate a commissioner of the Public Service
9741 Commission, Executive Director of the public utilities staff or
9742 the Executive Secretary of the commission, while the person is so
9743 employed or within one (1) year after the person leaves that
9744 employment.



9745 (3) A person who is employed with the public utilities staff
9746 shall not, within one (1) year, after leaving the public utilities
9747 staff, accept employment with, or receive compensation, directly
9748 or indirectly from the Public Service Commission or the public
9749 service commission staff.

9750 (4) A person who is employed with the Public Service
9751 Commission or public service commission staff, shall not, within
9752 one (1) year, after leaving the commission or public service
9753 commission staff, accept employment with, or receive compensation,
9754 directly or indirectly, from the public utilities staff.

9755 (5) A person who violates this section is subject to a civil
9756 penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each
9757 violation. The Attorney General may bring an action, subject to
9758 the provisions of Sections 1 and 2 of this act, in circuit court
9759 to collect the penalties provided in this section.

9760 **SECTION 144.** Section 77-3-611, Mississippi Code of 1972, is
9761 amended as follows:

9762 77-3-611. The Attorney General shall investigate any
9763 complaints received concerning violations of Sections 77-3-601
9764 through 77-3-619. If, after investigating any complaint, the
9765 Attorney General finds that there has been a violation of Sections
9766 77-3-601 through 77-3-619, the Attorney General, subject to the
9767 provisions of Sections 1 and 2 of this act, may bring an action to
9768 impose a civil penalty and to seek other relief, including
9769 injunctive relief, as the court deems appropriate against the



9770 telephone solicitor. The civil penalty shall not exceed Ten
9771 Thousand Dollars (\$10,000.00) per violation and shall be deposited
9772 in the State General Fund, unallocated. This civil penalty may be
9773 recovered in any action brought under Sections 77-3-601 through
9774 77-3-619 by the Attorney General. Alternatively, the Attorney
9775 General may terminate any investigation or action upon agreement
9776 by the person to pay a stipulated civil penalty. The Attorney
9777 General or the court may waive any civil penalty if the person has
9778 previously made full restitution or reimbursement or has paid
9779 actual damages to the consumers who have been injured by the
9780 violation.

9781 **SECTION 145.** Section 79-11-133, Mississippi Code of 1972, is
9782 amended as follows:

9783 79-11-133. (1) The Attorney General shall be given notice
9784 of the commencement of any proceeding which Section 79-11-101 et
9785 seq. authorizes the Attorney General to bring but which has been
9786 commenced by another person.

9787 (2) Whenever any provision of Section 79-11-101 et seq.
9788 requires that notice be given to the Attorney General or permits
9789 the Attorney General to commence a proceeding:

9790 (a) If no proceeding has been commenced, the Attorney
9791 General, subject to the provisions of Sections 1 and 2 of this
9792 act, may take appropriate action including, but not limited to,
9793 seeking injunctive relief.



9794 (b) If a proceeding has been commenced by a person
9795 other than the Attorney General, the Attorney General, subject to
9796 the provisions of Sections 1 and 2 of this act, as of right, may
9797 intervene in such proceeding.

9798 **SECTION 146.** Section 79-11-509, Mississippi Code of 1972, is
9799 amended as follows:

9800 79-11-509. (1) The Secretary of State shall deny, suspend
9801 or revoke a registration or an exemption for the following
9802 reasons:

9803 (a) The application for registration or renewal is
9804 incomplete.

9805 (b) The application or renewal fee (where applicable)
9806 has not been paid.

9807 (c) A document filed with the Secretary of State
9808 contains one or more false or misleading statements or omits
9809 material facts.

9810 (d) The charitable contributions have not been or are
9811 not being applied for the purpose or purposes stated in the
9812 documents filed with the Secretary of State.

9813 (e) The applicant or registrant has violated or failed
9814 to comply with any provisions of this chapter or any rule or order
9815 thereunder.

9816 (f) Any applicant, registrant, officer, director, or
9817 partner of the applicant or registrant, or any agent or employee
9818 thereof who has been convicted of a felony or a misdemeanor



9819 involving misrepresentation, misapplication or misuse of the money
9820 or property of another maintains a position where he or she has
9821 access to or control over the funds of the charitable
9822 organization.

9823 (g) The applicant or registrant has engaged in the use
9824 or employment of dishonesty, fraud, deception, misrepresentation,
9825 false promise or false pretense.

9826 (h) The applicant or registrant has had the authority
9827 to engage in charitable or fund-raising activities denied, revoked
9828 or suspended by the Secretary of State or any other state or
9829 jurisdiction.

9830 (i) The applicant or registrant has been convicted of
9831 any criminal offense committed in connection with the performance
9832 of activities regulated under Sections 79-11-501 through 79-11-529
9833 or any criminal offense involving untruthfulness or dishonesty or
9834 any criminal offense relating adversely to the registrant's or
9835 applicant's fitness to perform activities regulated by Sections
9836 79-11-501 through 79-11-529. For the purposes of this paragraph,
9837 a plea of guilty, non vult, nolo contendere or any other similar
9838 disposition of alleged criminal activity shall be deemed a
9839 conviction.

9840 (j) Any applicant, registrant, officer, director, or
9841 partner of the applicant or registrant, or any agent, volunteer or
9842 employee thereof, who has been convicted under federal or state
9843 law of any criminal offense involving acts against children



9844 maintains a position where he or she is in close contact with
9845 children.

9846 (k) Any officer, director, partner, employee, agent or
9847 volunteer has accrued three (3) or more unremediated citations
9848 issued by the Secretary of State pursuant to this section.

9849 (l) The applicant or registrant has engaged in other
9850 forms of misconduct as may be determined by the rules adopted by
9851 the Secretary of State.

9852 (2) The Secretary of State shall notify the applicant or
9853 licensee of his intent to deny, suspend or revoke a license. The
9854 notification shall contain the reasons for the action and shall
9855 inform him of his right to request an administrative hearing
9856 within thirty (30) days of receipt of the notification. The
9857 denial, suspension or revocation shall become effective thirty
9858 (30) days after receipt of the notification unless a request for
9859 an administrative hearing is received by the Secretary of State
9860 before the expiration of the thirty (30) days. If a hearing is
9861 requested and the denial, suspension or revocation is upheld, the
9862 denial, suspension or revocation shall become effective upon the
9863 service of the final administrative decision on the applicant or
9864 licensee.

9865 (3) Registration shall become effective no later than noon
9866 of the thirtieth day after a completed application is filed, if no
9867 denial order is in effect and no proceeding is pending under this
9868 chapter. The Secretary of State may, by rule or order, specify an



9869 earlier effective date, and the Secretary of State may, by order,
9870 defer the effective date until noon of the thirtieth day after the
9871 filing of any amendment.

9872 (4) (a) Whenever it appears to the Secretary of State that
9873 any person has engaged in or is about to engage in any act or
9874 practice constituting a violation of any provision of this chapter
9875 or any rule or order hereunder, he may, in his discretion, seek
9876 one or more of the following remedies in addition to other
9877 remedies authorized by law:

9878 (* * *i) Issue a cease and desist order, with or
9879 without a prior hearing against the person or persons engaged in
9880 the prohibited activities, directing them to cease and desist from
9881 further illegal activity;

9882 (* * *ii) Administratively dissolve or seek the
9883 judicial dissolution of a domestic corporation that is a
9884 charitable organization, or revoke the certificate of authority of
9885 a foreign corporation that is a charitable organization; or

9886 (* * *iii) Issue an order imposing an
9887 administrative penalty up to a maximum of Twenty-five Thousand
9888 Dollars (\$25,000.00) for each offense, each violation to be
9889 considered as a separate offense in a single proceeding or a
9890 series of related proceedings;

9891 (* * *b) For the purpose of determining the amount or
9892 extent of a sanction, if any, to be imposed under paragraph * * *
9893 (a) (ii) or (iii) of this subsection, the Secretary of State shall



9894 consider, among other factors, the frequency, persistence and
9895 willfulness of the conduct constituting a violation of this
9896 chapter or a rule promulgated thereunder or an order of the
9897 Secretary of State, the number of persons adversely affected by
9898 the conduct, and the resources of the person committing the
9899 violation.

9900 (5) In addition to the above remedies, the Secretary of
9901 State may issue a citation to any person engaging in any act or
9902 practice constituting a violation of any provision of this chapter
9903 or any rule or order hereunder. The Secretary of State shall
9904 establish rules providing remediation of certain citations, and
9905 the decision whether to allow such remediation will be within the
9906 Secretary of State's discretion.

9907 (6) Whenever it appears to the Secretary of State or
9908 Attorney General, subject to the provisions of Sections 1 and 2 of
9909 this act, that any person has engaged in or is about to engage in
9910 any act or practice constituting a violation of any provision of
9911 Sections 79-11-501 through 79-11-529 or any rule or order
9912 thereunder, either official may, in his discretion, take any or
9913 all of the following actions: bring an action in chancery court
9914 to obtain a temporary restraining order or injunction to enjoin
9915 the acts or practices and enforce compliance with Sections
9916 79-11-501 through 79-11-529 or any rule or order thereunder;
9917 collect administrative penalties imposed under this section; or
9918 obtain on behalf of a charitable organization the return or



9919 repayment of any property or consideration received as private
9920 inurement or an excess benefit in violation of Section
9921 79-11-519(3)(j). Upon a proper showing a permanent or temporary
9922 injunction, restraining order or writ of mandamus shall be granted
9923 and a receiver or conservator may be appointed for the defendant
9924 or the defendant's assets. In addition, upon a proper showing,
9925 the court may enter an order of rescission, restitution or
9926 disgorgement directed to any person who has engaged in any act
9927 constituting a violation of any provision of Sections 79-11-501
9928 through 79-11-529 or any rule or order thereunder. In addition
9929 the court may impose a civil penalty up to a maximum of
9930 Twenty-five Thousand Dollars (\$25,000.00) for each offense, and
9931 each violation shall be considered as a separate offense in a
9932 single proceeding or a series of related proceedings. The court
9933 may not require the Secretary of State or Attorney General to post
9934 a bond.

9935 (7) Any person aggrieved by a final order of the Secretary
9936 of State may obtain a review of the order in the Chancery Court of
9937 the First Judicial District of Hinds County, Mississippi, by
9938 filing in the court, within thirty (30) days after the entry of
9939 the order, a written petition praying that the order be modified
9940 or set aside, in whole or in part. A copy of the petition shall
9941 be forthwith served upon the Secretary of State and thereupon the
9942 Secretary of State shall certify and file in court a copy of the
9943 filing and evidence upon which the order was entered. When these



have been filed, the court has exclusive jurisdiction to affirm, modify, enforce or set aside the order, in whole or in part.

SECTION 147. Section 79-11-519, Mississippi Code of 1972, is amended as follows:

79-11-519. (1) It is the duty of the district attorneys and county prosecuting attorneys of this state to prosecute all violations of the provisions of Sections 79-11-501 through 79-11-529. In addition, actions for violations of Sections 79-11-501 through 79-11-529 may be prosecuted by the Attorney General subject to the provisions of Sections 1 and 2 of this act.

(2) Sections 79-11-501 through 79-11-529 shall not be construed to limit or restrict the exercise of the powers or the performance of the duties of the Attorney General which he otherwise is authorized to exercise or perform under any other provision of law by statute or otherwise except the rendering of interpretative opinions in accordance with Section 79-11-503 which shall be limited to the Secretary of State.

(3) It shall be a violation of Sections 79-11-501 through 79-11-529 for any person:

(a) To misrepresent:

(i) The purpose or beneficiary of a solicitation;

(ii) The purpose or nature of a charitable organization; or

(iii) That any other person sponsors or endorses a solicitation * * *;



9969 (b) To use or exploit the fact of registration so as to
9970 lead the public to believe that such registration constitutes an
9971 endorsement or approval by the state;

9972 (c) To use the name of a charitable organization, or to
9973 display any emblem, device or printed matter belonging to or
9974 associated with a charitable organization without the express
9975 written permission of the charitable organization;

9976 (d) To make any false or misleading statement on any
9977 document required by Sections 79-11-501 through 79-11-529 or any
9978 rule or order thereunder;

9979 (e) To fail to comply with the requirements of Sections
9980 79-11-501 through 79-11-529 or any rule or order thereunder;

9981 (f) To commit any unfair or deceptive act or practice;
9982 to employ any device, scheme or artifice to defraud; to engage in
9983 any act, practice or course of business which operates or would
9984 operate as a fraud or deceit upon any person; or to obtain money
9985 or property by means of any false pretense, representation or
9986 promise;

9987 (g) To fail to provide complete and timely payment to a
9988 charitable organization of the proceeds from a solicitation
9989 campaign or a charitable sales promotion;

9990 (h) To make any false or misleading statements in the
9991 solicitations of contributions in this state or to omit to state
9992 any fact necessary in order to make the statements made, in light
9993 of the circumstances under which they are made, not misleading;



9994 (i) To refuse or fail, after notice, to produce any
9995 records required to be kept under Sections 79-11-501 through
9996 79-11-529, or any rule or order promulgated thereunder;
9997 (j) To benefit, directly or indirectly, from any
9998 transaction in which an economic benefit is provided by a
9999 charitable organization where the value of the benefit provided by
10000 the organization exceeds the fair market value of the
10001 consideration received by the organization.

10002 (4) It shall be a violation of Sections 79-11-501 through
10003 79-11-529 for any charitable organization:

10004 (a) To engage in any financial transaction which is not
10005 related to the accomplishment of a charitable purpose, or which
10006 jeopardizes or interferes with the ability of the charitable
10007 organization to accomplish a charitable purpose;

10008 (b) To expend an unreasonable amount of money for
10009 solicitation or management;

10010 (c) To use the name which is the same as or confusingly
10011 similar to the name of another charitable organization unless the
10012 latter organization shall consent in writing to its use;

10013 (d) To represent itself as being associated with
10014 another charitable organization without the express written
10015 acknowledgment and endorsement of such other charitable
10016 organization;

10017 (e) To use the services of an unregistered professional
10018 fund-raiser or fund-raising counsel or professional solicitor;



10019 (f) To fail to comply with any provisions of Sections
10020 79-11-501 through 79-11-529 or any rule or order thereunder;
10021 (g) To employ as an officer, director, partner,
10022 employee, agent or volunteer any person who has accrued three (3)
10023 or more unremediated citations issued by the Secretary of State
10024 pursuant to Section 79-11-509;
10025 (h) To employ as an officer, director, partner,
10026 employee or agent any person who has been convicted of a felony or
10027 misdemeanor involving misrepresentation, misapplication or misuse
10028 of the money or property of another, in a capacity where that
10029 person has access to or control over the funds of the charitable
10030 organization;
10031 (i) To employ as an officer, director, partner,
10032 employee, volunteer or agent any person who has been convicted
10033 under federal or state law of any criminal offense involving acts
10034 against children, where such position will bring the person into
10035 close contact with children; or
10036 (j) To apply the charitable organization's funds or
10037 assets for private inurement or excess benefits which exceed the
10038 fair market value of the property or services received in return
10039 from directors, officers, or those persons who are deemed
10040 disqualified persons or insiders under applicable federal law for
10041 tax-exempt organizations.



10042 (5) It shall be a violation of Sections 79-11-501 through
10043 79-11-529 for any professional fund-raiser, professional
10044 fund-raising counsel or any professional solicitor:

10045 (a) To perform any services on behalf of an
10046 unregistered charitable organization; or

10047 (b) To fail to comply with any provisions of Sections
10048 79-11-501 through 79-11-529 or any rule or order thereunder.

10049 (6) It shall be a violation of Sections 79-11-501 through
10050 79-11-529 for any person, in connection with a public safety
10051 organization solicitation:

10052 (a) To use any representation that implies that the
10053 contribution is for or on behalf of a public safety agency or a
10054 public safety organization, or using any emblem, device, or
10055 printed matter belonging to or associated with a public safety
10056 agency or organization, unless authorized in writing to do so by
10057 the agency or organization;

10058 (b) To use a name, symbol, or statement that is similar
10059 to that used by a public safety agency or organization in a manner
10060 that is intended to confuse or mislead a person being solicited;

10061 (c) To represent or imply that the solicitor is a peace
10062 officer or member of a public safety agency or public safety
10063 organization if the solicitor is not;

10064 (d) To solicit for a public safety organization,
10065 independent promoter, public safety publication, or cause by
10066 representing that those who respond affirmatively to the



10067 solicitation will receive favored treatment by public safety
10068 personnel; or

10069 (e) To fail to comply with any provisions of Sections
10070 79-11-501 through 79-11-529 or any rule or order thereunder.

10071 (7) A misrepresentation may be accomplished by words or
10072 conduct or failure to disclose a material fact. Regardless of a
10073 person's intent or the lack of injury, the above acts and
10074 practices are prohibited in the planning, conduct or execution of
10075 any solicitation or charitable sales promotion.

10076 (8) The Secretary of State or the Attorney General may
10077 exercise the authority granted in this section against any
10078 charitable organization or person which or who operates under the
10079 guise or pretense of being an organization exempted by the
10080 provisions of Section 79-11-505, and is not in fact an
10081 organization entitled to such an exemption.

10082 **SECTION 148.** Section 79-13-1105, Mississippi Code of 1972,
10083 is amended as follows:

10084 79-13-1105. The Attorney General may maintain an action
10085 subject to the provisions of Sections 1 and 2 of this act to
10086 restrain a foreign limited liability partnership from transacting
10087 business in this state in violation of this article.

10088 **SECTION 149.** Section 79-14-1012, Mississippi Code of 1972,
10089 is amended as follows:

10090 79-14-1012. The Attorney General, subject to the provisions
10091 of Sections 1 and 2 of this act, may maintain an action to enjoin



10092 a foreign limited partnership from doing business in this state in
10093 violation of this article.

10094 **SECTION 150.** Section 79-29-1017, Mississippi Code of 1972,
10095 is amended as follows:

10096 79-29-1017. The Attorney General, subject to the provisions
10097 of Sections 1 and 2 of this act, may bring an action to restrain a
10098 foreign limited liability company from transacting business in
10099 this state in violation of this article.

10100 **SECTION 151.** Section 81-1-67, Mississippi Code of 1972, is
10101 amended as follows:

10102 81-1-67. The commissioner and the deputy commissioner each
10103 shall, before entering upon the discharge of their respective
10104 duties, take and subscribe the constitutional oath of office and
10105 shall execute to the State of Mississippi a bond in the sum of
10106 Fifty Thousand Dollars (\$50,000.00) with a surety company
10107 authorized to do business in this state, to be delivered to and
10108 approved by the Treasurer of the State of Mississippi.

10109 The state bank examiners shall, before entering upon the
10110 discharge of their duties, take and subscribe the constitutional
10111 oath of office and shall execute to the State of Mississippi a
10112 bond in the sum of Twenty Thousand Dollars (\$20,000.00) with a
10113 surety company authorized to do business in this state, to be
10114 delivered to and approved by the Treasurer of the State of
10115 Mississippi.



10116 These bonds shall, by the terms thereof, be payable to the
10117 state, and shall be liable to the state in actions brought by the
10118 Attorney General, subject to the provisions of Sections 1 and 2 of
10119 this act, on behalf of the state, and shall also be liable in
10120 actions brought by anyone aggrieved by breach thereof. The bonds
10121 shall be conditioned for the faithful and impartial performance of
10122 the duties of the particular office for which the bond was given,
10123 for the faithful and proper handling and accounting for all funds,
10124 and for the payment of all damages and costs which may accrue
10125 under provisions of law.

10126 **SECTION 152.** Section 81-19-9, Mississippi Code of 1972, is
10127 amended as follows:

10128 81-19-9. (1) An application to become licensed as a
10129 consumer loan broker shall be in writing, under oath and in a form
10130 prescribed by the commissioner, and shall contain:

10131 (a) The full name and address of the applicant;

10132 (b) The street address, municipality and county of the
10133 proposed licensed location;

10134 (c) The complete business and residence address of:

10135 (i) The proprietor, if an individual applicant;

10136 (ii) All partners, if a partnership applicant; or

10137 (iii) The directors and chief executive officer,

10138 if a corporate applicant; and



10139 (d) Such other information as the commissioner may
10140 reasonably require in order to evaluate the applicant's
10141 suitability to operate as a consumer loan broker.

10142 (2) Each application shall be accompanied by the payment of
10143 Three Hundred Dollars (\$300.00), which shall be the annual license
10144 fee for each licensed location of a consumer loan broker and is in
10145 addition to all other taxes and fees required by law. The
10146 twelve-month licensing period shall begin on the date the license
10147 is issued.

10148 (3) Each application shall be accompanied by evidence of a
10149 surety bond in an amount of Twenty-five Thousand Dollars
10150 (\$25,000.00) issued by a company authorized to do business in
10151 Mississippi and approved by the commissioner. The bond shall be
10152 in favor of the State of Mississippi to discharge unsatisfied
10153 indebtedness or liability of the licensed consumer loan broker to
10154 the state, any political subdivision thereof or to any person who
10155 may have a cause of action against the broker by reason of the
10156 broker's conduct as a licensed consumer loan broker.

10157 The surety on the bond may cancel same by giving sixty (60)
10158 days' notice in writing to the commissioner and thereafter shall
10159 be relieved of liability after the effective date of cancellation.
10160 The commissioner shall require a new bond in an amount of
10161 Twenty-five Thousand Dollars (\$25,000.00) at any time he has
10162 knowledge that a licensee's bond has expired, is about to expire
10163 or, in the opinion of the commissioner, is insecure for any



10164 reason. The license of any consumer loan broker who fails to post
10165 a replacement bond within ten (10) days from receipt of a notice
10166 from the commissioner shall be cancelled immediately.

10167 Claimants against the licensee may bring suit directly on the
10168 bond, and the Attorney General subject to the provisions of
10169 Sections 1 and 2 of this act, also may bring suit on behalf of
10170 claimants in one (1) or multiple actions.

10171 **SECTION 153.** Section 81-22-17, Mississippi Code of 1972, is
10172 amended as follows:

10173 81-22-17. The commissioner may exercise the following powers
10174 and functions:

10175 (a) **Complaint investigation.** The commissioner may
10176 receive and act on complaints, take action to obtain voluntary
10177 compliance with this chapter or refer cases to the Attorney
10178 General subject to the provisions of Sections 1 and 2 of this act,
10179 who shall appear for and represent the commissioner in court.

10180 (b) **Rules.** The commissioner may adopt reasonable
10181 administrative regulations, not inconsistent with law, for the
10182 enforcement of this chapter.

10183 (c) **Examination of licensees.** To assure compliance
10184 with the provisions of this chapter, the department may examine
10185 the books and records of any licensee without notice during normal
10186 business hours. The commissioner shall charge the licensee an
10187 examination fee in an amount not less than Three Hundred Dollars
10188 (\$300.00) nor more than Six Hundred Dollars (\$600.00) for each



10189 office or location within the State of Mississippi, plus any
10190 actual expenses incurred while examining the licensee's records or
10191 books that are located outside the State of Mississippi. However,
10192 in no event shall a licensee be examined more than once in a
10193 two-year period unless for cause shown based upon consumer
10194 complaint and/or other exigent reasons as determined by the
10195 commissioner.

10196 (d) **Examination of nonlicensees.** The department, its
10197 designated officers and employees, or its duly authorized
10198 representatives, for the purposes of discovering violations of
10199 this chapter and for the purpose of determining whether any person
10200 or individual reasonably suspected by the commissioner of
10201 conducting business that requires a license under this chapter,
10202 may investigate those persons and individuals and examine all
10203 relevant books, records and papers employed by those persons or
10204 individuals in the transaction of business, and may summon
10205 witnesses and examine them under oath concerning matters as to the
10206 business of those persons, or other such matters as may be
10207 relevant to the discovery of violations of this chapter,
10208 including, without limitation, the conduct of business without a
10209 license as required under this chapter.

10210 **SECTION 154.** Section 83-29-45, Mississippi Code of 1972, is
10211 amended as follows:

10212 83-29-45. The Commissioner of Insurance, or any person or
10213 persons he may appoint, shall have the power of visitation and



10214 examination into the affairs of any domestic society. They shall
10215 have free access to all the books, papers, and documents that
10216 relate to the business of the society.

10217 The expenses of such examination shall be paid by the society
10218 examined, upon statement furnished by the Commissioner of
10219 Insurance, and the examination shall be made as often as the
10220 commissioner, in his sole discretion, deems appropriate but, at a
10221 minimum, at least once in every five (5) years.

10222 Whenever after examination the Commissioner of Insurance is
10223 satisfied that any domestic society has failed to comply with any
10224 provisions of this chapter, or is exceeding its powers, or is not
10225 carrying out its contracts in good faith, or is transacting
10226 business fraudulently, or whenever any domestic society, after the
10227 existence of one (1) year or more, shall have a membership of less
10228 than four hundred (400) or shall determine to discontinue
10229 business, the Commissioner of Insurance may present the facts
10230 relating thereto to the Attorney General, subject to the
10231 provisions of Sections 1 and 2 of this act, who shall, if he deem
10232 the circumstances warrant, commence an action in quo warranto in a
10233 court of competent jurisdiction. Such court shall thereupon
10234 notify the officers of such society of a hearing, and if it shall
10235 then appear that such society should be closed, said society shall
10236 be enjoined from carrying on any further business; and some person
10237 shall be appointed receiver of such society and shall proceed at
10238 once to take possession of the books, papers, monies, and other



10239 assets of the society and shall forthwith, under the direction of
10240 the court, proceed to close the affairs of the society and to
10241 distribute its funds to those entitled thereto.

10242 **SECTION 155.** Section 83-37-31, Mississippi Code of 1972, is
10243 amended as follows:

10244 83-37-31. Should the insurance commissioner find that any
10245 person, firm, association, or corporation engaged in the business
10246 herein described has refused to pay any just claim or demand based
10247 on the contracts, or that he or they be unable to pay same after
10248 the claim or demand has been legally determined to be just and
10249 outstanding, or fail to comply with any of the licensing
10250 provisions of this chapter, the commissioner shall notify the
10251 Attorney General. The Attorney General, subject to the provisions
10252 of Sections 1 and 2 of this act, shall apply to the chancery court
10253 for a receivership to wind up the business of such person, firm,
10254 association, or corporation, shall represent the interest of all
10255 claimants under such contracts, and shall have a right of action
10256 for the use and benefit of the claimants against the bond or
10257 security herein required for the full amount of all such claims,
10258 together with all necessary costs of such receivership.

10259 **SECTION 156.** Section 83-49-31, Mississippi Code of 1972, is
10260 amended as follows:

10261 83-49-31. If the commissioner finds that any prepaid legal
10262 services plan operator or its sponsor (a) has failed to comply
10263 with any provision of this chapter; (b) is fraudulently operated;



10264 (c) is in such condition as to render further plan operations
10265 hazardous to the public interest or the interest of subscribers;
10266 (d) is financially unable to meet its obligations and claims as
10267 they come due; or (e) has violated any other provision of law, he
10268 may apply to the Circuit Court of the First Judicial District of
10269 Hinds County, State of Mississippi, for an injunction. The court
10270 may forthwith issue a temporary injunction restraining the
10271 transaction of any business by the plan, and it may, after a full
10272 hearing, make the injunction permanent, and appoint one or more
10273 receivers to take the plan to settle its affairs, and distribute
10274 its funds to those entitled thereto, subject to such rules and
10275 orders as the court may prescribe. If it appears that a crime has
10276 been committed in connection with the sale, advertisement,
10277 administration or management of any prepaid legal services plan,
10278 the Attorney General of the State of Mississippi may pursue the
10279 appropriate criminal action subject to the provisions of Sections
10280 1 and 2 of this act.

10281 **SECTION 157.** Section 83-69-1, Mississippi Code of 1972, is
10282 amended as follows:

10283 83-69-1. The Interstate Insurance Product Regulation Compact
10284 is enacted into law and entered into by this State with any and
10285 all States legally joining in accordance with its terms, in the
10286 form substantially as follows:



10287 **Article I. Purposes.** The purposes of this Compact are,
10288 through means of joint and cooperative action among the Compacting
10289 States:

10290 1. To promote and protect the interest of consumers of
10291 individual and group annuity, life insurance, disability income
10292 and long-term care insurance products;

10293 2. To develop Uniform Standards for insurance products
10294 covered under the Compact;

10295 3. To establish a central clearinghouse to receive and
10296 provide prompt review of insurance products covered under the
10297 Compact and, in certain cases, advertisements related thereto,
10298 submitted by Insurers authorized to do business in one or more
10299 Compacting States;

10300 4. To give appropriate regulatory approval to those product
10301 filings and advertisements satisfying the applicable Uniform
10302 Standard;

10303 5. To improve coordination of regulatory resources and
10304 expertise between State insurance departments regarding the
10305 setting of Uniform Standards and review of insurance products
10306 covered under the Compact;

10307 6. To create the Interstate Insurance Product Regulation
10308 Commission; and

10309 7. To perform these and such other related functions as may
10310 be consistent with the State regulation of the business of
10311 insurance.



10312 **Article II. Definitions.** For purposes of this Compact:

10313 1. "Advertisement" means any material designed to create
10314 public interest in a product, or induce the public to purchase,
10315 increase, modify, reinstate, borrow on, surrender, replace or
10316 retain a policy, as more specifically defined in the Rules and
10317 Operating Procedures of the Commission.

10318 2. "Bylaws" mean those Bylaws established by the Commission
10319 for its governance, or for directing or controlling the
10320 Commission's actions or conduct.

10321 3. "Compacting State" means any State which has enacted this
10322 Compact legislation and which has not withdrawn pursuant to
10323 Article XIV, Section 1, or been terminated pursuant to Article
10324 XIV, Section 2.

10325 4. "Commission" means the "Interstate Insurance Product
10326 Regulation Commission" established by this Compact.

10327 5. "Commissioner" means the chief insurance regulatory
10328 official of a State including, but not limited to, Commissioner,
10329 superintendent, director or administrator.

10330 6. "Domiciliary State" means the State in which an Insurer
10331 is incorporated or organized; or, in the case of an alien Insurer,
10332 its State of entry.

10333 7. "Insurer" means any entity licensed by a State to issue
10334 contracts of insurance for any of the lines of insurance covered
10335 by this Compact.



10336 8. "Member" means the person chosen by a Compacting State as
10337 its representative to the Commission, or his or her designee.

10338 9. "Noncompacting State" means any State which is not at the
10339 time a Compacting State.

10340 10. "Operating Procedures" mean procedures promulgated by
10341 the Commission implementing a Rule, Uniform Standard or a
10342 provision of this Compact.

10343 11. "Product" means the form of a policy or contract,
10344 including any application, endorsement, or related form which is
10345 attached to and made a part of the policy or contract, and any
10346 evidence of coverage or certificate, for an individual or group
10347 annuity, life insurance, disability income or long-term care
10348 insurance product that an Insurer is authorized to issue.

10349 12. "Rule" means a statement of general or particular
10350 applicability and future effect promulgated by the Commission,
10351 including a Uniform Standard developed pursuant to Article VII of
10352 this Compact, designed to implement, interpret, or prescribe law
10353 or policy or describing the organization, procedure, or practice
10354 requirements of the Commission, which shall have the force and
10355 effect of law in the Compacting States.

10356 13. "State" means any State, district or territory of the
10357 United States of America.

10358 14. "Third Party Filer" means an entity that submits a
10359 product filing to the Commission on behalf of an Insurer.



10360 15. "Uniform Standard" means a standard adopted by the
10361 Commission for a product line, pursuant to Article VII of this
10362 Compact, and shall include all of the product requirements in
10363 aggregate; provided, that each Uniform Standard shall be
10364 construed, whether express or implied, to prohibit the use of any
10365 inconsistent, misleading or ambiguous provisions in a product and
10366 the form of the product made available to the public shall not be
10367 unfair, inequitable or against public policy as determined by the
10368 Commission.

10369 **Article III. Establishment of the Commission and Venue.**

10370 1. The Compacting States hereby create and establish a joint
10371 public agency known as the "Interstate Insurance Product
10372 Regulation Commission." Pursuant to Article IV, the Commission
10373 will have the power to develop Uniform Standards for product
10374 lines, receive and provide prompt review of products filed
10375 therewith, and give approval to those product filings satisfying
10376 applicable Uniform Standards; provided, it is not intended for the
10377 Commission to be the exclusive entity for receipt and review of
10378 insurance product filings. Nothing herein shall prohibit any
10379 Insurer from filing its product in any State wherein the Insurer
10380 is licensed to conduct the business of insurance; and any such
10381 filing shall be subject to the laws of the State where filed.

10382 2. The Commission is a body corporate and politic, and an
10383 instrumentality of the Compacting States.



10384 3. The Commission is solely responsible for its liabilities
10385 except as otherwise specifically provided in this Compact.

10386 4. Venue is proper and judicial proceedings by or against
10387 the Commission shall be brought solely and exclusively in a Court
10388 of competent jurisdiction where the principal office of the
10389 Commission is located.

10390 **Article IV. Powers of the Commission.** The Commission shall
10391 have the following powers:

10392 1. To promulgate Rules, pursuant to Article VII of this
10393 Compact, which shall have the force and effect of law and shall be
10394 binding in the Compacting States to the extent and in the manner
10395 provided in this Compact;

10396 2. To exercise its Rulemaking Authority and establish
10397 reasonable Uniform Standards for Products covered under the
10398 Compact, and Advertisement related thereto, which shall have the
10399 force and effect of law and shall be binding in the Compacting
10400 States, but only for those products filed with the Commission,
10401 provided, that a Compacting State shall have the right to opt out
10402 of such Uniform Standard pursuant to Article VII, to the extent
10403 and in the manner provided in this Compact, and, provided further,
10404 that any Uniform Standard established by the Commission for
10405 long-term care insurance products may provide the same or greater
10406 protections for consumers as, but shall not provide less than,
10407 those protections set forth in the National Association of
10408 Insurance Commissioners' Long-Term Care Insurance Model Act and



10409 Long-Term Care Insurance Model Regulation, respectively, adopted
10410 as of 2001. The Commission shall consider whether any subsequent
10411 amendments to the NAIC Long-Term Care Insurance Model Act or
10412 Long-Term Care Insurance Model Regulation adopted by the NAIC
10413 require amending of the Uniform Standards established by the
10414 Commission for long-term care insurance products;

10415 3. To receive and review in an expeditious manner products
10416 filed with the Commission, and rate filings for disability income
10417 and long-term care insurance products, and give approval of those
10418 products and rate filings that satisfy the applicable Uniform
10419 Standard, where such approval shall have the force and effect of
10420 law and be binding on the Compacting States to the extent and in
10421 the manner provided in the Compact;

10422 4. To receive and review in an expeditious manner
10423 Advertisement relating to long-term care insurance products for
10424 which Uniform Standards have been adopted by the Commission, and
10425 give approval to all Advertisement that satisfies the applicable
10426 Uniform Standard. For any product covered under this Compact,
10427 other than long-term care insurance products, the Commission shall
10428 have the authority to require an Insurer to submit all or any part
10429 of its Advertisement with respect to that product for review or
10430 approval prior to use, if the Commission determines that the
10431 nature of the product is such that an Advertisement of the product
10432 could have the capacity or tendency to mislead the public. The
10433 actions of the Commission as provided in this section shall have



10434 the force and effect of law and shall be binding in the Compacting
10435 States to the extent and in the manner provided in the Compact;

10436 5. To exercise its Rulemaking Authority and designate
10437 Products and Advertisement that may be subject to a
10438 self-certification process without the need for prior approval by
10439 the Commission * * *;

10440 6. To promulgate Operating Procedures, pursuant to Article
10441 VII of this Compact, which shall be binding in the Compacting
10442 States to the extent and in the manner provided in this Compact;

10443 7. To bring and prosecute legal proceedings or actions in
10444 its name as the Commission; provided, that the standing of any
10445 State insurance department to sue or be sued under applicable law
10446 shall not be affected;

10447 8. To issue subpoenas requiring the attendance and testimony
10448 of witnesses and the production of evidence;

10449 9. To establish and maintain offices;

10450 10. To purchase and maintain insurance and bonds;

10451 11. To borrow, accept or contract for services of personnel,
10452 including, but not limited to, employees of a Compacting State;

10453 12. To hire employees, professionals or specialists, and
10454 elect or appoint officers, and to fix their compensation, define
10455 their duties and give them appropriate authority to carry out the
10456 purposes of the Compact, and determine their qualifications; and
10457 to establish the Commission's personnel policies and programs



10458 relating to, among other things, conflicts of interest, rates of
10459 compensation and qualifications of personnel;

10460 13. To accept any and all appropriate donations and grants
10461 of money, equipment, supplies, materials and services, and to
10462 receive, utilize and dispose of the same; provided that at all
10463 times the Commission shall strive to avoid any appearance of
10464 impropriety;

10465 14. To lease, purchase, accept appropriate gifts or
10466 donations of, or otherwise to own, hold, improve or use, any
10467 property, real, personal or mixed; provided that at all times the
10468 Commission shall strive to avoid any appearance of impropriety;

10469 15. To sell, convey, mortgage, pledge, lease, exchange,
10470 abandon or otherwise dispose of any property, real, personal or
10471 mixed;

10472 16. To remit filing fees to Compacting States as may be set
10473 forth in the Bylaws, Rules or Operating Procedures;

10474 17. To enforce compliance by Compacting States with Rules,
10475 Uniform Standards, Operating Procedures and Bylaws;

10476 18. To provide for dispute resolution among Compacting
10477 States;

10478 19. To advise Compacting States on issues relating to
10479 Insurers domiciled or doing business in Noncompacting
10480 jurisdictions, consistent with the purposes of this Compact;



10481 20. To provide advice and training to those personnel in
10482 State insurance departments responsible for product review, and to
10483 be a resource for State insurance departments;
10484 21. To establish a budget and make expenditures;
10485 22. To borrow money;
10486 23. To appoint committees, including advisory committees
10487 comprising members, State insurance regulators, State legislators
10488 or their representatives, insurance industry and consumer
10489 representatives, and such other interested persons as may be
10490 designated in the Bylaws;
10491 24. To provide and receive information from, and to
10492 cooperate with law enforcement agencies;
10493 25. To adopt and use a corporate seal; and
10494 26. To perform such other functions as may be necessary or
10495 appropriate to achieve the purposes of this Compact consistent
10496 with the State regulation of the business of insurance.

10497 **Article V. Organization of the Commission.**

10498 1. Membership, Voting and Bylaws.

10499 a. Each Compacting State shall have and be limited to
10500 one (1) member. Each member shall be qualified to serve in that
10501 capacity pursuant to applicable law of the Compacting State. Any
10502 member may be removed or suspended from office as provided by the
10503 law of the State from which he or she shall be appointed. Any
10504 vacancy occurring in the Commission shall be filled in accordance
10505 with the laws of the Compacting State wherein the vacancy exists.



10506 Nothing herein shall be construed to affect the manner in which a
10507 Compacting State determines the election or appointment and
10508 qualification of its own Commissioner.

10509 b. Each member shall be entitled to one (1) vote and
10510 shall have an opportunity to participate in the governance of the
10511 Commission in accordance with the Bylaws. Notwithstanding any
10512 provision herein to the contrary, no action of the Commission with
10513 respect to the promulgation of a Uniform Standard shall be
10514 effective unless two-thirds (2/3) of the members vote in favor
10515 thereof.

10516 c. The Commission shall, by a majority of the members,
10517 prescribe Bylaws to govern its conduct as may be necessary or
10518 appropriate to carry out the purposes, and exercise the powers, of
10519 the Compact, including, but not limited to:

10520 i. Establishing the fiscal year of the Commission;
10521 ii. Providing reasonable procedures for appointing
10522 and electing members, as well as holding meetings, of the
10523 Management Committee;

10524 iii. Providing reasonable standards and
10525 procedures: (i) for the establishment and meetings of other
10526 committees, and (ii) governing any general or specific delegation
10527 of any authority or function of the Commission;

10528 iv. Providing reasonable procedures for calling
10529 and conducting meetings of the Commission that consists of a
10530 majority of Commission members, ensuring reasonable advance notice



10531 of each such meeting and providing for the right of citizens to
10532 attend each such meeting with enumerated exceptions designed to
10533 protect the public's interest, the privacy of individuals, and
10534 Insurers' proprietary information, including trade secrets. The
10535 Commission may meet in camera only after a majority of the entire
10536 membership votes to close a meeting en toto or in part. As soon
10537 as practicable, the Commission must make public (i) a copy of the
10538 vote to close the meeting revealing the vote of each member with
10539 no proxy votes allowed, and (ii) votes taken during such meeting;

10540 v. Establishing the titles, duties and authority
10541 and reasonable procedures for the election of the officers of the
10542 Commission;

10543 vi. Providing reasonable standards and procedures
10544 for the establishment of the personnel policies and programs of
10545 the Commission. Notwithstanding any civil service or other
10546 similar laws of any Compacting State, the Bylaws shall exclusively
10547 govern the personnel policies and programs of the Commission;

10548 vii. Promulgating a code of ethics to address
10549 permissible and prohibited activities of Commission members and
10550 employees; and

10551 viii. Providing a mechanism for winding up the
10552 operations of the Commission and the equitable disposition of any
10553 surplus funds that may exist after the termination of the Compact
10554 after the payment and/or reserving of all of its debts and
10555 obligations.



10556 d. The Commission shall publish its Bylaws in a
10557 convenient form and file a copy thereof and a copy of any
10558 amendment thereto, with the appropriate agency or officer in each
10559 of the Compacting States.

10560 2. Management Committee, Officers and Personnel.

10561 a. A Management Committee comprising no more than
10562 fourteen (14) members shall be established as follows:

10563 i. One (1) member from each of the six (6)
10564 Compacting States with the largest premium volume for individual
10565 and group annuities, life, disability income and long-term care
10566 insurance products, determined from the records of the NAIC for
10567 the prior year;

10568 ii. Four (4) members from those Compacting States
10569 with at least two percent (2%) of the market based on the premium
10570 volume described above, other than the six (6) Compacting States
10571 with the largest premium volume, selected on a rotating basis as
10572 provided in the Bylaws; and

10573 iii. Four (4) members from those Compacting States
10574 with less than two percent (2%) of the market, based on the
10575 premium volume described above, with one (1) selected from each of
10576 the four (4) zone regions of the NAIC as provided in the Bylaws.

10577 b. The Management Committee shall have such authority
10578 and duties as may be set forth in the Bylaws, including but not
10579 limited to:



10580 i. Managing the affairs of the Commission in a
10581 manner consistent with the Bylaws and purposes of the Commission;
10582 ii. Establishing and overseeing an organizational
10583 structure within, and appropriate procedures for, the Commission
10584 to provide for the creation of Uniform Standards and other Rules,
10585 receipt and review of product filings, administrative and
10586 technical support functions, review of decisions regarding the
10587 disapproval of a product filing, and the review of elections made
10588 by a Compacting State to opt out of a Uniform Standard; provided
10589 that a Uniform Standard shall not be submitted to the Compacting
10590 States for adoption unless approved by two-thirds (2/3) of the
10591 members of the Management Committee;
10592 iii. Overseeing the offices of the Commission; and
10593 iv. Planning, implementing, and coordinating
10594 communications and activities with other State, federal and local
10595 government organizations in order to advance the goals of the
10596 Commission.
10597 c. The Commission shall elect annually officers from
10598 the Management Committee, with each having such authority and
10599 duties, as may be specified in the Bylaws.
10600 d. The Management Committee may, subject to the
10601 approval of the Commission, appoint or retain an executive
10602 director for such period, upon such terms and conditions and for
10603 such compensation as the Commission may deem appropriate. The
10604 executive director shall serve as secretary to the Commission, but



10605 shall not be a member of the Commission. The executive director
10606 shall hire and supervise such other staff as may be authorized by
10607 the Commission.

10608 3. Legislative and Advisory Committees.

10609 a. A legislative committee comprising State legislators
10610 or their designees shall be established to monitor the operations
10611 of, and make recommendations to, the Commission, including the
10612 Management Committee; provided that the manner of selection and
10613 term of any legislative committee member shall be as set forth in
10614 the Bylaws. Prior to the adoption by the Commission of any
10615 Uniform Standard, revision to the Bylaws, annual budget or other
10616 significant matter as may be provided in the Bylaws, the
10617 Management Committee shall consult with and report to the
10618 legislative committee.

10619 b. The Commission shall establish two (2) advisory
10620 committees, one (1) of which shall comprise consumer
10621 representatives independent of the insurance industry, and the
10622 other comprising insurance industry representatives.

10623 c. The Commission may establish additional advisory
10624 committees as its Bylaws may provide for the carrying out of its
10625 functions.

10626 4. Corporate Records of the Commission. The Commission
10627 shall maintain its corporate books and records in accordance with
10628 the Bylaws.

10629 5. Qualified Immunity, Defense and Indemnification.



10630 a. The members, officers, executive director, employees
10631 and representatives of the Commission shall be immune from suit
10632 and liability, either personally or in their official capacity,
10633 for any claim for damage to or loss of property or personal injury
10634 or other civil liability caused by or arising out of any actual or
10635 alleged act, error or omission that occurred, or that the person
10636 against whom the claim is made had a reasonable basis for
10637 believing occurred within the scope of Commission employment,
10638 duties or responsibilities; provided, that nothing in this
10639 paragraph shall be construed to protect any such person from suit
10640 and/or liability for any damage, loss, injury or liability caused
10641 by the intentional or willful and wanton misconduct of that
10642 person.

10643 b. The Commission shall defend any member, officer,
10644 executive director, employee or representative of the Commission
10645 in any civil action seeking to impose liability arising out of any
10646 actual or alleged act, error or omission that occurred within the
10647 scope of Commission employment, duties or responsibilities, or
10648 that the person against whom the claim is made had a reasonable
10649 basis for believing occurred within the scope of Commission
10650 employment, duties or responsibilities; provided, that nothing
10651 herein shall be construed to prohibit that person from retaining
10652 his or her own counsel; and provided further, that the actual or
10653 alleged act, error or omission did not result from that person's
10654 intentional or willful and wanton misconduct.



10655 c. The Commission shall indemnify and hold harmless any
10656 member, officer, executive director, employee or representative of
10657 the Commission for the amount of any settlement or judgment
10658 obtained against that person arising out of any actual or alleged
10659 act, error or omission that occurred within the scope of
10660 Commission employment, duties or responsibilities, or that such
10661 person had a reasonable basis for believing occurred within the
10662 scope of Commission employment, duties or responsibilities,
10663 provided, that the actual or alleged act, error or omission did
10664 not result from the intentional or willful and wanton misconduct
10665 of that person.

10666 **Article VI. Meetings and Acts of the Commission.**

10667 1. The Commission shall meet and take such actions as are
10668 consistent with the provisions of this Compact and the Bylaws.

10669 2. Each member of the Commission shall have the right and
10670 power to cast a vote to which that Compacting State is entitled
10671 and to participate in the business and affairs of the Commission.
10672 A member shall vote in person or by such other means as provided
10673 in the Bylaws. The Bylaws may provide for members' participation
10674 in meetings by telephone or other means of communication.

10675 3. The Commission shall meet at least once during each
10676 calendar year. Additional meetings shall be held as set forth in
10677 the Bylaws.

10678 **Article VII. Rules and Operating Procedures: Rulemaking**
10679 **Functions of the Commission and Opting Out of Uniform Standards.**



10680 1. Rulemaking Authority. The Commission shall promulgate
10681 reasonable Rules, including Uniform Standards, and Operating
10682 Procedures in order to effectively and efficiently achieve the
10683 purposes of this Compact. Notwithstanding the foregoing, in the
10684 event the Commission exercises its Rulemaking Authority in a
10685 manner that is beyond the scope of the purposes of this Compact,
10686 or the powers granted hereunder, then such an action by the
10687 Commission shall be invalid and have no force and effect.

10688 2. Rulemaking Procedure. Rules and Operating Procedures
10689 shall be made pursuant to a rulemaking process that conforms to
10690 the Model State Administrative Procedure Act of 1981 as amended,
10691 as may be appropriate to the operations of the Commission. Before
10692 the Commission adopts a Uniform Standard, the Commission shall
10693 give written notice to the relevant State legislative committee(s)
10694 in each Compacting State responsible for insurance issues of its
10695 intention to adopt the Uniform Standard. The Commission in
10696 adopting a Uniform Standard shall consider fully all submitted
10697 materials and issue a concise explanation of its decision.

10698 3. Effective Date and Opt Out of a Uniform Standard. A
10699 Uniform Standard shall become effective ninety (90) days after its
10700 promulgation by the Commission or such later date as the
10701 Commission may determine; provided, however, that a Compacting
10702 State may opt out of a Uniform Standard as provided in this
10703 Article. "Opt out" shall be defined as any action by a Compacting
10704 State to decline to adopt or participate in a promulgated Uniform



10705 Standard. All other Rules and Operating Procedures, and
10706 amendments thereto, shall become effective as of the date
10707 specified in each Rule, Operating Procedure or amendment.

10708 4. Opt Out Procedure. A Compacting State may opt out of a
10709 Uniform Standard, either by legislation or regulation duly
10710 promulgated by the Insurance Department under the Compacting
10711 State's Administrative Procedure Act. If a Compacting State
10712 elects to opt out of a Uniform Standard by regulation, it must (a)
10713 give written notice to the Commission no later than ten (10)
10714 business days after the Uniform Standard is promulgated, or at the
10715 time the State becomes a Compacting State and (b) find that the
10716 Uniform Standard does not provide reasonable protections to the
10717 citizens of the State, given the conditions in the State. The
10718 Commissioner shall make specific findings of fact and conclusions
10719 of law, based on a preponderance of the evidence, detailing the
10720 conditions in the State which warrant a departure from the Uniform
10721 Standard and determining that the Uniform Standard would not
10722 reasonably protect the citizens of the State. The Commissioner
10723 must consider and balance the following factors and find that the
10724 conditions in the State and needs of the citizens of the State
10725 outweigh: (i) the intent of the Legislature to participate in,
10726 and the benefits of, an interstate agreement to establish national
10727 uniform consumer protections for the products subject to this
10728 Compact; and (ii) the presumption that a Uniform Standard adopted



10729 by the Commission provides reasonable protections to consumers of
10730 the relevant product.

10731 Notwithstanding the foregoing, a Compacting State may, at the
10732 time of its enactment of this Compact, prospectively opt out of
10733 all Uniform Standards involving long-term care insurance products
10734 by expressly providing for such opt out in the enacted Compact,
10735 and such an opt out shall not be treated as a material variance in
10736 the offer or acceptance of any State to participate in this
10737 Compact. Such an opt out shall be effective at the time of
10738 enactment of this Compact by the Compacting State and shall apply
10739 to all existing Uniform Standards involving long-term care
10740 insurance products and those subsequently promulgated.

10741 5. Effect of Opt Out. If a Compacting State elects to opt
10742 out of a Uniform Standard, the Uniform Standard shall remain
10743 applicable in the Compacting State electing to opt out until such
10744 time the opt out legislation is enacted into law or the regulation
10745 opting out becomes effective.

10746 Once the opt out of a Uniform Standard by a Compacting State
10747 becomes effective as provided under the laws of that State, the
10748 Uniform Standard shall have no further force and effect in that
10749 State unless and until the legislation or regulation implementing
10750 the opt out is repealed or otherwise becomes ineffective under the
10751 laws of the State. If a Compacting State opts out of a Uniform
10752 Standard after the Uniform Standard has been made effective in



10753 that State, the opt out shall have the same prospective effect as
10754 provided under Article XIV for withdrawals.

10755 6. Stay of Uniform Standard. If a Compacting State has
10756 formally initiated the process of opting out of a Uniform Standard
10757 by regulation, and while the regulatory opt out is pending, the
10758 Compacting State may petition the Commission, at least fifteen
10759 (15) days before the effective date of the Uniform Standard, to
10760 stay the effectiveness of the Uniform Standard in that State. The
10761 Commission may grant a stay if it determines the regulatory opt
10762 out is being pursued in a reasonable manner and there is a
10763 likelihood of success. If a stay is granted or extended by the
10764 Commission, the stay or extension thereof may postpone the
10765 effective date by up to ninety (90) days, unless affirmatively
10766 extended by the Commission; provided, a stay may not be permitted
10767 to remain in effect for more than one (1) year unless the
10768 Compacting State can show extraordinary circumstances which
10769 warrant a continuance of the stay, including, but not limited to,
10770 the existence of a legal challenge which prevents the Compacting
10771 State from opting out. A stay may be terminated by the Commission
10772 upon notice that the rulemaking process has been terminated.

10773 7. Not later than thirty (30) days after a Rule or Operating
10774 Procedure is promulgated, any person may file a petition for
10775 judicial review of the Rule or Operating Procedure; provided, that
10776 the filing of such a petition shall not stay or otherwise prevent
10777 the Rule or Operating Procedure from becoming effective unless the



10778 court finds that the petitioner has a substantial likelihood of
10779 success. The court shall give deference to the actions of the
10780 Commission consistent with applicable law and shall not find the
10781 Rule or Operating Procedure to be unlawful if the Rule or
10782 Operating Procedure represents a reasonable exercise of the
10783 Commission's authority.

10784 **Article VIII. Commission Records and Enforcement.**

10785 1. The Commission shall promulgate Rules establishing
10786 conditions and procedures for public inspection and copying of its
10787 information and official records, except such information and
10788 records involving the privacy of individuals and Insurers' trade
10789 secrets. The Commission may promulgate additional Rules under
10790 which it may make available to federal and State agencies,
10791 including law enforcement agencies, records and information
10792 otherwise exempt from disclosure, and may enter into agreements
10793 with such agencies to receive or exchange information or records
10794 subject to nondisclosure and confidentiality provisions.

10795 2. Except as to privileged records, data and information,
10796 the laws of any Compacting State pertaining to confidentiality or
10797 nondisclosure shall not relieve any Compacting State Commissioner
10798 of the duty to disclose any relevant records, data or information
10799 to the Commission; provided, that disclosure to the Commission
10800 shall not be deemed to waive or otherwise affect any
10801 confidentiality requirement; and further provided, that, except as
10802 otherwise expressly provided in this Compact, the Commission shall



10803 not be subject to the Compacting State's laws pertaining to
10804 confidentiality and nondisclosure with respect to records, data
10805 and information in its possession. Confidential information of
10806 the Commission shall remain confidential after such information is
10807 provided to any Commissioner.

10808 3. The Commission shall monitor Compacting States for
10809 compliance with duly adopted Bylaws, Rules, including Uniform
10810 Standards, and Operating Procedures. The Commission shall notify
10811 any noncomplying Compacting State in writing of its noncompliance
10812 with Commission Bylaws, Rules or Operating Procedures. If a
10813 noncomplying Compacting State fails to remedy its noncompliance
10814 within the time specified in the notice of noncompliance, the
10815 Compacting State shall be deemed to be in default as set forth in
10816 Article XIV.

10817 4. The Commissioner of any State in which an Insurer is
10818 authorized to do business, or is conducting the business of
10819 insurance, shall continue to exercise his or her authority to
10820 oversee the market regulation of the activities of the Insurer in
10821 accordance with the provisions of the State's law. The
10822 Commissioner's enforcement of compliance with the Compact is
10823 governed by the following provisions:

10824 a. With respect to the Commissioner's market regulation
10825 of a Product or Advertisement that is approved or certified to the
10826 Commission, the content of the Product or Advertisement shall not
10827 constitute a violation of the provisions, standards or



10828 requirements of the Compact except upon a final order of the
10829 Commission, issued at the request of a Commissioner after prior
10830 notice to the Insurer and an opportunity for hearing before the
10831 Commission.

10832 b. Before a Commissioner may bring an action for
10833 violation of any provision, standard or requirement of the Compact
10834 relating to the content of an Advertisement not approved or
10835 certified to the Commission, the Commission, or an authorized
10836 Commission officer or employee, must authorize the action.
10837 However, authorization pursuant to this paragraph does not require
10838 notice to the Insurer, opportunity for hearing or disclosure of
10839 requests for authorization or records of the Commission's action
10840 on such requests.

10841 **Article IX. Dispute Resolution.** The Commission shall
10842 attempt, upon the request of a member, to resolve any disputes or
10843 other issues that are subject to this Compact and which may arise
10844 between two (2) or more Compacting States, or between Compacting
10845 States and Noncompacting States, and the Commission shall
10846 promulgate an Operating Procedure providing for resolution of such
10847 disputes.

10848 **Article X. Product Filing and Approval.**

10849 1. Insurers and Third Party Filers seeking to have a product
10850 approved by the Commission shall file the product with, and pay
10851 applicable filing fees to, the Commission. Nothing in this
10852 Compact shall be construed to restrict or otherwise prevent an



10853 Insurer from filing its product with the insurance department in
10854 any State wherein the Insurer is licensed to conduct the business
10855 of insurance, and such filing shall be subject to the laws of the
10856 States where filed.

10857 2. The Commission shall establish appropriate filing and
10858 review processes and procedures pursuant to Commission Rules and
10859 Operating Procedures. Notwithstanding any provision herein to the
10860 contrary, the Commission shall promulgate Rules to establish
10861 conditions and procedures under which the Commission will provide
10862 public access to product filing information. In establishing such
10863 Rules, the Commission shall consider the interests of the public
10864 in having access to such information, as well as protection of
10865 personal medical and financial information and trade secrets, that
10866 may be contained in a product filing or supporting information.

10867 3. Any product approved by the Commission may be sold or
10868 otherwise issued in those Compacting States for which the Insurer
10869 is legally authorized to do business.

10870 **Article XI. Review of Commission Decisions Regarding**
10871 **Filings.**

10872 1. Not later than thirty (30) days after the Commission has
10873 given notice of a disapproved Product or Advertisement filed with
10874 the Commission, the Insurer or Third Party Filer whose filing was
10875 disapproved may appeal the determination to a review panel
10876 appointed by the Commission. The Commission shall promulgate
10877 Rules to establish procedures for appointing such review panels



10878 and provide for notice and hearing. An allegation that the
10879 Commission, in disapproving a Product or Advertisement filed with
10880 the Commission, acted arbitrarily, capriciously, or in a manner
10881 that is an abuse of discretion or otherwise not in accordance with
10882 the law, is subject to judicial review in accordance with Article
10883 III, Section 4.

10884 2. The Commission shall have authority to monitor, review
10885 and reconsider Products and Advertisement subsequent to their
10886 filing or approval upon a finding that the product does not meet
10887 the relevant Uniform Standard. Where appropriate, the Commission
10888 may withdraw or modify its approval after proper notice and
10889 hearing, subject to the appeal process in Section 1 above.

10890 **Article XII. Finance.**

10891 1. The Commission shall pay or provide for the payment of
10892 the reasonable expenses of its establishment and organization. To
10893 fund the cost of its initial operations, the Commission may accept
10894 contributions and other forms of funding from the National
10895 Association of Insurance Commissioners, Compacting States and
10896 other sources. Contributions and other forms of funding from
10897 other sources shall be of such a nature that the independence of
10898 the Commission concerning the performance of its duties shall not
10899 be compromised.

10900 2. The Commission shall collect a filing fee from each
10901 Insurer and Third Party Filer filing a product with the Commission
10902 to cover the cost of the operations and activities of the



10903 Commission and its staff in a total amount sufficient to cover the
10904 Commission's annual budget.

10905 3. The Commission's budget for a fiscal year shall not be
10906 approved until it has been subject to notice and comment as set
10907 forth in Article VII of this Compact.

10908 4. The Commission shall be exempt from all taxation in and
10909 by the Compacting States.

10910 5. The Commission shall not pledge the credit of any
10911 Compacting State, except by and with the appropriate legal
10912 authority of that Compacting State.

10913 6. The Commission shall keep complete and accurate accounts
10914 of all its internal receipts, including grants and donations, and
10915 disbursements of all funds under its control. The internal
10916 financial accounts of the Commission shall be subject to the
10917 accounting procedures established under its Bylaws. The financial
10918 accounts and reports including the system of internal controls and
10919 procedures of the Commission shall be audited annually by an
10920 independent certified public accountant. Upon the determination
10921 of the Commission, but no less frequently than every three (3)
10922 years, the review of the independent auditor shall include a
10923 management and performance audit of the Commission. The
10924 Commission shall make an Annual Report to the Governor and
10925 Legislature of the Compacting States, which shall include a report
10926 of the independent audit. The Commission's internal accounts
10927 shall not be confidential and such materials may be shared with



10928 the Commissioner of any Compacting State upon request; provided,
10929 however, that any work papers related to any internal or
10930 independent audit and any information regarding the privacy of
10931 individuals and Insurers' proprietary information, including trade
10932 secrets, shall remain confidential.

10933 7. No Compacting State shall have any claim to or ownership
10934 of any property held by or vested in the Commission or to any
10935 Commission funds held pursuant to the provisions of this Compact.

10936 **Article XIII. Compacting States, Effective Date and**
10937 **Amendment.**

10938 1. Any State is eligible to become a Compacting State.

10939 2. The Compact shall become effective and binding upon
10940 legislative enactment of the Compact into law by two (2)
10941 Compacting States; provided, the Commission shall become effective
10942 for purposes of adopting Uniform Standards for, reviewing, and
10943 giving approval or disapproval of, Products filed with the
10944 Commission that satisfy applicable Uniform Standards only after
10945 twenty-six (26) States are Compacting States or, alternatively, by
10946 States representing greater than forty percent (40%) of the
10947 premium volume for life insurance, annuity, disability income and
10948 long-term care insurance products, based on records of the NAIC
10949 for the prior year. Thereafter, it shall become effective and
10950 binding as to any other Compacting State upon enactment of the
10951 Compact into law by that State.



10952 3. Amendments to the Compact may be proposed by the
10953 Commission for enactment by the Compacting States. No amendment
10954 shall become effective and binding upon the Commission and the
10955 Compacting States unless and until all Compacting States enact the
10956 amendment into law.

10957 **Article XIV. Withdrawal, Default and Termination.**

10958 1. Withdrawal.

10959 a. Once effective, the Compact shall continue in force
10960 and remain binding upon each and every Compacting State; provided,
10961 that a Compacting State may withdraw from the Compact
10962 ("Withdrawing State") by enacting a statute specifically repealing
10963 the statute which enacted the Compact into law.

10964 b. The effective date of withdrawal is the effective
10965 date of the repealing statute. However, the withdrawal shall not
10966 apply to any product filings approved or self-certified, or any
10967 Advertisement of such products, on the date the repealing statute
10968 becomes effective, except by mutual agreement of the Commission
10969 and the Withdrawing State unless the approval is rescinded by the
10970 Withdrawing State as provided in paragraph e of this section.

10971 c. The Commissioner of the Withdrawing State shall
10972 immediately notify the Management Committee in writing upon the
10973 introduction of legislation repealing this Compact in the
10974 Withdrawing State.



10975 d. The Commission shall notify the other Compacting
10976 States of the introduction of such legislation within ten (10)
10977 days after its receipt of notice thereof.

10978 e. The Withdrawing State is responsible for all
10979 obligations, duties and liabilities incurred through the effective
10980 date of withdrawal, including any obligations, the performance of
10981 which extend beyond the effective date of withdrawal, except to
10982 the extent those obligations may have been released or
10983 relinquished by mutual agreement of the Commission and the
10984 Withdrawing State. The Commission's approval of Products and
10985 Advertisement prior to the effective date of withdrawal shall
10986 continue to be effective and be given full force and effect in the
10987 Withdrawing State, unless formally rescinded by the Withdrawing
10988 State in the same manner as provided by the laws of the
10989 Withdrawing State for the prospective disapproval of Products or
10990 Advertisement previously approved under State law.

10991 f. Reinstatement following withdrawal of any Compacting
10992 State shall occur upon the effective date of the Withdrawing State
10993 reenacting the Compact.

10994 2. Default.

10995 a. If the Commission determines that any Compacting
10996 State has at any time defaulted ("Defaulting State") in the
10997 performance of any of its obligations or responsibilities under
10998 this Compact, the Bylaws or duly promulgated Rules or Operating
10999 Procedures, then, after notice and hearing as set forth in the



11000 Bylaws, all rights, privileges and benefits conferred by this
11001 Compact on the Defaulting State shall be suspended from the
11002 effective date of default as fixed by the Commission. The grounds
11003 for default include, but are not limited to, failure of a
11004 Compacting State to perform its obligations or responsibilities,
11005 and any other grounds designated in Commission Rules. The
11006 Commission shall immediately notify the Defaulting State in
11007 writing of the Defaulting State's suspension pending a cure of the
11008 default. The Commission shall stipulate the conditions and the
11009 time period within which the Defaulting State must cure its
11010 default. If the Defaulting State fails to cure the default within
11011 the time period specified by the Commission, the Defaulting State
11012 shall be terminated from the Compact and all rights, privileges
11013 and benefits conferred by this Compact shall be terminated from
11014 the effective date of termination.

11015 b. Product approvals by the Commission or product
11016 self-certifications, or any Advertisement in connection with such
11017 product, that are in force on the effective date of termination
11018 shall remain in force in the Defaulting State in the same manner
11019 as if the Defaulting State had withdrawn voluntarily pursuant to
11020 Section 1 of this article.

11021 c. Reinstatement following termination of any
11022 Compacting State requires a reenactment of the Compact.

11023 3. Dissolution of Compact.



11024 a. The Compact dissolves effective upon the date of the
11025 withdrawal or default of the Compacting State which reduces
11026 membership in the Compact to one (1) Compacting State.

11027 b. Upon the dissolution of this Compact, the Compact
11028 becomes null and void and shall be of no further force or effect,
11029 and the business and affairs of the Commission shall be wound up
11030 and any surplus funds shall be distributed in accordance with the
11031 Bylaws.

11032 **Article XV. Severability and Construction.**

11033 1. The provisions of this Compact shall be severable; and if
11034 any phrase, clause, sentence or provision is deemed unenforceable,
11035 the remaining provisions of the Compact shall be enforceable.

11036 2. The provisions of this Compact shall be liberally
11037 construed to effectuate its purposes.

11038 **Article XVI. Binding Effect of Compact and Other Laws.**

11039 1. Other Laws

11040 a. Nothing herein prevents the enforcement of any other
11041 law of a Compacting State, except as provided in paragraph b of
11042 this section.

11043 b. For any product approved or certified to the
11044 Commission, the Rules, Uniform Standards and any other
11045 requirements of the Commission shall constitute the exclusive
11046 provisions applicable to the content, approval and certification
11047 of such products. For Advertisement that is subject to the
11048 Commission's authority, any Rule, Uniform Standard or other



11049 requirement of the Commission which governs the content of the
11050 Advertisement shall constitute the exclusive provision that a
11051 Commissioner may apply to the content of the Advertisement.
11052 Notwithstanding the foregoing, no action taken by the Commission
11053 shall abrogate or restrict: (i) the access of any person to State
11054 courts; (ii) remedies available under State law related to breach
11055 of contract, tort, or other laws not specifically directed to the
11056 content of the product; (iii) State law relating to the
11057 construction of insurance contracts; or (iv) the authority of the
11058 Attorney General of the State including, but not limited to,
11059 maintaining any actions or proceedings, as authorized by law and
11060 subject to the provisions of Sections 1 and 2 of this act.

11061 c. All insurance products filed with individual States
11062 shall be subject to the laws of those States.

11063 2. Binding Effect of this Compact.

11064 a. All lawful actions of the Commission, including all
11065 Rules and Operating Procedures promulgated by the Commission, are
11066 binding upon the Compacting States.

11067 b. All agreements between the Commission and the
11068 Compacting States are binding in accordance with their terms.

11069 c. Upon the request of a party to a conflict over the
11070 meaning or interpretation of Commission actions, and upon a
11071 majority vote of the Compacting States, the Commission may issue
11072 advisory opinions regarding the meaning or interpretation in
11073 dispute.



11074 d. In the event any provision of this Compact exceeds
11075 the constitutional limits imposed on the Legislature of any
11076 Compacting State, the obligations, duties, powers or jurisdiction
11077 sought to be conferred by that provision upon the Commission shall
11078 be ineffective as to that Compacting State, and those obligations,
11079 duties, powers or jurisdiction shall remain in the Compacting
11080 State and shall be exercised by the agency thereof to which those
11081 obligations, duties, powers or jurisdiction are delegated by law
11082 in effect at the time this Compact becomes effective.

11083 **SECTION 158.** Section 85-11-19, Mississippi Code of 1972, is
11084 amended as follows:

11085 85-11-19. (1) The department shall maintain notices of tax
11086 liens filed in the tax lien registry after January 1, 2015, in its
11087 information management system in a form that permits them to be
11088 readily accessible in an electronic form through the Internet and
11089 to be reduced to printed form. The electronic and printed form
11090 shall include the following information:

11091 (a) The name of the taxpayer as judgment debtor;

11092 (b) The name and address of the department;

11093 (c) The tax lien number assigned to the lien by the
11094 department;

11095 (d) Whether the enrollment is the first enrollment of
11096 the tax lien or a reenrollment of the tax lien;



11097 (e) The amount of the taxes, penalties, interest, and
11098 fees indicated due on the notice of tax lien received from the
11099 department; and

11100 (f) The date and time of enrollment or reenrollment.

11101 (2) The department shall not charge for the access to
11102 information on the enrollment of tax liens by name of judgment
11103 debtor or by tax lien number. The department is, however,
11104 authorized to charge for the certification of any record or lack
11105 of records appearing on the tax lien registry. The department
11106 shall determine the process by which such tax lien registry
11107 certification can be requested, including a charge for such
11108 certification that shall cover at least the cost of providing the
11109 certification. The payment of the charge for a tax lien registry
11110 certification shall be retained by the department as reimbursement
11111 of its cost to provide the certification.

11112 (3) The department is authorized to sell at bulk the
11113 information appearing on the tax lien registry. In selling the
11114 information, the department shall determine the process by which
11115 the information will be sold and the media or method by which it
11116 will be available to the purchaser and shall set a price for the
11117 information that will at least cover the cost of producing the
11118 information. The proceeds from the sale of bulk information shall
11119 be retained by the department and used to cover its cost to
11120 produce the information sold and to maintain the tax lien
11121 registry.



11122 (4) Tax lien registry information, whether accessed by name
11123 of judgment debtor or by tax lien number at no charge, through a
11124 bulk sale of information or by other means, will not be used for a
11125 survey, marketing or solicitation purposes. Survey, marketing or
11126 solicitation purpose shall not include any action by the
11127 department or its authorized agent to collect a debt represented
11128 by a tax lien appearing in the tax lien registry. The department
11129 or the Attorney General, subject to the provisions of Sections 1
11130 and 2 of this act, is hereby authorized to bring an action to
11131 enjoin the unlawful use of tax lien registry information for a
11132 survey, marketing or solicitation purpose and to recover the cost
11133 of such action, including reasonable attorney's fees.

11134 **SECTION 159.** Section 91-8-1014, Mississippi Code of 1972, is
11135 amended as follows:

11136 91-8-1014. (a) For the purposes of this section,
11137 "no-contest provision" includes a "no-contest provision," "in
11138 terrorem provision" or "forfeiture provision" of a trust
11139 instrument. A "no-contest provision" means a provision that, if
11140 given effect, would reduce or eliminate the interest of any
11141 beneficiary of the trust who, directly or indirectly, initiates or
11142 otherwise pursues:

11143 (1) Any action to contest the validity of the trust or
11144 the terms of the trust;

11145 (2) Any action to set aside or vary the terms of the
11146 trust;



11147 (3) Any action to challenge the acts of the trustee or
11148 other fiduciary of the trust in the performance of the trustee's
11149 or other fiduciary's duties as described in the terms of the
11150 trust; or

11151 (4) Any other act or proceedings to frustrate or defeat
11152 the settlor's intent as expressed in the terms of the trust.

11153 (b) With regard to whether the beneficiary sought, received
11154 or relied upon legal counsel, a no-contest provision shall be
11155 enforceable according to the express terms of the no-contest
11156 provision without regard to the beneficiary's good or bad faith in
11157 taking the action that would justify the complete or partial
11158 forfeiture of the beneficiary's interest in the trust under the
11159 terms of the no-contest provision unless probable cause exists for
11160 the beneficiary taking such action on the grounds of:

- 11161 (1) Fraud;
11162 (2) Duress;
11163 (3) Revocation;
11164 (4) Lack of testamentary capacity;
11165 (5) Undue influence;
11166 (6) Mistake;
11167 (7) Forgery; or
11168 (8) Irregularity in the execution of the trust
11169 instrument.

11170 (c) Subsection (b) shall not apply to:



11171 (1) Any action brought solely to challenge the acts of
11172 the trustee or other fiduciary of the trust to the extent that the
11173 trustee or other fiduciary has committed a breach of fiduciary
11174 duties or breach of trust;

11175 (2) Any action brought by the trustee or any other
11176 fiduciary serving under the terms of the trust, unless the trustee
11177 or other fiduciary is a beneficiary against whom the no-contest
11178 provision is otherwise enforceable;

11179 (3) Any agreement among the beneficiaries and any other
11180 interested persons in settlement of a dispute or resolution of any
11181 other matter relating to the trust, including, without limitation,
11182 any nonjudicial settlement agreement;

11183 (4) Any action to determine whether a proposed or
11184 pending motion, petition, or other proceeding constitutes a
11185 contest within the meaning of a no-contest provision;

11186 (5) Any action brought by a beneficiary or on behalf of
11187 any such beneficiary for a construction or interpretation of the
11188 terms of the trust; or

11189 (6) Any action brought by the Attorney General, subject
11190 to the provisions of Sections 1 and 2 of this act, for a
11191 construction or interpretation of a charitable trust or a trust
11192 containing a charitable interest if a provision exists in a trust
11193 purporting to penalize a charity or charitable interest for
11194 contesting the trust if probable cause exists for instituting
11195 proceedings.



11196 (d) Pursuant to this section, courts shall enforce the
11197 settlor's intent as reflected in a no-contest provision to the
11198 greatest extent possible.

11199 **SECTION 160.** Section 95-3-5, Mississippi Code of 1972, is
11200 amended as follows:

11201 95-3-5. Whenever a nuisance exists, the Attorney General of
11202 the state, the district attorney of the district, the county
11203 attorney, or any person who is a citizen of the county, may bring
11204 an action in equity in the name of the State of Mississippi,
11205 subject to the provisions of Sections 1 and 2 of this act, upon
11206 the relation of such Attorney General, district attorney, or
11207 county attorney, or person to abate such nuisance and to
11208 perpetually enjoin the person or persons maintaining the same from
11209 further maintenance thereof.

11210 **SECTION 161.** Section 95-3-13, Mississippi Code of 1972, is
11211 amended as follows:

11212 95-3-13. The action when brought shall be triable at the
11213 next term of court, provided process shall have been served for
11214 twenty or more days, otherwise at the following term, and said
11215 cause shall have precedence over all other cases except election
11216 contests, or injunctions. In such action evidence of the general
11217 reputation of the place, or an admission, or finding, of guilt of
11218 any person under the criminal laws against prostitution, lewdness,
11219 or assignation at any such place shall be admissible for the
11220 purpose of proving the existence of said nuisance and shall be



11221 prima facie evidence of such nuisance and of knowledge of and
11222 acquiescence and participation therein on the part of the person
11223 or persons charged with maintaining said nuisance as herein
11224 defined. If the complaint is filed by a person who is citizen of
11225 the county, it shall not be dismissed except upon a sworn
11226 statement by the complainant and his or its attorney, setting
11227 forth the reasons why the actions should be dismissed and the
11228 dismissal approved by the district attorney or county attorney in
11229 writing or in open court. If the court be of the opinion that the
11230 action ought not to be dismissed, he may direct the district
11231 attorney or county attorney to prosecute said action to final
11232 decree, and if the action is continued more than one (1) term of
11233 court any person who is a citizen of the county, or the Attorney
11234 General, subject to the provisions of Sections 1 and 2 of this
11235 act, or the district attorney, or the county attorney, may be
11236 substituted for the complainant and prosecute said action to final
11237 decree. If the action is brought by a person who is a citizen of
11238 the county and the court finds that there were no reasonable
11239 grounds or cause for said action, the costs may be taxed to such
11240 person. If the existence of the nuisance be established upon the
11241 trial, a judgment shall be entered which shall perpetually enjoin
11242 the defendants and other person or persons from further
11243 maintaining the nuisance at the place complained of, and the
11244 defendants from maintaining such nuisance elsewhere within the



11245 chancery district, and may tax said defendants with all costs of
11246 the proceedings.

11247 **SECTION 162.** Section 97-21-101, Mississippi Code of 1972, is
11248 amended as follows:

11249 97-21-101. (1) All property, real or personal, including
11250 money, used in the course of, intended for use in the course of,
11251 derived from, or realized through, conduct in violation of Section
11252 97-21-53, 97-21-55, 97-21-57 or 97-23-89 is subject to civil
11253 forfeiture to the state pursuant to the provisions of Section
11254 97-21-103; provided, however, that a forfeiture of personal
11255 property encumbered by a bona fide security interest or real
11256 property encumbered by a bona fide mortgage, deed of trust, lien
11257 or encumbrance of record shall be subject to the interest of the
11258 secured party or subject to the interest of the holder of the
11259 mortgage, deed of trust, lien or encumbrance of record if such
11260 secured party or holder neither had knowledge of or consented to
11261 the act or omission.

11262 (2) Property subject to forfeiture may be seized by law
11263 enforcement officers upon process issued by any appropriate court
11264 having jurisdiction over the property. Seizure without process
11265 may be made if:

11266 (a) The seizure is incident to an arrest or a search
11267 under a search warrant or an inspection under a lawful
11268 administrative inspection;



11269 (b) The property subject to seizure has been the
11270 subject of a prior judgment in favor of the state in a criminal
11271 injunction or forfeiture proceeding based upon this article.

11272 (3) The Attorney General, any district attorney or any state
11273 agency having jurisdiction over conduct in violation of Section
11274 97-21-53, 97-21-55, 97-21-57 or 97-23-89 may institute civil
11275 proceedings under this section. In any action brought under this
11276 section, the circuit court shall proceed as soon as practicable to
11277 the hearing and determination. Pending final determination, the
11278 circuit court may at any time enter such injunctions or
11279 restraining orders, or take such actions, including the acceptance
11280 of satisfactory performance bonds, as the court may deem proper.

11281 (4) Any aggrieved person may institute a civil proceeding
11282 against any person or enterprise convicted of engaging in activity
11283 in violation of Section 97-21-53, 97-21-55, 97-21-57 or 97-23-89.
11284 In such proceeding, relief shall be granted in conformity with the
11285 principles that govern the granting of injunctive relief from
11286 threatened loss or damage in other civil cases, except that no
11287 showing of immediate and irreparable injury, loss or damage to the
11288 person shall have to be made.

11289 (5) The Attorney General may, upon timely application and
11290 subject to the provisions of Sections 1 and 2 of this act,
11291 intervene in any civil action or proceeding brought under this
11292 section if he certifies that, in his opinion, the action or
11293 proceeding is of general public importance. In such action or



11294 proceeding, the state shall be entitled to the same relief as if
11295 the Attorney General instituted the action or proceeding.

11296 (6) Notwithstanding any other provision of law, a criminal
11297 or civil action or proceeding under this article may be commenced
11298 at any time within five (5) years after the conduct in violation
11299 of law terminates or the cause of action accrues. If a criminal
11300 prosecution or civil action or other proceeding is brought, or
11301 intervened in, to punish, prevent or restrain any violation of
11302 law, the running of the period of limitations prescribed by this
11303 section with respect to any cause of action arising under this
11304 section which is based, in whole or in part, upon any matter
11305 complained of in any such prosecution, action or proceeding shall
11306 be suspended during the pendency of such prosecution, action or
11307 proceeding and for two (2) years following its termination.

11308 (7) The application of one (1) civil remedy under any
11309 provision of this article shall not preclude the application of
11310 any other remedy, civil or criminal, under this article or any
11311 other provision of law. Civil remedies under this article are
11312 supplemental.

11313 **SECTION 163.** Section 97-32-5, Mississippi Code of 1972, is
11314 amended as follows:

11315 97-32-5. It shall be unlawful for any person, or retailer,
11316 to sell, barter, deliver or give tobacco products to any
11317 individual under eighteen (18) years of age unless the individual
11318 under eighteen (18) years of age holds a retailer's license to



11319 sell tobacco under Section 27-69-1 et seq., Mississippi Code of
11320 1972.

11321 It shall be an absolute affirmative defense that the person
11322 selling, bartering, delivering or giving tobacco products over the
11323 counter in a retail establishment to an individual under eighteen
11324 (18) years of age in violation of this article had requested and
11325 examined a government-issued photographic identification from such
11326 person establishing his age as at least eighteen (18) years prior
11327 to selling such person a tobacco product. The failure of a
11328 seller, barterer, deliverer or giver of tobacco products over the
11329 counter in a retail establishment to request and examine
11330 photographic identification from a person under eighteen (18)
11331 years of age prior to the sale of a tobacco product to such person
11332 if the individual is not known to the seller, barterer, deliverer
11333 or giver of the tobacco product to be over the age of eighteen
11334 (18) years, shall be construed against the seller, barterer,
11335 deliverer or giver and form a conclusive basis for the seller's
11336 violation of this section.

11337 It shall be an absolute affirmative defense that the person
11338 or entity giving tobacco products through the mail to an
11339 individual under eighteen (18) years of age in violation of this
11340 article had requested and received documentary or written evidence
11341 from such person purportedly establishing his age to be at least
11342 eighteen (18) years of age.



11343 Any person who violates this section shall be liable as
11344 follows: For a first conviction, a fine of Fifty Dollars
11345 (\$50.00); for a second conviction, a fine of Seventy-five Dollars
11346 (\$75.00); and for all subsequent convictions, a fine of One
11347 Hundred Fifty Dollars (\$150.00) shall be imposed.

11348 Any person found in violation of this section shall be issued
11349 a citation and the holder of the retailer permit shall be sent
11350 notification of this citation by registered mail by the law
11351 enforcement agency issuing the citation. Notification shall
11352 include the opportunity for hearing before the appropriate court.
11353 For a first conviction, the retailer shall be sent a warning
11354 letter informing him of the retailer's responsibility in the
11355 selling of tobacco products. For a second conviction, the
11356 retailer, or retailer's designee, shall be required to enroll in
11357 and complete a "Retailer Tobacco Education Program."

11358 For a third or subsequent violation of this section by any
11359 retailer, within one (1) year of the two (2) prior violations, any
11360 retailer's permit issued pursuant to Section 27-69-1 et seq.,
11361 Mississippi Code of 1972, may be revoked or suspended for a period
11362 of at least one (1) year after notice and opportunity for hearing.
11363 If said permit is revoked by the * * * Department of Revenue, the
11364 retailer may not reapply for a permit to sell tobacco for a period
11365 of six (6) months. For the purposes of this section, "subsequent
11366 violations" are those committed at the same place of business.



11367 It is the responsibility of all law enforcement officers and
11368 law enforcement agencies of this state to ensure that the
11369 provisions of this article are enforced.

11370 It shall not be considered a violation of this section on the
11371 part of any law enforcement officer or person under eighteen (18)
11372 years of age for any law enforcement officer of this state to use
11373 persons under eighteen (18) years of age to purchase or attempt to
11374 purchase tobacco products for the purpose of monitoring compliance
11375 with this section, as long as those persons are supervised by duly
11376 authorized law enforcement agency officials.

11377 Any law enforcement agency conducting enforcement efforts
11378 undertaken pursuant to this article shall prepare a report as
11379 prescribed by the Attorney General which includes the number of
11380 unannounced inspections conducted by the agency, a summary of
11381 enforcement actions taken pursuant to this article, the name and
11382 permit number of the retailer pursuant to Section 27-69-1 et seq.,
11383 Mississippi Code of 1972, and final judicial disposition on all
11384 enforcement actions. Reports shall be forwarded to the Office of
11385 the Attorney General within twenty (20) working days of the final
11386 judicial disposition.

11387 On notification from local law enforcement that a retailer
11388 has violated this article so as to warrant a revocation of the
11389 retailer's permit, the Attorney General shall notify in writing
11390 the * * * Department of Revenue within twenty (20) working days.



11391 In accordance with the procedures of Section 27-69-9,
11392 Mississippi Code of 1972, the * * * Department of Revenue shall
11393 initiate revocation procedures of the retailer's permit. The
11394 Office of the Attorney General shall provide legal assistance in
11395 revocation procedures when requested by the * * * Department of
11396 Revenue.

11397 **SECTION 164.** Section 97-33-109, Mississippi Code of 1972, is
11398 amended as follows:

11399 97-33-109. (1) The commission shall monitor the conduct or
11400 business of licensees, both on a routine scheduled and an
11401 unscheduled basis, to the extent necessary to ensure compliance
11402 with the provisions of charitable bingo game laws and regulations
11403 of the state.

11404 (2) In carrying out its enforcement responsibilities, the
11405 commission may:

11406 (a) Inspect and examine all premises in which
11407 charitable bingo games are conducted or supplies or equipment for
11408 such games are manufactured and distributed;

11409 (b) Inspect all such supplies and equipment in, upon or
11410 about such premises;

11411 (c) Seize and remove from such premises and impound
11412 such supplies and equipment for the purpose of examination and
11413 inspection pursuant to an appropriate court order;



11414 (d) Demand access to and audit and inspect books and
11415 records of licensees for the purpose of determining compliance
11416 with laws and regulations relative to charitable bingo games;

11417 (e) Conduct in-depth audits and investigations; and

11418 (f) Mandate that internal controls be executed in
11419 accordance with the provisions of the Charitable Bingo Law and
11420 other applicable laws and regulations.

11421 (3) The commission shall require licensees to maintain
11422 records and submit reports.

11423 (4) In addition to license revocation or suspension or any
11424 criminal penalty imposed, the commission may assess a fine against
11425 any person who violates any law or regulation relative to
11426 charitable bingo games. Such a fine shall only be assessed after
11427 notice and an opportunity for a hearing to be held.

11428 (5) All departments, commissions, boards, agencies, officers
11429 and institutions of the state, and all subdivisions thereof, shall
11430 cooperate with the commission in carrying out its enforcement
11431 responsibilities.

11432 (6) Except as otherwise authorized in Section 7-5-39, the
11433 Attorney General shall be the attorney for the commission in
11434 regard to its duties to regulate the Charitable Bingo Law and he
11435 shall represent it in all legal proceedings and shall prosecute
11436 any civil action for a violation of the provisions of Sections
11437 97-33-51 through 97-33-203 or the rules and regulations of the



11438 commission, subject to the provisions of Sections 1 and 2 of this
11439 act.

11440 (7) It is the duty of the sheriffs, deputy sheriffs and
11441 police officers of this state to assist the commission in the
11442 enforcement of the provisions of Sections 97-33-51 through
11443 97-33-203 and to arrest and complain against any person violating
11444 the provisions of Sections 97-33-51 through 97-33-203. It is the
11445 duty of the district attorneys of this state to prosecute all
11446 violations of the provisions of Sections 97-33-51 through
11447 97-33-203 if requested to do so by the commission.

11448 (8) (a) Whenever any person who is a resident of the State
11449 of Mississippi has reason to believe that a person or organization
11450 is violating or has violated the provisions of Sections 97-33-51
11451 through 97-33-203 and that proceedings would be in the public
11452 interest, he may bring an action in the name of the state against
11453 such person to restrain by temporary or permanent injunction such
11454 violation, upon at least five (5) days' summons before the hearing
11455 of the action. The action shall be brought in the chancery or
11456 county court of the county in which such violation has occurred
11457 or, with consent of the parties, may be brought in the chancery or
11458 county court of the county in which the State Capitol is located.
11459 The said courts are authorized to issue temporary or permanent
11460 injunctions to restrain and prevent violations of Sections
11461 97-33-51 through 97-33-203, and such injunctions shall be issued
11462 without bond.



11463 (b) Any person who violates the terms of an injunction
11464 issued under this subsection shall forfeit and pay to the state a
11465 civil penalty of not more than Five Thousand Dollars (\$5,000.00)
11466 per violation which shall be payable to the General Fund of the
11467 State of Mississippi. For the purposes of this subsection, the
11468 chancery or county court issuing an injunction shall retain
11469 jurisdiction, and the cause shall be continued, and in such cases
11470 the person bringing the action may petition for recovery of civil
11471 penalties.

11472 (c) In any action brought under this subsection, if the
11473 court finds that a person is willfully violating the provisions of
11474 Sections 97-33-51 through 97-33-203, the person bringing the
11475 action, upon petition to the court, may recover on behalf of the
11476 state a civil penalty of not exceeding Five Hundred Dollars
11477 (\$500.00) per violation which shall be payable to the General Fund
11478 of the State of Mississippi.

11479 (d) No penalty authorized by this subsection shall be
11480 deemed to limit the court's powers to insure compliance with its
11481 orders, decrees and judgments, or punish for the violations
11482 thereof.

11483 (e) For purposes of this subsection, a willful
11484 violation occurs when the party committing the violation knew or
11485 should have known that his conduct was a violation of the
11486 provisions of Sections 97-33-51 through 97-33-203.



11487 **SECTION 165.** Section 97-37-7, Mississippi Code of 1972, is
11488 brought forward as follows:

11489 97-37-7. (1) (a) It shall not be a violation of Section
11490 97-37-1 or any other statute for pistols, firearms or other
11491 suitable and appropriate weapons to be carried by duly constituted
11492 bank guards, company guards, watchmen, railroad special agents or
11493 duly authorized representatives who are not sworn law enforcement
11494 officers, agents or employees of a patrol service, guard service,
11495 or a company engaged in the business of transporting money,
11496 securities or other valuables, while actually engaged in the
11497 performance of their duties as such, provided that such persons
11498 have made a written application and paid a nonrefundable permit
11499 fee of One Hundred Dollars (\$100.00) to the Department of Public
11500 Safety.

11501 (b) No permit shall be issued to any person who has
11502 ever been convicted of a felony under the laws of this or any
11503 other state or of the United States. To determine an applicant's
11504 eligibility for a permit, the person shall be fingerprinted. If
11505 no disqualifying record is identified at the state level, the
11506 fingerprints shall be forwarded by the Department of Public Safety
11507 to the Federal Bureau of Investigation for a national criminal
11508 history record check. The department shall charge a fee which
11509 includes the amounts required by the Federal Bureau of
11510 Investigation and the department for the national and state
11511 criminal history record checks and any necessary costs incurred by



11512 the department for the handling and administration of the criminal
11513 history background checks. In the event a legible set of
11514 fingerprints, as determined by the Department of Public Safety and
11515 the Federal Bureau of Investigation, cannot be obtained after a
11516 minimum of three (3) attempts, the Department of Public Safety
11517 shall determine eligibility based upon a name check by the
11518 Mississippi Highway Safety Patrol and a Federal Bureau of
11519 Investigation name check conducted by the Mississippi Highway
11520 Safety Patrol at the request of the Department of Public Safety.

11521 (c) A person may obtain a duplicate of a lost or
11522 destroyed permit upon payment of a Fifteen Dollar (\$15.00)
11523 replacement fee to the Department of Public Safety, if he
11524 furnishes a notarized statement to the department that the permit
11525 has been lost or destroyed.

11526 (d) (i) No less than ninety (90) days prior to the
11527 expiration date of a permit, the Department of Public Safety shall
11528 mail to the permit holder written notice of expiration together
11529 with the renewal form prescribed by the department. The permit
11530 holder shall renew the permit on or before the expiration date by
11531 filing with the department the renewal form, a notarized affidavit
11532 stating that the permit holder remains qualified, and the renewal
11533 fee of Fifty Dollars (\$50.00); honorably retired law enforcement
11534 officers shall be exempt from payment of the renewal fee. A
11535 permit holder who fails to file a renewal application on or before



11536 its expiration date shall pay a late fee of Fifteen Dollars
11537 (\$15.00).

11538 (ii) Renewal of the permit shall be required every
11539 four (4) years. The permit of a qualified renewal applicant shall
11540 be renewed upon receipt of the completed renewal application and
11541 appropriate payment of fees.

11542 (iii) A permit cannot be renewed six (6) months or
11543 more after its expiration date, and such permit shall be deemed to
11544 be permanently expired; the holder may reapply for an original
11545 permit as provided in this section.

11546 (2) It shall not be a violation of this or any other statute
11547 for pistols, firearms or other suitable and appropriate weapons to
11548 be carried by Department of Wildlife, Fisheries and Parks law
11549 enforcement officers, railroad special agents who are sworn law
11550 enforcement officers, investigators employed by the Attorney
11551 General, criminal investigators employed by the district
11552 attorneys, all prosecutors, public defenders, investigators or
11553 probation officers employed by the Department of Corrections,
11554 employees of the State Auditor who are authorized by the State
11555 Auditor to perform investigative functions, or any deputy fire
11556 marshal or investigator employed by the State Fire Marshal, while
11557 engaged in the performance of their duties as such, or by fraud
11558 investigators with the Department of Human Services, or by judges
11559 of the Mississippi Supreme Court, Court of Appeals, circuit,
11560 chancery, county, justice and municipal courts, or by coroners.



11561 Before any person shall be authorized under this subsection to
11562 carry a weapon, he shall complete a weapons training course
11563 approved by the Board of Law Enforcement Officer Standards and
11564 Training. Before any criminal investigator employed by a district
11565 attorney shall be authorized under this section to carry a pistol,
11566 firearm or other weapon, he shall have complied with Section
11567 45-6-11 or any training program required for employment as an
11568 agent of the Federal Bureau of Investigation. A law enforcement
11569 officer, as defined in Section 45-6-3, shall be authorized to
11570 carry weapons in courthouses in performance of his official
11571 duties. A person licensed under Section 45-9-101 to carry a
11572 concealed pistol, who (a) has voluntarily completed an
11573 instructional course in the safe handling and use of firearms
11574 offered by an instructor certified by a nationally recognized
11575 organization that customarily offers firearms training, or by any
11576 other organization approved by the Department of Public Safety,
11577 (b) is a member or veteran of any active or reserve component
11578 branch of the United States of America Armed Forces having
11579 completed law enforcement or combat training with pistols or other
11580 handguns as recognized by such branch after submitting an
11581 affidavit attesting to have read, understand and agree to comply
11582 with all provisions of the enhanced carry law, or (c) is an
11583 honorably retired law enforcement officer or honorably retired
11584 member or veteran of any active or reserve component branch of the
11585 United States of America Armed Forces having completed law



11586 enforcement or combat training with pistols or other handguns,
11587 after submitting an affidavit attesting to have read, understand
11588 and agree to comply with all provisions of Mississippi enhanced
11589 carry law shall also be authorized to carry weapons in courthouses
11590 except in courtrooms during a judicial proceeding, and any
11591 location listed in subsection (13) of Section 45-9-101, except any
11592 place of nuisance as defined in Section 95-3-1, any police,
11593 sheriff or highway patrol station or any detention facility,
11594 prison or jail. For the purposes of this subsection (2),
11595 component branch of the United States Armed Forces includes the
11596 Army, Navy, Air Force, Coast Guard or Marine Corps, or the Army
11597 National Guard, the Army National Guard of the United States, the
11598 Air National Guard or the Air National Guard of the United States,
11599 as those terms are defined in Section 101, Title 10, United States
11600 Code, and any other reserve component of the United States Armed
11601 Forces enumerated in Section 10101, Title 10, United States Code.
11602 The department shall promulgate rules and regulations allowing
11603 concealed pistol permit holders to obtain an endorsement on their
11604 permit indicating that they have completed the aforementioned
11605 course and have the authority to carry in these locations. This
11606 section shall in no way interfere with the right of a trial judge
11607 to restrict the carrying of firearms in the courtroom.

11608 (3) It shall not be a violation of this or any other statute
11609 for pistols, firearms or other suitable and appropriate weapons,
11610 to be carried by any out-of-state, full-time commissioned law



11611 enforcement officer who holds a valid commission card from the
11612 appropriate out-of-state law enforcement agency and a photo
11613 identification. The provisions of this subsection shall only
11614 apply if the state where the out-of-state officer is employed has
11615 entered into a reciprocity agreement with the state that allows
11616 full-time commissioned law enforcement officers in Mississippi to
11617 lawfully carry or possess a weapon in such other states. The
11618 Commissioner of Public Safety is authorized to enter into
11619 reciprocal agreements with other states to carry out the
11620 provisions of this subsection.

11621 **SECTION 166.** Section 97-43-9, Mississippi Code of 1972, is
11622 amended as follows:

11623 97-43-9. (1) Any circuit court may, after making due
11624 provision for the rights of innocent persons, enjoin violations of
11625 the provisions of this chapter by issuing appropriate orders and
11626 judgments, including, but not limited to:

11627 (a) Ordering any defendant to divest himself of any
11628 interest in any enterprise, including real property.

11629 (b) Imposing reasonable restrictions upon the future
11630 activities or investments of any defendant, including, but not
11631 limited to, prohibiting any defendant from engaging in the same
11632 type of endeavor as the enterprise in which he was engaged in
11633 violation of the provisions of this chapter.

11634 (c) Ordering the dissolution or reorganization of any
11635 enterprise.



11636 (d) Ordering the suspension or revocation of a license
11637 or permit granted to any enterprise by any agency of the state.

11638 (e) Ordering the forfeiture of the charter of a
11639 corporation organized under the laws of the state, or the
11640 revocation of a certificate authorizing a foreign corporation to
11641 conduct business within the state, upon finding that the board of
11642 directors or a managerial agent acting on behalf of the
11643 corporation, in conducting the affairs of the corporation, has
11644 authorized or engaged in conduct in violation of this chapter and
11645 that, for the prevention of future criminal activity, the public
11646 interest requires the charter of the corporation forfeited and the
11647 corporation dissolved or the certificate revoked.

11648 (2) All property, real or personal, including money, used in
11649 the course of, intended for use in the course of, derived from, or
11650 realized through, conduct in violation of a provision of this
11651 chapter is subject to civil forfeiture to the state pursuant to
11652 the provisions of Section 97-43-11; provided, however, that a
11653 forfeiture of personal property encumbered by a bona fide security
11654 interest or real property encumbered by a bona fide mortgage, deed
11655 of trust, lien or encumbrance of record shall be subject to the
11656 interest of the secured party or subject to the interest of the
11657 holder of the mortgage, deed of trust, lien * * * or encumbrance
11658 of record if such secured party or holder neither had knowledge of
11659 or consented to the act or omission.



11660 (3) Property subject to forfeiture may be seized by law
11661 enforcement officers upon process issued by any appropriate court
11662 having jurisdiction over the property. Seizure without process
11663 may be made if:

11664 (a) The seizure is incident to an arrest or a search
11665 under a search warrant or an inspection under a lawful
11666 administrative inspection;

11667 (b) The property subject to seizure has been the
11668 subject of a prior judgment in favor of the state in a criminal
11669 injunction or forfeiture proceeding based upon this article * * *.

11670 (4) The Attorney General, any district attorney or any state
11671 agency having jurisdiction over conduct in violation of a
11672 provision of this chapter may institute civil proceedings under
11673 this section. In any action brought under this section, the
11674 circuit court shall proceed as soon as practicable to the hearing
11675 and determination. Pending final determination, the circuit court
11676 may at any time enter such injunctions or restraining orders, or
11677 take such actions, including the acceptance of satisfactory
11678 performance bonds, as the court may deem proper.

11679 (5) Any aggrieved person may institute a civil proceeding
11680 under subsection (1) of this section against any person or
11681 enterprise convicted of engaging in activity in violation of this
11682 chapter. In such proceeding, relief shall be granted in
11683 conformity with the principles that govern the granting of
11684 injunctive relief from threatened loss or damage in other civil



11685 cases, except that no showing of immediate and irreparable injury,
11686 loss or damage to the person shall have to be made.

11687 (6) Any person who is injured by reason of any violation of
11688 the provisions of this chapter shall have a cause of action
11689 against any person or enterprise convicted of engaging in activity
11690 in violation of this chapter for threefold the actual damages
11691 sustained and, when appropriate, punitive damages. Such person
11692 shall also recover attorney's * * * fees in the trial and
11693 appellate courts and costs of investigation and litigation,
11694 reasonably incurred.

11695 (a) The defendant or any injured person may demand a
11696 trial by jury in any civil action brought pursuant to this
11697 subsection.

11698 (b) Any injured person shall have a right or claim to
11699 forfeited property or to the proceeds derived therefrom superior
11700 to any right or claim the state has in the same property or
11701 proceeds.

11702 (7) The Attorney General may, upon timely application and
11703 subject to the provisions of Sections 1 and 2 of this act,
11704 intervene in any civil action or proceeding brought under
11705 subsections (5) or (6) of this section if he certifies that, in
11706 his opinion, the action or proceeding is of general public
11707 importance. In such action or proceeding, the state shall be
11708 entitled to the same relief as if the Attorney General instituted
11709 the action or proceeding.



11710 (8) Notwithstanding any other provision of law, a criminal
11711 or civil action or proceeding under this chapter may be commenced
11712 at any time within five (5) years after the conduct in violation
11713 of a provision of this chapter terminates or the cause of action
11714 accrues. If a criminal prosecution or civil action or other
11715 proceeding is brought, or intervened in, to punish, prevent or
11716 restrain any violation of the provisions of this chapter, the
11717 running of the period of limitations prescribed by this section
11718 with respect to any cause of action arising under subsections (5)
11719 or (6) of this section which is based, in whole or in part, upon
11720 any matter complained of in any such prosecution, action or
11721 proceeding shall be suspended during the pendency of such
11722 prosecution, action or proceeding and for two (2) years following
11723 its termination.

11724 (9) The application of one (1) civil remedy under any
11725 provision of this chapter shall not preclude the application of
11726 any other remedy, civil or criminal, under this chapter or any
11727 other provision of law. Civil remedies under this chapter are
11728 supplemental.

11729 **SECTION 167.** Section 97-44-5, Mississippi Code of 1972, is
11730 amended as follows:

11731 97-44-5. (1) A civil cause of action is hereby created in
11732 favor of any public authority expending money, allocating or
11733 reallocating police, firefighting, emergency or other personnel or
11734 resources, or otherwise incurring any loss, deprivation or injury,



11735 or sustaining any damage, impairment or harm whatsoever,
11736 proximately caused by any criminal activity.

11737 (2) The cause of action created by this chapter shall lie
11738 against:

11739 (a) Any streetgang in whose name, for whose benefit, on
11740 whose behalf or under whose direction the act was committed; and

11741 (b) Any gang officer or director who causes, orders,
11742 suggests, authorizes, consents to, agrees to, requests, acquiesces
11743 in or ratifies any such act; and

11744 (c) Any gang member who, in the furtherance of or in
11745 connection with, any gang-related activity, commits any such act;
11746 and

11747 (d) Any gang officer, director, leader or member.

11748 (3) The cause of action authorized by this chapter shall be
11749 brought by the Attorney General, subject to the provisions of
11750 Sections 1 and 2 of this act, the district attorney or attorneys,
11751 or the county attorney, or by his or their respective designees.
11752 This cause of action shall be in addition to any other civil or
11753 criminal proceeding authorized by the laws of this state or by
11754 federal law, and shall not be construed as requiring the
11755 prosecutor to elect a civil, rather than criminal, remedy, or as
11756 replacing any other cause of action. Liability of the gang, its
11757 officers, directors, leaders and members shall be joint and
11758 several subject only to the apportionment and allocation of
11759 punitive damage authorized under Section 97-44-13.



11760 **SECTION 168.** Section 97-45-2, Mississippi Code of 1972, is
11761 amended as follows:

11762 97-45-2. (1) For the purposes of this chapter, "identity
11763 theft" includes crimes chargeable under the following provisions
11764 of law:

11765 (a) Section 97-9-79, which relates to false
11766 information.

11767 (b) Section 97-19-83, which relates to fraud by mail or
11768 other means of communication.

11769 (c) Section 97-19-85, which relates to the fraudulent
11770 use of identity social security number, credit card or debit card
11771 number or other identifying information.

11772 (d) Section 97-45-19, which relates to obtaining
11773 personal identity information of another person without
11774 authorization.

11775 (2) (a) In conducting identity theft investigations, the
11776 Attorney General shall have the authority to issue and serve
11777 subpoenas to any person in control of any designated documents for
11778 the production of such documents, including, but not limited to,
11779 writings, drawings, graphs, charts, photographs, phono-records and
11780 other data compilations from which information can be obtained, or
11781 translated through detection devices into reasonably usable form.
11782 Such subpoenas shall require the named person, his agent or
11783 attorney, to appear and deliver the designated documents to a
11784 location in the county of his residence unless the court for good



11785 cause shown directs that the subpoena be issued for the person to
11786 deliver such documents to a location outside of the county of his
11787 residence. Mere convenience of the Attorney General shall not be
11788 considered good cause. The Attorney General or his designee shall
11789 have the authority to inspect and copy such documents. Such
11790 subpoenas shall be issued only upon the ex parte and in camera
11791 application of the Attorney General to the circuit or chancery
11792 court of the county of residence of the person in control of the
11793 documents or the circuit or chancery court of the county where the
11794 person in control of the documents may be found, and only upon a
11795 showing that the documents sought are relevant to a criminal
11796 investigation under this chapter or may lead to the discovery of
11797 such relevant evidence. Thereafter said court shall have
11798 jurisdiction to enforce or quash such subpoenas and to enter
11799 appropriate orders thereon, and nothing contained in this section
11800 shall affect the right of a person to assert a claim that the
11801 information sought is privileged by law.

11802 (b) A subpoena issued pursuant to this subsection shall
11803 be in substantially the following form:

11804 SUBPOENA TO PRODUCE DOCUMENTS
11805 PURSUANT TO AN INVESTIGATION BY THE ATTORNEY GENERAL
11806 TO:
11807 YOU ARE HEREBY COMMANDED to appear before the Attorney
11808 General of the State of Mississippi or his designated staff
11809 attorney at the place, date and time specified below in an



11810 investigation being conducted by the Attorney General pursuant to
11811 Section _____, Mississippi Code of 1972:

11812 Place _____ Date and Time _____

11813 YOU ARE ALSO COMMANDED to bring with you the following
11814 document(s) or object(s) _____.

11815 You are advised that the ____ Court of the ____ Judicial
11816 District of _____ County, Mississippi, has approved the ex
11817 parte and in camera application of the Attorney General to issue
11818 this subpoena, and jurisdiction to enforce and/or quash the
11819 subpoena and to enter appropriate orders thereon is statutorily
11820 vested in the said court; enforcement and penal provisions
11821 applicable to an Attorney General's investigation include those
11822 set forth in Section _____, Mississippi Code of 1972; and
11823 disclosure of testimony and/or records coming into possession of
11824 the Attorney General pursuant to this subpoena shall be limited by
11825 and subject to the provisions of said section (for informational
11826 purposes, these cited statutes are reproduced on the reverse side
11827 of this subpoena).

11828 You may wish to consult an attorney in regard to this
11829 subpoena. You have certain state and federal constitutional
11830 rights, including your protection against self-incrimination and
11831 unreasonable search and seizure which this subpoena may affect.

11832 ISSUED BY AND UNDER SEAL OF THE ATTORNEY GENERAL OF THE STATE
11833 OF MISSISSIPPI, this the ____ day of _____, 20____.

11834 (SEAL) _____



11835 (c) Following service of any subpoena, pursuant to the
11836 provisions of this subsection, a record of the return shall be
11837 made and kept by the Attorney General and subject only to such
11838 disclosure as may be authorized pursuant to the provisions of this
11839 section.

11840 (3) Enforcement and penal provisions applicable to an
11841 investigation under this section shall include the following:

11842 (a) If a person who has been served with a subpoena,
11843 which has been issued and served upon him in accordance with the
11844 provisions of this section, shall fail to deliver or have
11845 delivered the designated documents at the time and place required
11846 in the subpoena, on application of the Attorney General the
11847 circuit or chancery court having approved the issuance of the
11848 subpoena may issue an attachment for such person, returnable
11849 immediately, or at such time and place as the court may direct.
11850 Bond may be required and fine imposed and proceedings had thereon
11851 as in the case of a subpoenaed witness who fails to appear in
11852 circuit or chancery court.

11853 (b) Every person who shall knowingly and willfully
11854 obstruct, interfere with or impede an investigation under this
11855 section by concealing or destroying any documents, papers or other
11856 tangible evidence which are relevant to an investigation under
11857 this section shall be guilty of a felony and, upon conviction,
11858 shall be punished by a fine of not more than Five Thousand Dollars



11859 (\$5,000.00) or by imprisonment for not more than five (5) years,
11860 or by both such fine and imprisonment.

11861 (c) Every person who shall knowingly and willfully
11862 endeavor, by means of bribery, force or intimidation, to obstruct,
11863 delay or prevent the communication of information to any agent or
11864 employee of the Office of the Attorney General or who injures
11865 another person for the purpose of preventing the communication of
11866 such information or an account of the giving of such information
11867 relevant to an investigation under this section shall be guilty of
11868 a felony and, upon conviction, shall be punished by a fine of not
11869 more than Five Thousand Dollars (\$5,000.00) or by imprisonment for
11870 not more than five (5) years, or by both such fine and
11871 imprisonment.

11872 (d) The provisions of paragraphs (a), (b) and (c) of
11873 this subsection shall not prohibit the enforcement of, or
11874 prosecution under, any other statutes of this state.

11875 (4) (a) If any person shall refuse, or is likely to refuse,
11876 on the basis of his privilege against self-incrimination, to
11877 produce the designated documents as requested by a subpoena issued
11878 under this section or issued by a court, the Attorney General may
11879 request the court, ex parte and in camera, to issue an order
11880 requiring such person to produce the documents or information
11881 which he refuses to give or provide on the basis of his privilege
11882 against self-incrimination. The Attorney General may request said
11883 order under this subsection when, in his judgment:



11884 (i) The documents sought from such individual may
11885 be necessary to the public interest; and

11886 (ii) Such individual has refused or is likely to
11887 refuse to produce the designated document on the basis of his
11888 privilege against self-incrimination.

11889 Following such request, an order shall issue in accordance
11890 with this section requiring such person to produce the documents
11891 which he refuses to produce on the basis of his privilege against
11892 self-incrimination.

11893 (b) Whenever a witness refuses, on the basis of his
11894 privilege against self-incrimination, to produce documents, and
11895 the court issues to the witness an order under paragraph (a) of
11896 this subsection, the witness may not refuse to comply with the
11897 order on the basis of his privilege against self-incrimination,
11898 but no documents or information compelled under the aforesaid
11899 order, or any information directly or indirectly derived from such
11900 documents may be used against the witness in any criminal
11901 proceeding, except a prosecution for perjury, giving a false
11902 statement, or otherwise failing to comply with the order.

11903 (5) Documents in the possession of the Attorney General
11904 gathered pursuant to the provisions of this section and subpoenas
11905 issued by him shall be maintained in confidential files with
11906 access limited to prosecutorial and other law enforcement
11907 investigative personnel on a "need to know" basis and shall be
11908 exempt from the provisions of the Mississippi Public Records Act



11909 of 1983, except that upon the filing of an indictment or
11910 information, or upon the filing of an action for recovery of
11911 property, funds or fines, such documents shall be subject to such
11912 disclosure as may be required pursuant to the applicable statutes
11913 or court rules governing the trial of any such judicial
11914 proceeding.

11915 (6) No person, including the Attorney General, a member of
11916 his staff, prosecuting attorney, law enforcement officer, witness,
11917 court reporter, attorney or other person, shall disclose to an
11918 unauthorized person documents, including subpoenas issued and
11919 served, gathered by the Attorney General pursuant to the
11920 provisions of this section, except that upon the filing of an
11921 indictment or information, or upon the filing of an action for
11922 recovery of property, funds or fines, or in other legal
11923 proceedings, subject to the provisions of Sections 1 and 2 of this
11924 act, such documents shall be subject to such disclosure as may be
11925 required pursuant to applicable statutes and court rules governing
11926 the trial of any such judicial proceeding. In event of an
11927 unauthorized disclosure of any such documents gathered by the
11928 Attorney General pursuant to the provisions of this section, the
11929 person making any such unauthorized disclosure shall be guilty of
11930 a misdemeanor, and upon conviction thereof, shall be punished by a
11931 fine of not more than One Thousand Dollars (\$1,000.00), or
11932 imprisonment of not more than six (6) months, or by both such fine
11933 and imprisonment.



11934 (7) The powers of the Attorney General under this section
11935 shall not diminish the powers of local authorities to investigate
11936 or prosecute any type of identity theft crime or any other
11937 criminal conduct within their respective jurisdictions, and the
11938 provisions of this section shall be in addition to the powers and
11939 authority previously granted the Attorney General by common,
11940 constitutional, statutory or case law.

11941 **SECTION 169.** Section 99-27-31, Mississippi Code of 1972, is
11942 amended as follows:

11943 99-27-31. It shall be the duty of every railroad company,
11944 express company, or other carrier, and of every person, firm or
11945 corporation, that shall transport any of the alcohol or wine
11946 authorized, and who shall deliver such alcohol or wine or either
11947 of them in this state, to file with the clerk of the circuit court
11948 of the county in which said alcohol or wine is delivered, a
11949 statement, either printed or plainly written, or typewritten on
11950 stout paper, correctly stating the date on which the alcohol or
11951 wine was delivered, the name and postoffice address of the
11952 consignee and consignor, the place of delivery, and to whom
11953 delivered, and the kind and amount of such liquors delivered, such
11954 statement to be filed within three (3) days after the date of
11955 delivery of such liquor. If said statement is in writing, it
11956 shall be in a fair and legible hand, and the names of the
11957 consignee and the consignor and of the party who obtained delivery
11958 shall be truly ascertained and furnished in such way as to avoid



11959 mistakes in names. If any person, firm or corporation making
11960 delivery shall neglect to file with the circuit clerk such
11961 statement or statements, then it shall be the duty of the circuit
11962 clerk to make written demand upon such person, firm or
11963 corporation, to comply with the requirements of this section, such
11964 demand to be served by the sheriff and return made by him to the
11965 circuit clerk upon a copy of the original demand. Upon further
11966 refusal or noncompliance, it shall be the duty of the circuit
11967 clerk to promptly inform the Attorney General of the state of such
11968 failure or refusal, and it shall then be the duty of the Attorney
11969 General, subject to the provisions of Sections 1 and 2 of this
11970 act, either himself to file, or to direct and secure some district
11971 attorney or county attorney whose duty it is to prosecute crime in
11972 the county, to file a suit in the name of the state.

11973 **SECTION 170.** Section 99-29-9, Mississippi Code of 1972, is
11974 amended as follows:

11975 99-29-9. The bond provided for by Section 97-35-39 shall be
11976 made payable to the State of Mississippi, and may be sued upon, in
11977 case of breach, in the name of the state, and in the circuit
11978 court, and such suit shall be triable at the first term of the
11979 circuit court after the breach occurs, provided the sureties on
11980 such bond are summoned five (5) days before court meets. And such
11981 suit shall be conducted by the district attorney, for the state,
11982 in the circuit court, and by the Attorney General, subject to the
11983 provisions of Sections 1 and 2 of this act, in the supreme court.



11984 Whenever any bond so taken shall be forfeited by the misconduct of
11985 the said vagrant, there shall be no recovery of same less than the
11986 face value of the bond, unless the vagrant shall be delivered up
11987 to the circuit court for future trial, as provided in Section
11988 99-29-11, in which event the court may, in its discretion, limit
11989 the amount of recovery on the bond to the cost of suit and a
11990 penalty of fifty dollars.

11991 **SECTION 171.** Section 99-38-11, Mississippi Code of 1972, is
11992 amended as follows:

11993 99-38-11. (1) It shall be unlawful for any person, firm,
11994 corporation, partnership, association or other legal entity to
11995 fail to comply with the provisions of this chapter.

11996 (2) Any person, firm, corporation, partnership, association
11997 or other legal entity violating the provisions of this chapter
11998 shall be guilty of a misdemeanor and, upon conviction of the
11999 violation, shall be punished as for a misdemeanor.

12000 (3) Each day any such person, firm, corporation,
12001 partnership, association or other legal entity continues in
12002 violation of the provisions of this chapter shall constitute a
12003 separate offense.

12004 (4) Any action taken by any person accused or convicted of a
12005 crime or who enters a plea of guilty of a crime, or by a person or
12006 legal entity with whom any such person contracts as set forth in
12007 Section 99-38-5, whether by way of execution of a contract or
12008 agreement outside of this state, execution of a power of attorney,



12009 donation, creation of corporate entities, or otherwise, to defeat
12010 the purpose of this chapter shall be null and void as against the
12011 public policy of the state.

12012 (5) In addition to such powers and duties of the Attorney
12013 General of this state as are otherwise authorized and prescribed
12014 by law, the Attorney General, subject to the provisions of
12015 Sections 1 and 2 of this act, shall be authorized to bring a civil
12016 action in any court of competent jurisdiction to enforce the
12017 obligations of a contracting party to make payment to the
12018 Treasurer of such monies as are required to be paid to the
12019 Treasurer under the provisions of Section 99-38-5.

12020 **SECTION 172.** Section 99-41-13, Mississippi Code of 1972, is
12021 brought forward as follows:

12022 99-41-13. Any claimant aggrieved by a final decision of the
12023 Attorney General shall be entitled to judicial review thereof in
12024 the manner provided in this section.

12025 (a) An appeal may be taken by such claimant to the
12026 circuit court of the claimant's residence or the Circuit Court of
12027 the First Judicial District of Hinds County by filing a petition
12028 with the clerk of the court and executing and filing bond payable
12029 to the State of Mississippi with sufficient sureties to be
12030 approved by the clerk of the court, conditioned upon the payment
12031 of all costs of appeal, including the cost of preparing the
12032 transcript of the hearing before the Attorney General. The
12033 petition and bond shall be filed within thirty (30) days of the



12034 receipt of the final decision of the Attorney General. Upon
12035 approval of the bond, the clerk of the court shall notify the
12036 Office of the Attorney General, which shall prepare its record in
12037 the matter and transmit it to the circuit court.

12038 (b) The scope of review of the circuit court in such
12039 cases shall be limited to a review of the record made before the
12040 Attorney General to determine if the action of the Attorney
12041 General is unlawful for the reason that it was:

12042 (i) Not supported by a preponderance of the
12043 evidence;

12044 (ii) Arbitrary and capricious; or

12045 (iii) In violation of a statutory right of
12046 claimant.

12047 (c) No relief shall be granted based upon the court's
12048 finding of harmless error.

12049 (d) Any party aggrieved by action of the circuit court
12050 may appeal to the Supreme Court in the manner provided by law.

12051 SECTION _____. The provisions of this act shall be applicable
12052 to the sections of this act, and shall not be applicable to any
12053 section not included in this act.

12054 **SECTION 173.** This act shall take effect and be in force from
12055 and after July 1, 2017.

