

By: Representative Baker

To: Judiciary A

HOUSE BILL NO. 1475

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



35 SECTIONS 27-35-325, 27-41-83 AND 27-41-85, MISSISSIPPI CODE OF  
36 1972, TO CONFORM TO THE PRECEDING SECTIONS; TO BRING FORWARD  
37 SECTION 27-41-87, MISSISSIPPI CODE OF 1972, WHICH PROVIDES CERTAIN  
38 AUTHORITY TO THE ATTORNEY GENERAL TO FILE SUIT; TO AMEND SECTIONS  
39 27-45-21 AND 27-65-81, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE  
40 PRECEDING SECTIONS; TO BRING FORWARD SECTION 27-73-1, MISSISSIPPI  
41 CODE OF 1972, WHICH PROVIDES CERTAIN AUTHORITY TO THE ATTORNEY  
42 GENERAL TO FILE CERTAIN ACTIONS, FOR PURPOSES OF AMENDMENT; TO  
43 AMEND SECTIONS 27-75-13 AND 27-75-15, MISSISSIPPI CODE OF 1972, TO  
44 CONFORM TO THE PRECEDING AMENDMENTS; TO BRING FORWARD SECTION  
45 27-77-15, MISSISSIPPI CODE OF 1972, WHICH PROVIDES CERTAIN  
46 AUTHORITY TO THE ATTORNEY GENERAL TO FILE CERTAIN ACTIONS, FOR  
47 PURPOSES OF AMENDMENT; TO BRING FORWARD SECTION 29-1-7,  
48 MISSISSIPPI CODE OF 1972, WHICH PROVIDES CERTAIN AUTHORITY TO THE  
49 ATTORNEY GENERAL TO FILE CERTAIN ACTIONS; TO AMEND SECTIONS  
50 29-1-137, 29-3-9, 27-104-29, 27-105-25, 31-7-127, 31-17-59,  
51 31-19-25, 37-37-21, 37-41-25, 37-43-45, 37-51-17, 37-101-241,  
52 37-101-279, 37-101-291, 37-101-292, 37-101-293, 37-151-107,  
53 39-3-201, 39-7-37, 41-7-79, 41-9-35, 41-51-33, 41-71-21, 43-11-27  
54 AND 43-13-145, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE  
55 PRECEDING SECTIONS; TO BRING FORWARD SECTIONS 37-135-31,  
56 43-13-221, 43-25-101 AND 71-5-529, MISSISSIPPI CODE OF 1972, WHICH  
57 PROVIDES CERTAIN AUTHORITY TO THE ATTORNEY GENERAL TO BRING  
58 CERTAIN ACTIONS, FOR PURPOSES OF AMENDMENT; TO AMEND SECTIONS  
59 43-15-6, 43-15-121, 43-16-21, 43-20-21, 45-9-53, 45-12-11,  
60 45-14-27 AND 47-5-75, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE  
61 PRECEDING SECTIONS; TO BRING FORWARD SECTIONS 47-5-901, 47-5-903,  
62 47-5-1219, 57-64-23, 75-24-27 AND 75-75-19, MISSISSIPPI CODE OF  
63 1972, WHICH PROVIDES FOR CERTAIN AUTHORITY OF THE ATTORNEY GENERAL  
64 TO FILE CERTAIN ACTIONS, FOR PURPOSES OF AMENDMENT; TO AMEND  
65 SECTIONS 49-4-21, 49-17-71, 49-27-51, 53-3-19, 53-9-67, 55-13-21,  
66 57-1-29, 63-17-85, 63-21-39, 67-1-89, 69-2-15, 69-23-11, 69-35-27,  
67 71-5-17, 73-6-29, 73-15-35, 73-25-101, 75-15-11, 75-21-1, 75-21-7,  
68 75-21-37, 75-24-9, 75-24-15, 75-24-19, 75-24-21, 75-24-29,  
69 75-24-59, 75-24-355, 75-60-21, 75-76-87, 75-76-145, 75-76-147,  
70 75-91-7, 77-1-43, 77-2-11, 77-3-611, 79-11-133, 79-11-509,  
71 79-11-519, 79-13-1105, 79-14-1012, 79-29-1017, 81-1-67, 81-19-9,  
72 81-22-17, 83-29-45, 83-37-31, 83-49-31, 83-69-1, 85-11-19,  
73 91-8-1014, 95-3-5, 95-3-13 AND 97-21-101, MISSISSIPPI CODE OF  
74 1972, TO CONFORM TO THE PRECEDING SECTIONS; TO BRING FORWARD  
75 SECTIONS 97-32-5 AND 97-37-7, MISSISSIPPI CODE OF 1972, WHICH  
76 PROVIDES CERTAIN AUTHORITY FOR THE ATTORNEY GENERAL TO FILE  
77 CERTAIN ACTIONS, FOR PURPOSES OF AMENDMENT; TO AMEND SECTIONS  
78 97-33-109, 97-43-9, 97-44-5, 97-45-2, 99-27-31, 99-29-9 AND  
79 99-38-11, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF AMENDMENT; TO  
80 BRING FORWARD SECTION 99-41-13, MISSISSIPPI CODE OF 1972, WHICH  
81 PROVIDES CERTAIN AUTHORITY FOR THE ATTORNEY GENERAL TO FILE  
82 CERTAIN ACTIONS, FOR PURPOSES OF AMENDMENT; AND FOR RELATED  
83 PURPOSES.

84 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 intervene and argue the constitutionality of any statute  
98 when notified of a challenge thereto, pursuant to the Mississippi  
99 Rules of Civil Procedure. His qualifications for office shall be  
100 as provided for chancery and circuit judges in Section 154 of the  
101 Mississippi Constitution. He shall have the powers of the  
102 Attorney General at common law and, except as otherwise provided  
103 by law, is given the sole power to bring or defend a lawsuit on  
104 behalf of a state agency, the subject matter of which is of  
105 statewide interest, subject to the following limitations:

106           In matters wherein the amount reasonably sought to be  
107 recovered by the state or arm or agency thereof exceeds the sum of  
108 Two Hundred Fifty Thousand Dollars (\$250,000.00) inclusive of  
109 attorney's fees, interest and costs, the Attorney General shall



110 not file suit or otherwise assert such a claim or cause of action  
111 or employ special or outside counsel to file such suit or  
112 otherwise assert such a claim or cause or action, without the  
113 prior written approval of the Outside Counsel Oversight Commission  
114 as defined and provided for in Section 7-5-8.

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

117             7-5-8. (1) Before entering into a contingency fee contract  
118 with outside counsel, the state, an arm or agency of the state, or  
119 a statewide elected officer acting in his official capacity must  
120 first make a written determination that contingency fee  
121 representation is both cost-effective and in the public interest.  
122 The required written determination shall include specific findings  
123 for each of the following factors:

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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





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

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

239 1-1-9. (1) Copyrights of the Mississippi Code of 1972 and  
240 the notes, annotations, and indexes thereof, shall be taken by and  
241 in the name of the publishers of the compilation who shall  
242 thereafter promptly assign the same to the State of Mississippi  
243 and be owned by it.

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

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



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

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

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

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



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

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

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

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

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



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

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



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

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

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



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

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

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

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

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



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

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

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



408           (2)   (a)   The joint committee, in its discretion, may  
409 determine whether electronic access to the Mississippi Code of  
410 1972 is available and a sufficient substitute for actual bound  
411 volumes of the code and, if so, may omit furnishing any one or  
412 more sets otherwise required by this section.

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

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

422           1-1-103. (1) There is created the Joint Legislative  
423 Committee on Compilation, Revision and Publication of Legislation,  
424 which is hereinafter referred to as the "joint committee." The  
425 joint committee shall be composed of the Speaker of the House of  
426 Representatives, the Lieutenant Governor of the State of  
427 Mississippi, the Speaker Pro Tempore of the House of  
428 Representatives, the President Pro Tempore of the Mississippi  
429 State Senate, the Chairman of the Rules Committee of the House of  
430 Representatives, the Chairman of the Senate Rules Committee, four  
431 (4) members of the House of Representatives to be named by the  
432 Speaker of the House, and four (4) members of the Senate to be





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

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



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

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

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

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



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

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

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

494 5-3-57. The committee shall have the following powers:

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

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



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

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



533 committee shall upon petition by one-half (1/2) the elected  
534 membership of either the Senate or House of Representatives  
535 perform a complete investigation and audit of any agency, entity  
536 or group subject to investigation or audit by passage of Sections  
537 5-3-51 through 5-3-69.

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

599 7-3-47. (1) On or before April 20 of each year, the  
600 Secretary of State shall notify by mail every constable being  
601 compensated in whole or in part on a fee basis who has failed to  
602 file the report required by Section 7-3-45; and on or before May  
603 15 of each year, he will notify the Attorney General of the ones  
604 of same by name who still have not filed such report, and the  
605 Attorney General shall thereupon prosecute such delinquent  
606 officers. If such report is not made by July 1 of the year,



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

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

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





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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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

720 7-5-9. The Attorney General shall have the power to employ a  
721 suitable and competent person or persons who possess professional  
722 skill and/or expert knowledge when such employment shall be  
723 necessary in order to enable him to efficiently perform the  
724 official duties imposed upon him by law, and he may pay such  
725 person or persons reasonable compensation as may be agreed upon,  
726 provided such compensation shall not exceed the compensation  
727 usually paid for similar services by private employers of such  
728 persons, subject to the provisions of Sections 1 and 2 of this  
729 act. The compensation and necessary expenses of such employees



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

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

734 7-5-21. The Attorney General shall keep a docket of all  
735 causes in which he is required to appear, whether through his  
736 office or through outside counsel, which is a public record and  
737 must show the full style of the case, the cause number of the  
738 action, the county, district and court in which the causes have  
739 been instituted and tried, and whether the case is civil or  
740 criminal. If civil, the docket must show the nature of the  
741 demand, the stage of the proceedings, the name and address of any  
742 outside counsel, a description of the fee arrangement with any  
743 outside counsel, a memorandum of the judgment when prosecuted to  
744 judgment, any process issued thereon, whether satisfied or not,  
745 and if not satisfied, the return of the sheriff. If criminal, the  
746 docket must show the nature of the crime, the mode of prosecution,  
747 the stage of the proceedings, a memorandum of the sentence when  
748 prosecuted to a sentence, the execution thereof, if executed, and,  
749 if not executed, the reasons of delay or prevention.

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

752 7-5-35. When it may be necessary or proper for the  
753 enforcement or collection of any judgment or debt in favor of the  
754 state, or any officer thereof in his official capacity, or of any



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

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

762 7-5-37. The Attorney General shall, at the request of the  
763 Governor or other state officer, in person or by his assistant,  
764 prosecute suit on any official bond, or any contract in which the  
765 state is interested, upon a breach thereof, and prosecute or  
766 defend for the state all actions, civil or criminal, relating to  
767 any matter connected with either of the state offices, subject to  
768 the provisions of Sections 1 and 2 of this act. He may require  
769 the service or assistance of any district attorney in and about  
770 such matters or suits.

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

773 7-5-39. (1) Except as otherwise provided by law, the  
774 Attorney General shall represent the state, subject to the  
775 provisions of Sections 1 and 2 of this act, in person or by his  
776 assistant, as counsel in all suits against the state in other  
777 courts or the Supreme Court at the seat of government, and he  
778 shall, in like manner, act as counsel for any of the state



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

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

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

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

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



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

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

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

814 7-5-41. In all suits against the State of Mississippi, any  
815 board, bureau, commission, or department thereof required to be  
816 defended by the Attorney General, a completed copy of the bill of  
817 complaint, declaration, or other original pleading shall be mailed  
818 by the plaintiff or complainant to the Attorney General, postage  
819 prepaid, properly addressed to him; and such original pleading  
820 shall bear a proper certificate to such effect when it is filed.  
821 No decree pro-confesso or default judgment shall be taken against  
822 such defendant.

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

825 7-5-43. (1) In addition to all power and authority vested  
826 in the Attorney General of the State of Mississippi by its  
827 constitution and statutes and all common law power and authority  
828 which may be invested in or exercised by such Attorney General as





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



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

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

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

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



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



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

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

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

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



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

928           7-5-51. The Attorney General, as well as the several  
929 district attorneys, is hereby authorized to institute or defend  
930 any suits arising out of any act or order of the \* \* \* Department  
931 of Revenue or the Public Service Commission affecting the laws and  
932 revenues of the state, subject to the provisions of Sections 1 and  
933 2 of this act.

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

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



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

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

960 7-5-55. The Attorney General, or any district attorney or  
961 county attorney at his request, may bring and prosecute any  
962 action, subject to the provisions of Sections 1 and 2 of this act,  
963 in the name of the state to recover the amount of any past due  
964 income, inheritance, and privilege taxes and penalties thereon,  
965 but any such action shall be brought in the county or district  
966 where the taxpayer resides. In case of a nonresident or foreign  
967 corporation, the action may be brought in any county where said  
968 nonresident or foreign corporation may now be sued in other cases.

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

971 7-5-59. (1) The following terms shall have the meanings  
972 ascribed to them herein unless the context requires otherwise:

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



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



1000 (xi) Section 97-9-5, which relates to bribery of  
1001 jurors.

1002 (xii) Sections 97-11-11, 97-11-13 and 97-11-53,  
1003 which relate to acceptance of bribes by public officials and  
1004 bribery of public officials.

1005 (xiii) Sections 97-13-1 and 97-13-3, which relate  
1006 to bribery of electors or election officials.

1007 (xiv) Sections 97-23-19 through 97-23-27, which  
1008 relate to embezzlement.

1009 (c) "White-collar crime investigations" means an  
1010 investigation into any illegal act or acts defined as white-collar  
1011 crime.

1012 (d) "Computer crimes investigations" means an  
1013 investigation into any illegal act or acts defined as computer  
1014 crime.

1015 (e) "Person" means and includes not only an individual,  
1016 but also a partnership, corporation, professional firm, nonprofit  
1017 organization or other business entity.

1018 (2) The Attorney General is hereby authorized to conduct  
1019 official corruption investigations and such other white-collar  
1020 crime investigations and computer crime investigations that are of  
1021 statewide interest or which are in the protection of public  
1022 rights.

1023 (3) (a) In conducting white-collar crime and computer crime  
1024 investigations, the Attorney General shall have the authority to





1025 issue and serve subpoenas to any person in control of any  
1026 designated documents for the production of such documents,  
1027 including, but not limited to, writings, drawings, graphs, charts,  
1028 photographs, phono-records, subscriber records and other data  
1029 compilations from which information can be obtained, or translated  
1030 through detection devices into reasonably usable form. Such  
1031 subpoenas shall require the named person, his agent or attorney,  
1032 to appear and deliver the designated documents to a location in  
1033 the county of his residence unless the court for good cause shown  
1034 directs that the subpoena be issued for the person to deliver such  
1035 documents to a location outside of the county of his residence.  
1036 Mere convenience of the Attorney General shall not be considered  
1037 good cause. The Attorney General or his designee shall have the  
1038 authority to inspect and copy such documents. Such subpoenas  
1039 shall be issued only upon the ex parte and in camera application  
1040 of the Attorney General to the circuit or chancery court of the  
1041 county of residence of the person in control of the documents or  
1042 the circuit or chancery court of the county where the person in  
1043 control of the documents may be found, and only upon a showing  
1044 that the documents sought are relevant to a criminal investigation  
1045 under this act or may lead to the discovery of such relevant  
1046 evidence. Thereafter said court shall have jurisdiction to  
1047 enforce or quash such subpoenas and to enter appropriate orders  
1048 thereon, and nothing contained in this section shall affect the



1049 right of a person to assert a claim that the information sought is  
1050 privileged by law.

1051 (b) A subpoena issued pursuant to this subsection shall  
1052 be in substantially the following form:

1053 "SUBPOENA TO PRODUCE DOCUMENTS PURSUANT TO AN  
1054 INVESTIGATION BY THE ATTORNEY GENERAL

1055 TO:

1056 YOU ARE HEREBY COMMANDED to appear before the Attorney  
1057 General of the State of Mississippi or his designated staff  
1058 attorney at the place, date and time specified below in an  
1059 investigation being conducted by the Attorney General pursuant to  
1060 Section 7-5-59, Mississippi Code of 1972:

1061 Place \_\_\_\_\_ Date and Time \_\_\_\_\_

1062 YOU ARE ALSO COMMANDED to bring with you the following  
1063 document(s) or object(s).

1064 \_\_\_\_\_

1065 You are advised that the \_\_\_\_\_ Court of the \_\_\_\_\_  
1066 Judicial District of \_\_\_\_\_ County, Mississippi, has  
1067 approved the ex parte and in camera application of the Attorney  
1068 General to issue this subpoena, and jurisdiction to enforce and/or  
1069 quash the subpoena and to enter appropriate orders thereon is  
1070 statutorily vested in the said court; enforcement and penal  
1071 provisions applicable to an Attorney General's investigation  
1072 include those set forth in Section 7-5-59(4), Mississippi Code of  
1073 1972; and disclosure of testimony and/or records coming into



1074 possession of the Attorney General pursuant to this subpoena shall  
1075 be limited by and subject to the provisions of Section 7-5-59(6),  
1076 Mississippi Code of 1972, (for informational purposes, these cited  
1077 statutes are reproduced on the reverse side of this subpoena).

1078 You may wish to consult an attorney in regard to this  
1079 subpoena. You have certain state and federal constitutional  
1080 rights, including your protection against self-incrimination and  
1081 unreasonable search and seizure which this subpoena may affect.

1082 ISSUED BY AND UNDER SEAL OF THE ATTORNEY GENERAL OF THE STATE  
1083 OF MISSISSIPPI, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.  
1084 (SEAL) \_\_\_\_\_"

1085 (c) Following service of any subpoena, pursuant to the  
1086 provisions of this subsection, a record of the return shall be  
1087 made and kept by the Attorney General and subject only to such  
1088 disclosure as may be authorized pursuant to the provisions of this  
1089 section.

1090 (4) Enforcement and penal provisions applicable to an  
1091 investigation under this section shall include the following:

1092 (a) If a person who has been served with a subpoena,  
1093 which has been issued and served upon him in accordance with the  
1094 provisions of this section, shall fail to deliver or have  
1095 delivered the designated documents at the time and place required  
1096 in the subpoena, on application of the Attorney General the  
1097 circuit or chancery court having approved the issuance of the  
1098 subpoena may issue an attachment for such person, returnable



1099 immediately, or at such time and place as the court may direct.  
1100 Bond may be required and fine imposed and proceedings had thereon  
1101 as in the case of a subpoenaed witness who fails to appear in  
1102 circuit or chancery court.

1103           (b) Every person who shall knowingly and willfully  
1104 obstruct, interfere with or impede an investigation under this  
1105 section by concealing or destroying any documents, papers or other  
1106 tangible evidence which are relevant to an investigation under  
1107 this section shall be guilty of a felony and, upon conviction,  
1108 shall be punished by a fine of not more than Five Thousand Dollars  
1109 (\$5,000.00) or by imprisonment for not more than five (5) years,  
1110 or by both such fine and imprisonment.

1111           (c) Every person who shall knowingly and willfully  
1112 endeavor, by means of bribery, force or intimidation, to obstruct,  
1113 delay or prevent the communication of information to any agent or  
1114 employee of the Office of the Attorney General or who injures  
1115 another person for the purpose of preventing the communication of  
1116 such information or an account of the giving of such information  
1117 relevant to an investigation under this section shall be guilty of  
1118 a felony and, upon conviction, shall be punished by a fine of not  
1119 more than Five Thousand Dollars (\$5,000.00) or by imprisonment for  
1120 not more than five (5) years, or by both such fine and  
1121 imprisonment.



1122 (d) The provisions of paragraphs (a), (b) and (c) of  
1123 this subsection shall not prohibit the enforcement of, or  
1124 prosecution under, any other statutes of this state.

1125 (5) (a) If any person shall refuse, or is likely to refuse,  
1126 on the basis of his privilege against self-incrimination, produce  
1127 the designated documents as requested by a subpoena issued under  
1128 this section or issued by a court, the Attorney General may  
1129 request the court, ex parte and in camera, to issue an order  
1130 requiring such person to produce the documents information which  
1131 he refuses to give or provide on the basis of his privilege  
1132 against self-incrimination. The Attorney General may request said  
1133 order under this subsection when, in his judgment:

1134 (i) The documents sought from such individual may  
1135 be necessary to the public interest; and

1136 (ii) Such individual has refused or is likely to  
1137 refuse to produce the designated document on the basis of his  
1138 privilege against self-incrimination.

1139 Following such request, an order shall issue in accordance  
1140 with this section requiring such person to produce the documents  
1141 which he refuses to produce on the basis of his privilege against  
1142 self-incrimination.

1143 (b) Whenever a witness refuses, on the basis of his  
1144 privilege against self-incrimination, to produce documents, and  
1145 the court issues to the witness an order under paragraph (a) of  
1146 this subsection, the witness may not refuse to comply with the



1147 order on the basis of his privilege against self-incrimination,  
1148 but no documents or information compelled under the aforesaid  
1149 order, or any information directly or indirectly derived from such  
1150 documents may be used against the witness in any criminal  
1151 proceeding, except a prosecution for perjury, giving a false  
1152 statement, or otherwise failing to comply with the order.

1153 (6) Documents in the possession of the Attorney General  
1154 gathered pursuant to the provisions of this section and subpoenas  
1155 issued by him shall be maintained in confidential files with  
1156 access limited to prosecutorial and other law enforcement  
1157 investigative personnel on a "need-to-know" basis and shall be  
1158 exempt from the provisions of the Mississippi Public Records Act  
1159 of 1983, except that upon the filing of an indictment or  
1160 information, or upon the filing of an action for recovery of  
1161 property, funds or fines, such documents shall be subject to such  
1162 disclosure as may be required pursuant to the applicable statutes  
1163 or court rules governing the trial of any such judicial  
1164 proceeding.

1165 (7) No person, including the Attorney General, a member of  
1166 his staff, prosecuting attorney, law enforcement officer, witness,  
1167 court reporter, attorney or other person, shall disclose to an  
1168 unauthorized person documents, including subpoenas issued and  
1169 served, gathered by the Attorney General pursuant to the  
1170 provisions of this section, except that upon the filing of an  
1171 indictment or information, or upon the filing of an action for



1172 recovery of property, funds or fines, or in other legal  
1173 proceedings, such documents shall be subject to such disclosure as  
1174 may be required pursuant to applicable statutes and court rules  
1175 governing the trial of any such judicial proceeding. In event of  
1176 an unauthorized disclosure of any such documents gathered by the  
1177 Attorney General pursuant to the provisions of this section, the  
1178 person making any such unauthorized disclosure shall be guilty of  
1179 a misdemeanor, and upon conviction thereof, shall be punished by a  
1180 fine of not more than One Thousand Dollars (\$1,000.00) or  
1181 imprisonment of not more than six (6) months, or by both such fine  
1182 and imprisonment.

1183 (8) The powers of the Attorney General under this section  
1184 shall not diminish the powers of local authorities to investigate  
1185 or prosecute any type of white-collar crime violation, computer  
1186 crime violation or any other criminal conduct within their  
1187 respective jurisdictions, and the provisions of this section shall  
1188 be in addition to the powers and authority previously granted the  
1189 Attorney General by common, constitutional, statutory or case law.

1190 (9) No person, agent or employee upon whom a subpoena is  
1191 served pursuant to this section shall disclose the existence of  
1192 the investigation to any person unless such disclosure is  
1193 necessary for compliance with the subpoena. Any person who  
1194 willfully violates this subsection shall be guilty of a  
1195 misdemeanor and may be confined in the county jail for a period



1196 not to exceed one (1) year or fined not more than Ten Thousand  
1197 Dollars (\$10,000.00), or both.

1198 **SECTION 24.** Section 7-5-66, Mississippi Code of 1972, is  
1199 amended as follows:

1200 7-5-66. The Attorney General is hereby authorized, in his  
1201 discretion, and on a case-by-case basis, to prepay all such court  
1202 costs and filing fees, as are otherwise required of private  
1203 litigants, when commencing and prosecuting civil actions for the  
1204 collection and recovery of delinquent sums owed to the Mississippi  
1205 Guarantee Student Loan Program, subject to the provisions of  
1206 Sections 1 and 2 of this act.

1207 **SECTION 25.** Section 7-7-204, Mississippi Code of 1972, is  
1208 amended as follows:

1209 7-7-204. (1) Within the limits of the funds available to  
1210 the Office of the State Auditor for such purpose, the State  
1211 Auditor may grant a paid internship to students pursuing junior or  
1212 senior undergraduate-level year coursework toward a bachelor's  
1213 degree in accounting or graduate-level coursework toward a  
1214 master's degree in accounting. Those applicants deemed qualified  
1215 shall receive funds that may be used to pay for tuition, books and  
1216 related fees to pursue their degree. It is the intent of the  
1217 Legislature that the paid internship program (hereinafter referred  
1218 to as the program) shall be used as an incentive for accounting  
1219 students to develop job-related skills and to encourage accounting  
1220 careers at the Office of the State Auditor.





1221 (2) In order to be eligible for the program, an applicant  
1222 must:

1223 (a) Attend any college or school approved and  
1224 designated by the Office of the State Auditor.

1225 (b) Satisfy the following conditions:

1226 (i) Undergraduate stipulations: Applicants must  
1227 have successfully obtained a minimum of fifty-eight (58) semester  
1228 hours toward a bachelor of science degree in accounting from a  
1229 Mississippi institution of higher learning.

1230 Applicants must have achieved a minimum grade point average  
1231 (GPA) on the previously obtained semester hours toward a bachelor  
1232 of science degree in accounting of 3.0 on a 4.0 scale.

1233 If accepted into the program, participants shall maintain a  
1234 minimum cumulative GPA of 3.0 on a 4.0 scale in all coursework  
1235 counted toward a bachelor of science degree in accounting.

1236 (ii) Graduate stipulations: Applicants must have  
1237 met the regular admission standards and have been accepted into  
1238 the master of science accounting program at a Mississippi  
1239 institution of higher learning.

1240 If accepted into the program, participants shall maintain a  
1241 minimum cumulative GPA of 3.0 on a 4.0 scale in all coursework  
1242 counted toward a master of science degree in accounting.

1243 (c) All program participants will be required to work a  
1244 total of three hundred thirty-six (336) hours each summer at the  
1245 Office of the State Auditor in Jackson, Mississippi.



1246           (d) Agree to work as an auditor at the Office of the  
1247 State Auditor upon graduation for a period of time equivalent to  
1248 the period of time for which the applicant receives compensation,  
1249 calculated to the nearest whole month, but in no event less than  
1250 two (2) years.

1251           (3) (a) Before being placed into the program, each  
1252 applicant shall enter into a contract with the Office of the State  
1253 Auditor, which shall be deemed a contract with the State of  
1254 Mississippi, agreeing to the terms and conditions upon which the  
1255 internship shall be granted to him. The contract shall include  
1256 such terms and provisions necessary to carry out the full purpose  
1257 and intent of this section. The form of such contract shall be  
1258 prepared and approved by the Attorney General of this state, and  
1259 shall be signed by the State Auditor of the Office of the State  
1260 Auditor and the participant.

1261           (b) Upon entry into the program, participants will  
1262 become employees of the Office of the State Auditor during their  
1263 time in the program and shall be eligible for benefits such as  
1264 medical insurance paid by the agency for the participant; however,  
1265 in accordance with Section 25-11-105II(b), those participants  
1266 shall not become members of the Public Employees' Retirement  
1267 System while participating in the program. Participants shall not  
1268 accrue personal or major medical leave while they are in the  
1269 program.



1270 (c) The Office of the State Auditor shall have the  
1271 authority to cancel any contract made between it and any program  
1272 participant upon such cause being deemed sufficient by the State  
1273 Auditor.

1274 (d) The Office of the State Auditor is vested with full  
1275 and complete authority and power to sue in its own name any  
1276 participant for any damages due the state on any such uncompleted  
1277 contract, which suit, subject to the provisions of Sections 1 and  
1278 2 of this act, shall be filed and handled by the Attorney General  
1279 of the state. The Office of the State Auditor may contract with a  
1280 collection agency or banking institution, subject to approval by  
1281 the Attorney General, for collection of any damages due the state  
1282 from any participant. The State of Mississippi, the Office of the  
1283 State Auditor and its employees are immune from any suit brought  
1284 in law or equity for actions taken by the collection agency or  
1285 banking institution incidental to or arising from their  
1286 performance under the contract. The Office of the State Auditor,  
1287 collection agency and banking institution may negotiate for the  
1288 payment of a sum that is less than full payment in order to  
1289 satisfy any damages the participant owes the state, subject to  
1290 approval by the director of the sponsoring facility within the  
1291 Office of the State Auditor.

1292 (4) (a) Any recipient who is accepted into the program by  
1293 the Mississippi Office of the State Auditor and who fails to  
1294 complete undergraduate- or graduate-level coursework toward a



1295 degree in accounting, or withdraws from school at any time before  
1296 completing his or her education, shall be liable to repay the  
1297 Office of the State Auditor for all monies received during the  
1298 time the recipient was in the program, at the rate of pay received  
1299 by the employee while in the program, including benefits paid by  
1300 the agency for the participant, and monies received for tuition,  
1301 books and related fees used to pursue their degree with interest  
1302 accruing at ten percent (10%) per annum from the date the  
1303 recipient failed or withdrew from school. The recipient also will  
1304 not be liable for repayment for any money earned during the  
1305 required summer hours. This money shall be considered earned by  
1306 the recipient at the federal minimum wage rate.

1307 (b) All paid internship compensation received by the  
1308 recipient while in school shall be considered earned conditioned  
1309 upon the fulfillment of the terms and obligations of the paid  
1310 internship contract and this section. However, no recipient of  
1311 the paid internship shall accrue personal or major medical leave  
1312 while the recipient is pursuing junior or senior  
1313 undergraduate-level year coursework toward a bachelor's degree in  
1314 accounting or graduate-level coursework toward a master's degree  
1315 in accounting. The recipient shall not be liable for liquidated  
1316 damages.

1317 (c) If the recipient does not work as an auditor at the  
1318 Office of the State Auditor for the period required under  
1319 subsection (2) (d) of this section, the recipient shall be liable



1320 for repayment on demand of the remaining portion of the  
1321 compensation that the recipient was paid while in the program  
1322 which has not been unconditionally earned, with interest accruing  
1323 at ten percent (10%) per annum from the recipient's date of  
1324 graduation or the date that the recipient last worked at the  
1325 Office of the State Auditor, whichever is the later date. In  
1326 addition, there shall be included in any contract for paid student  
1327 internship a provision for liquidated damages equal to Five  
1328 Thousand Dollars (\$5,000.00) which may be reduced on a pro rata  
1329 basis for each year served under such contract.

1330         **SECTION 26.** Section 7-7-211, Mississippi Code of 1972, is  
1331 amended as follows:

1332         7-7-211. The department shall have the power and it shall be  
1333 its duty:

1334             (a) To identify and define for all public offices of  
1335 the state and its subdivisions generally accepted accounting  
1336 principles or other accounting principles as promulgated by  
1337 nationally recognized professional organizations and to consult  
1338 with the State Fiscal Officer in the prescription and  
1339 implementation of accounting rules and regulations;

1340             (b) To provide best practices, for all public offices  
1341 of regional and local subdivisions of the state, systems of  
1342 accounting, budgeting and reporting financial facts relating to  
1343 said offices in conformity with legal requirements and with  
1344 generally accepted accounting principles or other accounting



1345 principles as promulgated by nationally recognized professional  
1346 organizations; to assist such subdivisions in need of assistance  
1347 in the installation of such systems; to revise such systems when  
1348 deemed necessary, and to report to the Legislature at periodic  
1349 times the extent to which each office is maintaining such systems,  
1350 along with such recommendations to the Legislature for improvement  
1351 as seem desirable;

1352           (c) To study and analyze existing managerial policies,  
1353 methods, procedures, duties and services of the various state  
1354 departments and institutions upon written request of the Governor,  
1355 the Legislature or any committee or other body empowered by the  
1356 Legislature to make such request to determine whether and where  
1357 operations can be eliminated, combined, simplified and improved;

1358           (d) To postaudit each year and, when deemed necessary,  
1359 preaudit and investigate the financial affairs of the departments,  
1360 institutions, boards, commissions, or other agencies of state  
1361 government, as part of the publication of a comprehensive annual  
1362 financial report for the State of Mississippi, or as deemed  
1363 necessary by the State Auditor. In complying with the  
1364 requirements of this paragraph, the department shall have the  
1365 authority to conduct all necessary audit procedures on an interim  
1366 and year-end basis;

1367           (e) To postaudit and, when deemed necessary, preaudit  
1368 and investigate separately the financial affairs of (i) the  
1369 offices, boards and commissions of county governments and any



1370 departments and institutions thereof and therein; (ii) public  
1371 school districts, departments of education and junior college  
1372 districts; and (iii) any other local offices or agencies which  
1373 share revenues derived from taxes or fees imposed by the State  
1374 Legislature or receive grants from revenues collected by  
1375 governmental divisions of the state; the cost of such audits,  
1376 investigations or other services to be paid as follows: Such part  
1377 shall be paid by the state from appropriations made by the  
1378 Legislature for the operation of the State Department of Audit as  
1379 may exceed the sum of Thirty-five Dollars (\$35.00) per man-hour  
1380 for the services of each staff person engaged in performing the  
1381 audit or other service plus the actual cost of any independent  
1382 specialist firm contracted by the State Auditor to assist in the  
1383 performance of the audit, which sum shall be paid by the county,  
1384 district, department, institution or other agency audited out of  
1385 its general fund or any other available funds from which such  
1386 payment is not prohibited by law. Costs paid for independent  
1387 specialists or firms contracted by the State Auditor shall be paid  
1388 by the audited entity through the State Auditor to the specialist  
1389 or firm conducting the postaudit.

1390 Each school district in the state shall have its financial  
1391 records audited annually, at the end of each fiscal year, either  
1392 by the State Auditor or by a certified public accountant approved  
1393 by the State Auditor. Beginning with the audits of fiscal year  
1394 2010 activity, no certified public accountant shall be selected to



1395 perform the annual audit of a school district who has audited that  
1396 district for three (3) or more consecutive years previously.  
1397 Certified public accountants shall be selected in a manner  
1398 determined by the State Auditor. The school district shall have  
1399 the responsibility to pay for the audit, including the review by  
1400 the State Auditor of audits performed by certified public  
1401 accountants;

1402 (f) To postaudit and, when deemed necessary, preaudit  
1403 and investigate the financial affairs of the levee boards;  
1404 agencies created by the Legislature or by executive order of the  
1405 Governor; profit or nonprofit business entities administering  
1406 programs financed by funds flowing through the State Treasury or  
1407 through any of the agencies of the state, or its subdivisions; and  
1408 all other public bodies supported by funds derived in part or  
1409 wholly from public funds, except municipalities which annually  
1410 submit an audit prepared by a qualified certified public  
1411 accountant using methods and procedures prescribed by the  
1412 department;

1413 (g) To make written demand, when necessary, for the  
1414 recovery of any amounts representing public funds improperly  
1415 withheld, misappropriated and/or otherwise illegally expended by  
1416 an officer, employee or administrative body of any state, county  
1417 or other public office, and/or for the recovery of the value of  
1418 any public property disposed of in an unlawful manner by a public  
1419 officer, employee or administrative body, such demands to be made





1420 (i) upon the person or persons liable for such amounts and upon  
1421 the surety on official bond thereof, and/or (ii) upon any  
1422 individual, partnership, corporation or association to whom the  
1423 illegal expenditure was made or with whom the unlawful disposition  
1424 of public property was made, if such individual, partnership,  
1425 corporation or association knew or had reason to know through the  
1426 exercising of reasonable diligence that the expenditure was  
1427 illegal or the disposition unlawful. Such demand shall be  
1428 premised on competent evidence, which shall include at least one  
1429 (1) of the following: (i) sworn statements, (ii) written  
1430 documentation, (iii) physical evidence, or (iv) reports and  
1431 findings of government or other law enforcement agencies. Other  
1432 provisions notwithstanding, a demand letter issued pursuant to  
1433 this paragraph shall remain confidential by the State Auditor  
1434 until the individual against whom the demand letter is being filed  
1435 has been served with a copy of such demand letter. If, however,  
1436 such individual cannot be notified within fifteen (15) days using  
1437 reasonable means and due diligence, such notification shall be  
1438 made to the individual's bonding company, if he or she is bonded.  
1439 Each such demand shall be paid into the proper treasury of the  
1440 state, county or other public body through the office of the  
1441 department in the amount demanded within thirty (30) days from the  
1442 date thereof, together with interest thereon in the sum of one  
1443 percent (1%) per month from the date such amount or amounts were  
1444 improperly withheld, misappropriated and/or otherwise illegally



1445 expended. In the event, however, such person or persons or such  
1446 surety shall refuse, neglect or otherwise fail to pay the amount  
1447 demanded and the interest due thereon within the allotted thirty  
1448 (30) days, the State Auditor shall have the authority and it shall  
1449 be his duty to institute suit, and the Attorney General shall  
1450 prosecute the same, subject to the provisions of Sections 1 and 2  
1451 of this act, in any court of the state to the end that there shall  
1452 be recovered the total of such amounts from the person or persons  
1453 and surety on official bond named therein; and the amounts so  
1454 recovered shall be paid into the proper treasury of the state,  
1455 county or other public body through the State Auditor. In any  
1456 case where written demand is issued to a surety on the official  
1457 bond of such person or persons and the surety refuses, neglects or  
1458 otherwise fails within one hundred twenty (120) days to either pay  
1459 the amount demanded and the interest due thereon or to give the  
1460 State Auditor a written response with specific reasons for  
1461 nonpayment, then the surety shall be subject to a civil penalty in  
1462 an amount of twelve percent (12%) of the bond, not to exceed Ten  
1463 Thousand Dollars (\$10,000.00), to be deposited into the State  
1464 General Fund;

1465 (h) To investigate any alleged or suspected violation  
1466 of the laws of the state by any officer or employee of the state,  
1467 county or other public office in the purchase, sale or the use of  
1468 any supplies, services, equipment or other property belonging  
1469 thereto; and in such investigation to do any and all things



1470 necessary to procure evidence sufficient either to prove or  
1471 disprove the existence of such alleged or suspected violations.  
1472 The Department of Investigation of the State Department of Audit  
1473 may investigate, for the purpose of prosecution, any suspected  
1474 criminal violation of the provisions of this chapter. For the  
1475 purpose of administration and enforcement of this chapter, the  
1476 enforcement employees of the Department of Investigation of the  
1477 State Department of Audit have the powers of a law enforcement  
1478 officer of this state, and shall be empowered to make arrests and  
1479 to serve and execute search warrants and other valid legal process  
1480 anywhere within the State of Mississippi. All enforcement  
1481 employees of the Department of Investigation of the State  
1482 Department of Audit hired on or after July 1, 1993, shall be  
1483 required to complete the Law Enforcement Officers Training Program  
1484 and shall meet the standards of the program;

1485           (i) To issue subpoenas, with the approval of, and  
1486 returnable to, a judge of a chancery or circuit court, in termtime  
1487 or in vacation, to examine the records, documents or other  
1488 evidence of persons, firms, corporations or any other entities  
1489 insofar as such records, documents or other evidence relate to  
1490 dealings with any state, county or other public entity. The  
1491 circuit or chancery judge must serve the county in which the  
1492 records, documents or other evidence is located; or where all or  
1493 part of the transaction or transactions occurred which are the  
1494 subject of the subpoena;



1495           (j) In any instances in which the State Auditor is or  
1496 shall be authorized or required to examine or audit, whether  
1497 preaudit or postaudit, any books, ledgers, accounts or other  
1498 records of the affairs of any public hospital owned or owned and  
1499 operated by one or more political subdivisions or parts thereof or  
1500 any combination thereof, or any school district, including  
1501 activity funds thereof, it shall be sufficient compliance  
1502 therewith, in the discretion of the State Auditor, that such  
1503 examination or audit be made from the report of any audit or other  
1504 examination certified by a certified public accountant and  
1505 prepared by or under the supervision of such certified public  
1506 accountant. Such audits shall be made in accordance with  
1507 generally accepted standards of auditing, with the use of an audit  
1508 program prepared by the State Auditor, and final reports of such  
1509 audits shall conform to the format prescribed by the State  
1510 Auditor. All files, working papers, notes, correspondence and all  
1511 other data compiled during the course of the audit shall be  
1512 available, without cost, to the State Auditor for examination and  
1513 abstracting during the normal business hours of any business day.  
1514 The expense of such certified reports shall be borne by the  
1515 respective hospital, or any available school district funds other  
1516 than minimum program funds, subject to examination or audit. The  
1517 State Auditor shall not be bound by such certified reports and  
1518 may, in his or their discretion, conduct such examination or audit



1519 from the books, ledgers, accounts or other records involved as may  
1520 be appropriate and authorized by law;

1521 (k) The State Auditor shall have the authority to  
1522 contract with qualified public accounting firms to perform  
1523 selected audits required in paragraphs (d), (e), (f) and (j) of  
1524 this section, if funds are made available for such contracts by  
1525 the Legislature, or if funds are available from the governmental  
1526 entity covered by paragraphs (d), (e), (f) and (j). Such audits  
1527 shall be made in accordance with generally accepted standards of  
1528 auditing. All files, working papers, notes, correspondence and  
1529 all other data compiled during the course of the audit shall be  
1530 available, without cost, to the State Auditor for examination and  
1531 abstracting during the normal business hours of any business day;

1532 (l) The State Auditor shall have the authority to  
1533 establish training courses and programs for the personnel of the  
1534 various state and local governmental entities under the  
1535 jurisdiction of the Office of the State Auditor. The training  
1536 courses and programs shall include, but not be limited to, topics  
1537 on internal control of funds, property and equipment control and  
1538 inventory, governmental accounting and financial reporting, and  
1539 internal auditing. The State Auditor is authorized to charge a  
1540 fee from the participants of these courses and programs, which fee  
1541 shall be deposited into the Department of Audit Special Fund.  
1542 State and local governmental entities are authorized to pay such  
1543 fee and any travel expenses out of their general funds or any



1544 other available funds from which such payment is not prohibited by  
1545 law;

1546 (m) Upon written request by the Governor or any member  
1547 of the State Legislature, the State Auditor may audit any state  
1548 funds and/or state and federal funds received by any nonprofit  
1549 corporation incorporated under the laws of this state;

1550 (n) To conduct performance audits of personal or  
1551 professional service contracts by state agencies on a random  
1552 sampling basis, or upon request of the State Personal Service  
1553 Contract Review Board under Section 25-9-120(3); and

1554 (o) At the discretion of the State Auditor, the Auditor  
1555 may conduct risk assessments, as well as performance and  
1556 compliance audits based on Generally Accepted Government Auditing  
1557 Standards (GAGAS) of any state-funded economic development program  
1558 authorized under Title 57, Mississippi Code of 1972. After risk  
1559 assessments or program audits, the State Auditor may conduct  
1560 audits of those projects deemed high-risk, specifically as they  
1561 identify any potential wrongdoing or noncompliance based on  
1562 objectives of the economic development program. The Auditor is  
1563 granted authority to gather, audit and review data and information  
1564 from the Mississippi Development Authority or any of its agents,  
1565 the Department of Revenue, and when necessary under this  
1566 paragraph, the recipient business or businesses or any other  
1567 private, public or nonprofit entity with information relevant to  
1568 the audit project. The maximum amount the State Auditor may bill



1569 the oversight agency under this paragraph in any fiscal year is  
1570 One Hundred Thousand Dollars (\$100,000.00), based on reasonable  
1571 and necessary expenses.

1572         **SECTION 27.** Section 7-9-51, Mississippi Code of 1972, is  
1573 amended as follows:

1574         7-9-51. If the State Treasurer shall misapply, waste, or  
1575 embezzle any money, stock, securities, or other property in the  
1576 Treasury, it shall be the duty of the Attorney General to bring  
1577 suit, subject to the provisions of Sections 1 and 2 of this act,  
1578 on the bond of such Treasurer, in the circuit court of the county  
1579 where the seat of government is situated, for the amount of money,  
1580 stock, securities, or other property so misapplied, wasted, or  
1581 embezzled. If a judgment be rendered for the plaintiff, the  
1582 defendant shall pay double the damages assessed, not exceeding the  
1583 penalty of the bond.

1584         **SECTION 28.** Section 7-11-15, Mississippi Code of 1972, is  
1585 brought forward as follows:

1586         7-11-15. The Secretary of State shall secure a sufficient  
1587 number of suitable and well bound books for each county, so that  
1588 the lands now or hereafter owned by the state may be compiled  
1589 therein. The books, in addition to the necessary columns on which  
1590 to list all necessary information with reference to the lands  
1591 owned, shall contain a column on which to number all patents or  
1592 contracts issued and any other information. The order of



1593 arrangement and all other matters pertaining thereto are hereby  
1594 specifically left to the discretion of the Secretary of State.

1595 In addition to the foregoing records, the Secretary of State  
1596 shall provide and cause to be kept a separate register of the  
1597 several different classes of lands, with appropriate references to  
1598 other records or documents for information concerning the whole  
1599 class, and of each parcel, if need be. He may cause correct  
1600 township maps to be prepared from the field notes of original  
1601 surveys, with all errors in the location of natural objects, if  
1602 any there be, corrected, which maps may be supplied to the several  
1603 counties at reasonable prices; and he may, in like manner, have  
1604 maps and plats lithographed and sold.

1605 The Secretary of State shall procure a sufficient number of  
1606 forms of certificates which shall be used by the chancery clerks  
1607 of each of the various counties in certifying to the Secretary of  
1608 State's office lands sold to the state for unpaid taxes in his  
1609 county, and the Secretary of State shall provide such certificates  
1610 in such form that they may be bond by him and used as a part of  
1611 the permanent records of his office. The said chancery clerks  
1612 shall use only such forms of certificates in certifying said lands  
1613 to the Secretary of State's office, and failure to do so shall  
1614 subject such chancery clerk so refusing or failing to do so, and  
1615 his bondsman, to a penalty of Five Hundred Dollars (\$500.00),  
1616 which penalty shall be collected by the Attorney General in a suit  
1617 therefor filed in the name of the State of Mississippi. Such





1618 certificates, before being filed by the Secretary of State, shall  
1619 be examined by the Attorney General. The Secretary of State, with  
1620 the approval of the Attorney General, shall strike from such  
1621 certificates all lands which, by reason of insufficient  
1622 description or other cause, in the opinion of the Attorney General  
1623 are not the property of the state; and the title of the state to  
1624 such lands as may be thus stricken off shall be thereby  
1625 relinquished.

1626         **SECTION 29.** Section 9-3-17, Mississippi Code of 1972, is  
1627 amended as follows:

1628         9-3-17. The clerk shall carefully keep a minute of the  
1629 proceedings of the court for each day, drawn up at large in a  
1630 record book to be kept by him for that purpose; he shall  
1631 seasonably record the judgments, decrees, orders, and decisions of  
1632 the Court of Appeals and the Supreme Court; he shall safely keep  
1633 all records, files, books and papers committed to his charge, and  
1634 also all presses and furniture belonging to his office, and  
1635 deliver such records, files, books, papers, presses and furniture  
1636 to his successor in office; and in case of refusal or failure to  
1637 deliver whatever belongs to his office to his successor, his bond  
1638 may be put in suit by the Attorney General, subject to the  
1639 provisions of Sections 1 and 2 of this act; he shall prepare for  
1640 any person demanding the same a certified copy of any paper,  
1641 record, decree, judgment, or entry on file in his office, proper  
1642 to be certified, for the fees prescribed by law. The transcript



1643 filed in the Court of Appeals and Supreme Court, the process in  
1644 each case, and the judgment or decree of the court thereon, shall  
1645 be the final record in the cause, and certified as such by the  
1646 clerk whenever an exemplification of the judgment or decree of the  
1647 court may be required.

1648         **SECTION 30.** Section 11-17-19, Mississippi Code of 1972, is  
1649 brought forward as follows:

1650         11-17-19. Any person, firm or corporation which claims title  
1651 to or a leasehold or other interest in any real property, other  
1652 than sixteenth section school lands or lands granted in lieu  
1653 thereof, under or by virtue of a sale, conveyance or lease of such  
1654 property by any county, municipality, supervisor's district, or  
1655 other political subdivision of the State of Mississippi, acting  
1656 either separately or jointly, may proceed by sworn complaint in  
1657 the chancery court of the county in which such real property, or  
1658 some part thereof, is located, to have the title to or leasehold  
1659 or other interest in such real property quieted and confirmed.  
1660 Such action may be brought whether or not such person, firm or  
1661 corporation be in possession of such real property, or whether he  
1662 or it be threatened to be disturbed in such possession or not. In  
1663 such complaint, the person, firm or corporation claiming such  
1664 title or leasehold or other interest shall be the party plaintiff  
1665 and there shall be made defendants thereto the county,  
1666 municipality or other political subdivision which sold, conveyed  
1667 or leased said property, the Attorney General of the state and the



1668 district attorney of the county in which said suit is filed. In  
1669 any such suit, it shall not be necessary that the plaintiff  
1670 therein deraign his title to said property.

1671 **SECTION 31.** Section 11-43-3, Mississippi Code of 1972, is  
1672 brought forward as follows:

1673 11-43-3. Nothing in this chapter shall authorize the  
1674 discharge of any person convicted of an offense, or charged with  
1675 an offense committed in any other part of the United States, and  
1676 who, agreeably to the Constitution of the United States or the  
1677 laws of the state, ought to be delivered up to the executive power  
1678 of the state or territory where the offense is charged to have  
1679 been committed; nor of any person suffering imprisonment under  
1680 lawful judgment.

1681 This chapter shall not apply to any collateral relief sought  
1682 by any person following his conviction of a crime. Such relief  
1683 shall be governed by the procedures prescribed in the Mississippi  
1684 Uniform Post-Conviction Collateral Relief Act.

1685 Provided, in any suit filed seeking the release of any person  
1686 being held for extradition to any other part of the United States,  
1687 its territories or foreign countries or any suit filed hereunder  
1688 seeking the release of any person ordered extradited, a copy of  
1689 the petition and writ shall be served upon the Attorney General  
1690 not less than three (3) days before the date and time set for  
1691 hearing thereon.



1692           **SECTION 32.** Section 11-45-3, Mississippi Code of 1972, is  
1693 brought forward as follows:

1694           11-45-3. The summons in such suit shall be served on the  
1695 Attorney General in the mode prescribed by law for the service of  
1696 a summons in other cases; and he shall appear for the state. The  
1697 suit shall be proceeded with as if it were between private  
1698 persons; but a bill shall not be taken as confessed nor a judgment  
1699 by default be rendered against the state. The answer of the state  
1700 to any bill need not be under oath or under the great seal, but  
1701 may be made by the Attorney General for the state.

1702           **SECTION 33.** Section 13-7-41, Mississippi Code of 1972, is  
1703 brought forward as follows:

1704           13-7-41. The Attorney General shall make available suitable  
1705 space for state grand juries to meet. The Mississippi Department  
1706 of Public Safety and the Mississippi Bureau of Narcotics may  
1707 provide such services as required by the Attorney General and the  
1708 state grand juries.

1709           **SECTION 34.** Section 17-13-11, Mississippi Code of 1972, is  
1710 brought forward as follows:

1711           17-13-11. (1) Every agreement made by a local governmental  
1712 unit hereunder shall, prior to and as a condition precedent to its  
1713 entry into force, be submitted to the Attorney General of this  
1714 state who shall determine whether the agreement is in proper form  
1715 and compatible with the laws of this state. No agreement may be  
1716 considered that does not cite the specific authority under which



1717 each of the local governing units involved may exercise the powers  
1718 necessary to fulfill the terms of the joint agreement. The  
1719 Attorney General shall approve any such agreement submitted to him  
1720 hereunder unless he shall find that it does not meet the  
1721 conditions set forth herein and elsewhere in the laws of this  
1722 state and shall detail in writing addressed to the governing  
1723 bodies of the units concerned the specific respects in which the  
1724 proposed agreement fails to meet the requirements of law.

1725 Failure to disapprove an agreement submitted hereunder within  
1726 sixty (60) days of its submission shall constitute approval  
1727 thereof.

1728 (2) In the event that an agreement made pursuant to this  
1729 chapter shall deal in whole or in part with the provision of  
1730 services or facilities with regard to which an officer, unit or  
1731 agency of the state government has constitutional or statutory  
1732 powers of control, the agreement shall, as a condition precedent  
1733 to its being in force, be submitted to the state officer, unit or  
1734 agency having such power of control and shall be approved or  
1735 disapproved by him or it as to all matters within his or its  
1736 jurisdiction in the same manner and subject to the same  
1737 requirements governing action of the Attorney General pursuant to  
1738 subsection (1) of this section.

1739 (3) Prior to its being in force, an agreement made pursuant  
1740 to this chapter shall be filed with the chancery clerk of each of  
1741 the counties wherein a participating local governmental unit is



1742 located and with the Secretary of State. The chancery clerk and  
1743 the Secretary of State shall preserve such agreements as public  
1744 records and index and docket the same separate and apart from all  
1745 other records in his office.

1746         **SECTION 35.** Section 19-2-12, Mississippi Code of 1972, is  
1747 amended as follows:

1748         19-2-12. (1) If upon audit, examination or investigation,  
1749 the State Auditor determines that an individual member of a county  
1750 board of supervisors is not in substantial compliance with the  
1751 provisions of law that require the county to operate on a  
1752 countywide system of road administration, as described in Section  
1753 19-2-3, then the State Auditor shall give, by United States  
1754 Certified Mail, return receipt requested, written notification to  
1755 the supervisor of such noncompliance. If within thirty (30) days  
1756 after receipt of the notice, such supervisor, in the opinion of  
1757 the State Auditor, remains in noncompliance, the Auditor may  
1758 institute civil proceedings in the chancery court of the county in  
1759 which the supervisor serves. The court, upon hearing, shall  
1760 decide the issue and, if it determines that such supervisor is not  
1761 in substantial compliance, shall order the supervisor to  
1762 immediately and thereafter comply. Violations of any order of the  
1763 court shall be punishable as for contempt. In addition, the  
1764 court, in its discretion, may impose a civil penalty in an amount  
1765 not to exceed Five Thousand Dollars (\$5,000.00) upon the  
1766 supervisor, for which he shall be liable in his individual



1767 capacity, for any such noncompliance that the court determines as  
1768 intentional or willful.

1769 (2) The provisions of this section shall not be construed to  
1770 prevent the State Auditor, the Attorney General or any other  
1771 public official, as otherwise authorized by law, from initiating  
1772 or commencing civil actions or criminal proceedings by or on  
1773 behalf of the state or any county or political subdivision for the  
1774 misappropriation or the unlawful use, taking or conversion of  
1775 public funds or public property; however, the Attorney General  
1776 shall be subject to the provisions of Sections 1 and 2 of this  
1777 act.

1778 **SECTION 36.** Section 23-15-813, Mississippi Code of 1972, is  
1779 amended as follows:

1780 23-15-813. (a) In addition to any other penalty permitted  
1781 by law, the Mississippi Ethics Commission shall require any  
1782 candidate or political committee, as identified in Section  
1783 23-15-805(a), and any other political committee registered with  
1784 the Secretary of State, who fails to file a campaign finance  
1785 disclosure report as required under Sections 23-15-801 through  
1786 23-15-813, or Sections 23-17-47 through 23-17-53, or who shall  
1787 file a report that fails to substantially comply with the  
1788 requirements of Sections 23-15-801 through 23-15-813, or Sections  
1789 23-17-47 through 23-17-53, to be assessed a civil penalty as  
1790 follows:



1791 (i) Within five (5) calendar days after any deadline  
1792 for filing a report pursuant to Sections 23-15-801 through  
1793 23-15-813, or Sections 23-17-47 through 23-17-53, the Secretary of  
1794 State shall compile a list of those candidates and political  
1795 committees who have failed to file a report. The list shall be  
1796 provided to the Mississippi Ethics Commission. The Secretary of  
1797 State shall provide each candidate or political committee, who has  
1798 failed to file a report, notice of the failure by first-class  
1799 mail.

1800 (ii) Beginning with the tenth calendar day after which  
1801 any report is due, the Mississippi Ethics Commission shall assess  
1802 the delinquent candidate and political committee a civil penalty  
1803 of Fifty Dollars (\$50.00) for each day or part of any day until a  
1804 valid report is delivered to the Secretary of State, up to a  
1805 maximum of ten (10) days. In the discretion of the Mississippi  
1806 Ethics Commission, the assessing of the fine may be waived, in  
1807 whole or in part, if the Commission determines that unforeseeable  
1808 mitigating circumstances, such as the health of the candidate,  
1809 interfered with the timely filing of a report. Failure of a  
1810 candidate or political committee to receive notice of failure to  
1811 file a report from the Secretary of State is not an unforeseeable  
1812 mitigating circumstance, and failure to receive the notice shall  
1813 not result in removal or reduction of any assessed civil penalty.

1814 (iii) Filing of the required report and payment of the  
1815 fine within ten (10) calendar days of notice by the Secretary of





1816 State that a required statement has not been filed constitutes  
1817 compliance with Sections 23-15-801 through 23-15-813, or Sections  
1818 23-17-47 through 23-17-53.

1819 (iv) Payment of the fine without filing the required  
1820 report does not excuse or exempt any person from the filing  
1821 requirements of Sections 23-15-801 through 23-15-813, and Sections  
1822 23-17-47 through 23-17-53.

1823 (v) If any candidate or political committee is assessed  
1824 a civil penalty, and the penalty is not subsequently waived by the  
1825 Mississippi Ethics Commission, the candidate or political  
1826 committee shall pay the fine to the Commission within ninety (90)  
1827 days of the date of the assessment of the fine. If, after one  
1828 hundred twenty (120) days of the assessment of the fine the  
1829 payment for the entire amount of the assessed fine has not been  
1830 received by the Commission, the Commission shall notify the  
1831 Attorney General of the delinquency, and the Attorney General  
1832 shall file, subject to the provisions of Sections 1 and 2 of this  
1833 act, where necessary, a suit to compel payment of the civil  
1834 penalty.

1835 (b) (i) Upon the sworn application, made within sixty (60)  
1836 calendar days of the date upon which the required report is due,  
1837 of a candidate or political committee against whom a civil penalty  
1838 has been assessed pursuant to subsection (a) of this section, the  
1839 Secretary of State shall forward the application to the State  
1840 Board of Election Commissioners. The State Board of Election



1841 Commissioners shall appoint one or more hearing officers who shall  
1842 be former chancellors, circuit court judges, judges of the Court  
1843 of Appeals or justices of the Supreme Court, to conduct hearings  
1844 held pursuant to this article. The hearing officer shall fix a  
1845 time and place for a hearing and shall cause a written notice  
1846 specifying the civil penalties that have been assessed against the  
1847 candidate or political committee and notice of the time and place  
1848 of the hearing to be served upon the candidate or political  
1849 committee at least twenty (20) calendar days before the hearing  
1850 date. The notice may be served by mailing a copy of the notice by  
1851 certified mail, postage prepaid, to the last-known business  
1852 address of the candidate or political committee.

1853 (ii) The hearing officer may issue subpoenas for the  
1854 attendance of witnesses and the production of documents at the  
1855 hearing. Process issued by the hearing officer shall extend to  
1856 all parts of the state and shall be served by any person  
1857 designated by the hearing officer for the service.

1858 (iii) The candidate or political committee has the  
1859 right to appear either personally, by counsel or both, to produce  
1860 witnesses or evidence in his or her behalf, to cross-examine  
1861 witnesses and to have subpoenas issued by the hearing officer.

1862 (iv) At the hearing, the hearing officer shall  
1863 administer oaths as may be necessary for the proper conduct of the  
1864 hearing. All hearings shall be conducted by the hearing officer,  
1865 who shall not be bound by strict rules of procedure or by the laws



1866 of evidence, but the determination shall be based upon sufficient  
1867 evidence to sustain it. The scope of review at the hearing shall  
1868 be limited to making a determination of whether failure to file a  
1869 required report was due to an unforeseeable mitigating  
1870 circumstance.

1871 (v) In any proceeding before the hearing officer, if  
1872 any witness fails or refuses to attend upon a subpoena issued by  
1873 the commission, refuses to testify, or refuses to produce any  
1874 documents called for by a subpoena, the attendance of the witness,  
1875 the giving of his or her testimony or the production of the  
1876 documents shall be enforced by a court of competent jurisdiction  
1877 of this state in the manner provided for the enforcement of  
1878 attendance and testimony of witnesses in civil cases in the courts  
1879 of this state.

1880 (vi) Within fifteen (15) calendar days after conclusion  
1881 of the hearing, the hearing officer shall reduce his or her  
1882 decision to writing and forward an attested true copy of the  
1883 decision to the last-known business address of the candidate or  
1884 political committee by way of United States first-class, certified  
1885 mail, postage prepaid.

1886 (c) (i) The right to appeal from the decision of the  
1887 hearing officer in an administrative hearing concerning the  
1888 assessment of civil penalties authorized pursuant to this section  
1889 is granted. The appeal shall be to the Circuit Court of Hinds  
1890 County and shall include a verbatim transcript of the testimony at



1891 the hearing. The appeal shall be taken within thirty (30)  
1892 calendar days after notice of the decision of the commission  
1893 following an administrative hearing. The appeal shall be  
1894 perfected upon filing notice of the appeal and the prepayment of  
1895 all costs, including the cost of preparing the record of the  
1896 proceedings by the hearing officer, and filing a bond in the sum  
1897 of Two Hundred Dollars (\$200.00), conditioned that if the decision  
1898 of the hearing officer is affirmed by the court, the candidate or  
1899 political committee will pay the costs of the appeal and the  
1900 action in court. If the decision is reversed by the court, the  
1901 Mississippi Ethics Commission will pay the costs of the appeal and  
1902 the action in court.

1903 (ii) If there is an appeal, the appeal shall act as a  
1904 supersedeas. The court shall dispose of the appeal and enter its  
1905 decision promptly. The hearing on the appeal may be tried in  
1906 vacation, in the court's discretion. The scope of review of the  
1907 court shall be limited to a review of the record made before the  
1908 hearing officer to determine if the action of the hearing officer  
1909 is unlawful for the reason that it was 1. not supported by  
1910 substantial evidence, 2. arbitrary or capricious, 3. beyond the  
1911 power of the hearing officer to make, or 4. in violation of some  
1912 statutory or constitutional right of the appellant. The decision  
1913 of the court may be appealed to the Supreme Court in the manner  
1914 provided by law.



1915 (d) If, after forty-five (45) calendar days of the date of  
1916 the administrative hearing procedure set forth in subsection (b),  
1917 the candidate or political committee identified in subsection (a)  
1918 of this section fails to pay the monetary civil penalty imposed by  
1919 the hearing officer, the Secretary of State shall notify the  
1920 Attorney General of the delinquency. The Attorney General shall  
1921 investigate the offense in accordance with the provisions of this  
1922 chapter, and where necessary, subject to the provisions of  
1923 Sections 1 and 2 of this act, file suit to compel payment of the  
1924 unpaid civil penalty.

1925 (e) If, after twenty (20) calendar days of the date upon  
1926 which a campaign finance disclosure report is due, a candidate or  
1927 political committee identified in subsection (a) of this section  
1928 shall not have filed a valid report with the Secretary of State,  
1929 the Secretary of State shall notify the Attorney General of those  
1930 candidates and political committees who have not filed a valid  
1931 report, and the Attorney General shall prosecute the delinquent  
1932 candidates and political committees.

1933 **SECTION 37.** Section 25-4-21, Mississippi Code of 1972, is  
1934 amended as follows:

1935 25-4-21. (1) Upon receipt of a complaint that complies with  
1936 Section 25-4-19, the commission shall authorize a confidential  
1937 investigation of the complaint. Upon completion of the  
1938 investigation, the commission shall proceed as follows:



1939           (a) If the complaint concerns a public official in the  
1940 legislative branch, the commission shall refer the complaint,  
1941 confidentially, to the public official and to the appropriate  
1942 committee of the House of Representatives or the Senate having  
1943 jurisdiction over the ethical conduct of its members and  
1944 employees.

1945           (b) If the complaint concerns a public official in the  
1946 judicial branch, the commission shall refer the complaint,  
1947 confidentially, to the public official and to the Commission on  
1948 Judicial Performance or the Chief Justice of the Supreme Court.

1949           (c) If the complaint concerns a public official in the  
1950 executive branch or persons not covered in paragraph (a) or (b) of  
1951 this subsection, then the commission shall refer the complaint,  
1952 confidentially, to the public official and to the head of the  
1953 department or agency, if the person is in the executive branch,  
1954 or, for other public officials, to the person about whom the  
1955 complaint is filed.

1956           (d) The persons, committees or commission receiving  
1957 complaints referred in paragraph (a), (b) or (c) shall have thirty  
1958 (30) days within which to respond to the complaint.

1959           (e) After receiving the response to the complaint or,  
1960 if no response is received after thirty (30) days from the notice  
1961 of referral, the commission may, in its discretion, terminate the  
1962 matter or proceed with an investigation as follows:



1963 (i) The commission may terminate any and all  
1964 proceedings at any stage of its procedure upon a determination  
1965 that an appropriate disposition of the matter has occurred.

1966 (ii) If the investigation indicates probable cause  
1967 for belief that a violation of law has occurred, the commission  
1968 may set a hearing of the matter to be held in accordance with the  
1969 Mississippi Rules of Civil Procedure and the Mississippi Rules of  
1970 Evidence. After the hearing, the commission may order penalties  
1971 as prescribed in this chapter. The commission may enroll its  
1972 order as a civil judgment with the circuit clerk in the county of  
1973 residence of the judgment debtor. The commission may enforce the  
1974 judgment on behalf of the State General Fund in the same manner as  
1975 prescribed for other civil judgments, after complying with  
1976 subsection (2) of this section.

1977 (iii) The commission may refer the complaint with  
1978 any evidence gathered during the investigation to the Attorney  
1979 General and to the district attorney having jurisdiction, with a  
1980 recommendation that it be considered for presentation to the grand  
1981 jury. The Attorney General and the district attorney shall report  
1982 back to the commission within ninety (90) days as to what action  
1983 was taken following receipt of the complaint and recommendations  
1984 of the commission, including the intent of the Attorney General to  
1985 seek further civil remedies, subject to the provisions of Sections  
1986 1 and 2 of this act, and the intent of the district attorney to  
1987 present such matter to the grand jury.



1988 (2) Any person aggrieved by a decision of the commission  
1989 made pursuant to its hearing procedures may appeal de novo to the  
1990 Circuit Court for Hinds County and execution of the commission's  
1991 decision shall be stayed upon the filing of a notice of appeal.

1992 (3) Civil actions taken by the commission shall not bar  
1993 prosecutions for violations of the criminal law.

1994 **SECTION 38.** Section 25-4-113, Mississippi Code of 1972, is  
1995 amended as follows:

1996 25-4-113. The Attorney General of the State of Mississippi,  
1997 the commission, or any governmental entity directly injured by a  
1998 violation of this article may bring a separate civil action,  
1999 subject to the provisions of Sections 1 and 2 of this act, against  
2000 the public servant or other person or business violating the  
2001 provisions of this article for recovery of damages suffered as a  
2002 result of such violation. Further, any pecuniary benefit received  
2003 by or given by a public servant in violation of this article shall  
2004 be declared forfeited by a circuit court of competent jurisdiction  
2005 for the benefit of the governmental entity injured. In the  
2006 discretion of the court, any judgment for damages or forfeiture of  
2007 pecuniary benefit may include costs of court and reasonable  
2008 attorney's fees.

2009 **SECTION 39.** Section 25-7-7, Mississippi Code of 1972, is  
2010 brought forward as follows:

2011 25-7-7. The clerk of the Supreme Court shall make out a  
2012 separate, detailed account of fees adjudged against the state, in





2013 cases where the state fails in the prosecution or suit or in case  
2014 of felony where the defendant appeals on pauper oath and the costs  
2015 cannot be made out of his estate, or against any county, and due  
2016 him in civil or criminal cases, keeping the fees in each case  
2017 separate, and shall present it to the Attorney General, who shall  
2018 examine the fee bill in each case and approve it if found to be  
2019 correct. The fee bill thus approved shall be presented to the  
2020 Supreme Court for allowance. If the court allow the same, it  
2021 shall direct in criminal cases that it be paid out of the county  
2022 treasury of the county where the prosecution was begun, on the  
2023 order of the board of supervisors thereof; and in civil cases,  
2024 that it be paid out of the state or county treasury, as the case  
2025 may be. The board of supervisors shall allow said claim for fees  
2026 against the county on presentation of a duly certified copy of the  
2027 judgment of the Supreme Court ordering the same to be paid; and  
2028 the auditor shall issue a warrant, on the order of the Supreme  
2029 Court, for such costs against the state in civil cases to be paid  
2030 by the State Treasurer out of the proper appropriation.

2031       **SECTION 40.** Section 25-9-127, Mississippi Code of 1972, is  
2032 brought forward as follows:

2033       25-9-127. (1) No employee of any department, agency or  
2034 institution who is included under this chapter or hereafter  
2035 included under its authority, and who is subject to the rules and  
2036 regulations prescribed by the state personnel system, may be  
2037 dismissed or otherwise adversely affected as to compensation or



2038 employment status except for inefficiency or other good cause, and  
2039 after written notice and hearing within the department, agency or  
2040 institution as shall be specified in the rules and regulations of  
2041 the State Personnel Board complying with due process of law; and  
2042 any employee who has by written notice of dismissal or action  
2043 adversely affecting his compensation or employment status shall,  
2044 on hearing and on any appeal of any decision made in such action,  
2045 be required to furnish evidence that the reasons stated in the  
2046 notice of dismissal or action adversely affecting his compensation  
2047 or employment status are not true or are not sufficient grounds  
2048 for the action taken; provided, however, that this provision shall  
2049 not apply (a) to persons separated from any department, agency or  
2050 institution due to curtailment of funds or reduction in staff when  
2051 such separation is in accordance with rules and regulations of the  
2052 state personnel system; (b) during the probationary period of  
2053 state service of twelve (12) months; and (c) to an executive  
2054 officer of any state agency who serves at the will and pleasure of  
2055 the Governor, board, commission or other appointing authority.

2056       (2) The operation of a state-owned motor vehicle without a  
2057 valid Mississippi driver's license by an employee of any  
2058 department, agency or institution that is included under this  
2059 chapter and that is subject to the rules and regulations of the  
2060 state personnel system shall constitute good cause for dismissal  
2061 of such person from employment.



2062           (3) Beginning July 1, 1999, every male between the ages of  
2063 eighteen (18) and twenty-six (26) who is required to register  
2064 under the federal Military Selective Service Act, 50 USCS App.  
2065 453, and who is an employee of the state shall not be promoted to  
2066 any higher position of employment with the state until he submits  
2067 to the person, commission, board or agency by which he is employed  
2068 satisfactory documentation of his compliance with the draft  
2069 registration requirements of the Military Selective Service Act.  
2070 The documentation shall include a signed affirmation under penalty  
2071 of perjury that the male employee has complied with the  
2072 requirements of the Military Selective Service Act.

2073           (4) For a period of two (2) years beginning July 1, 2014,  
2074 the provisions of subsection (1) shall not apply to the personnel  
2075 actions of the State Department of Education that are subject to  
2076 the rules and regulations of the State Personnel Board, and all  
2077 employees of the department shall be classified as nonstate  
2078 service during that period. However, any employee hired after  
2079 July 1, 2014, by the department shall meet the criteria of the  
2080 State Personnel Board as it presently exists for employment. The  
2081 State Superintendent of Public Education and the State Board of  
2082 Education shall consult with the Office of the Attorney General  
2083 before taking personnel actions authorized by this section to  
2084 review those actions for compliance with applicable state and  
2085 federal law.



2086           It is not the intention or effect of this section to include  
2087 any school attendance officer in any exemption from coverage under  
2088 the State Personnel Board policy or regulations, including, but  
2089 not limited to, termination and conditions of employment.

2090           (5) (a) For a period of two (2) years beginning July 1,  
2091 2015, the provisions of subsection (1) shall not apply to the  
2092 personnel actions of the Department of Corrections, and all  
2093 employees of the department shall be classified as nonstate  
2094 service during that period. However, any employee hired after  
2095 July 1, 2015, by the department shall meet the criteria of the  
2096 State Personnel Board as it presently exists for employment.

2097           (b) Additionally, for a period of one (1) year  
2098 beginning July 1, 2016, the personnel actions of the Commissioner  
2099 of the Department of Corrections shall be exempt from State  
2100 Personnel Board rules, regulations and procedures in order to give  
2101 the commissioner flexibility in making an orderly, effective and  
2102 timely reorganization and realignment of the department.

2103           (c) The Commissioner of Corrections shall consult with  
2104 the Office of the Attorney General before personnel actions  
2105 authorized by this section to review those actions for compliance  
2106 with applicable state and federal law.

2107           (6) Through July 1, 2019, the provisions of subsection (1)  
2108 of this section shall not apply to the personnel actions of the  
2109 Department of Human Services that are subject to the rules and  
2110 regulations of the State Personnel Board, and all employees of the



2111 department shall be classified as nonstate service during that  
2112 period. Any employee hired on or after July 1, 2019, by the  
2113 department shall meet the criteria of the State Personnel Board as  
2114 it presently exists for employment. The Executive Director of  
2115 Human Services shall consult with the Office of the Attorney  
2116 General before taking personnel actions authorized by this section  
2117 to review those actions for compliance with applicable state and  
2118 federal law.

2119 (7) Through July 1, 2019, the provisions of subsection (1)  
2120 of this section shall not apply to the personnel actions of the  
2121 Department of Child Protection Services that are subject to the  
2122 rules and regulations of the State Personnel Board, and all  
2123 employees of the department shall be classified as nonstate  
2124 service during that period. Any employee hired on or after July  
2125 1, 2019, by the division shall meet the criteria of the State  
2126 Personnel Board as it presently exists for employment. The  
2127 Commissioner of Child Protection Services shall consult with the  
2128 Office of the Attorney General before taking personnel actions  
2129 authorized by this section to review those actions for compliance  
2130 with applicable state and federal law.

2131 (8) Any state agency whose personnel actions are exempted in  
2132 this section from the rules, regulations and procedures of the  
2133 State Personnel Board shall file with the Lieutenant Governor, the  
2134 Speaker of the House of Representatives, and the members of the  
2135 Senate and House Accountability, Efficiency, Transparency



2136 Committees an annual report no later than July 1, 2016, and each  
2137 year thereafter while under the exemption. Such annual report  
2138 shall contain the following information:

2139 (a) The number of current employees who received an  
2140 increase in salary during the past fiscal year and the amount of  
2141 the increase;

2142 (b) The number of employees who were dismissed from the  
2143 agency or otherwise adversely affected as to compensation or  
2144 employment status during the past fiscal year, including a  
2145 description of such adverse effects; and

2146 (c) The number of new employees hired during the past  
2147 fiscal year and the starting salaries of each new employee.

2148 **SECTION 41.** Section 25-31-11, Mississippi Code of 1972, is  
2149 brought forward as follows:

2150 25-31-11. (1) It shall be the duty of the district attorney  
2151 to represent the state in all matters coming before the grand  
2152 juries of the counties within his district and to appear in the  
2153 circuit courts and prosecute for the state in his district all  
2154 criminal prosecutions and all civil cases in which the state or  
2155 any county within his district may be interested; but if two (2)  
2156 or more counties are adversely interested, the district attorney  
2157 shall not represent either. Any district attorney may also  
2158 institute and prosecute to final judgment or decree any case in  
2159 the name of the state against any person or corporation for any  
2160 violation of the Constitution or the laws of this state, in order



2161 to enforce any penalties, fines or forfeitures imposed by law in  
2162 any court of his district having jurisdiction, with like effect as  
2163 if the suit was instituted by the Attorney General.

2164 (2) The district attorney may transfer any case handled by  
2165 him to a county prosecuting attorney when charges in such case no  
2166 longer constitute a felony.

2167 (3) The validity of any judgment or sentence shall not be  
2168 affected by the division of jurisdiction under this section, and  
2169 no judgment or sentence may be reversed or modified upon the basis  
2170 that the case was not processed according to this section.

2171 (4) A county prosecuting attorney or municipal prosecuting  
2172 attorney may be designated by the district attorney to appear on  
2173 behalf of the district attorney pursuant to an agreement relating  
2174 to appearances in certain courts or proceedings in the county of  
2175 the county prosecuting attorney or in the municipality of the  
2176 municipal prosecuting attorney. Such agreement shall be filed  
2177 with the circuit court clerk of any county where such agreement  
2178 shall be operative. Such agreement shall be binding upon the  
2179 district attorney and county prosecuting attorney or municipal  
2180 prosecuting attorney until dissolved by either of them in writing  
2181 upon five (5) days' notice.

2182 (5) Where any statute of this state confers a jurisdiction,  
2183 responsibility, duty, privilege or power upon a county attorney or  
2184 county prosecuting attorney, either solely, jointly or  
2185 alternatively with a district attorney, such county prosecuting



2186 attorney shall be responsible for the prosecution, handling,  
2187 appearance, disposition or other duty conferred by such statute.  
2188 Any such provision shall not be construed to bestow such  
2189 responsibility, jurisdiction or power upon the district attorney  
2190 where there is no elected county prosecuting attorney, and any  
2191 such matter shall be handled pursuant to Section 19-3-49,  
2192 Mississippi Code of 1972.

2193 (6) The district attorney or his designated assistant, or  
2194 the county prosecuting attorney or his designated assistant, shall  
2195 assist the Attorney General in appeals from his district to the  
2196 Mississippi Supreme Court and in other post judgment proceedings,  
2197 and shall appear for oral argument before the Supreme Court when  
2198 directed by the Supreme Court.

2199 (7) The several district attorneys shall submit reports of  
2200 revenues and expenditures and shall submit budget requests as  
2201 required for State General Fund agencies. For purposes of budget  
2202 control, the several offices of district attorney shall be  
2203 considered General Fund agencies and the budget and accounts of  
2204 the several offices, including salaries, travel expenses, office  
2205 expenses and any other expenditures or revenues, shall be  
2206 consolidated for all districts as far as such consolidation is  
2207 practical.

2208 All revenue or funds allocated or expended by a district  
2209 attorney, whether such funds are appropriated from state funds, or





2210 whether such funds are received from county funds, grants or  
2211 otherwise, shall be reported to the Legislative Budget Office.

2212 (8) A district attorney shall be authorized to assign the  
2213 duties of employees regardless of the source of funding for such  
2214 employees.

2215 **SECTION 42.** Section 25-31-19, Mississippi Code of 1972, is  
2216 amended as follows:

2217 25-31-19. The several district attorneys, with the Attorney  
2218 General, are hereby authorized to institute or defend any suits,  
2219 subject to the provisions of Sections 1 and 2 of this act, arising  
2220 out of any act or order of the \* \* \* Department of Revenue or the  
2221 Public Service Commission affecting the laws and revenues of the  
2222 state, and are also clothed with such other authority as is  
2223 conferred upon them at common law.

2224 **SECTION 43.** Section 25-31-25, Mississippi Code of 1972, is  
2225 amended as follows:

2226 25-31-25. When it may be necessary and proper for the  
2227 enforcement or collection of any judgment or debt in favor of the  
2228 state, or any officer thereof in his official capacity, or of any  
2229 county, the district attorney with the approval of the Attorney  
2230 General shall institute and prosecute, subject to the provisions  
2231 of Sections 1 and 2 of this act, in behalf of the creditor, a suit  
2232 or suits to set aside and annul any conveyance or other device  
2233 fraudulently made by the debtor, or any one for him, to hinder,  
2234 delay, or defraud the creditor.



2235           **SECTION 44.** Section 25-31-27, Mississippi Code of 1972, is  
2236 brought forward as follows:

2237           25-31-27. No district attorney of this state, without the  
2238 consent in writing of the Attorney General, shall institute or  
2239 prosecute any civil suit for a violation of the antitrust statutes  
2240 of this state; and no court shall take cognizance of any such suit  
2241 without such written consent of the Attorney General.

2242           **SECTION 45.** Section 27-3-73, Mississippi Code of 1972, is  
2243 amended as follows:

2244           27-3-73. (1) Except in accordance with proper judicial  
2245 order or as otherwise provided in this section or as authorized in  
2246 Section 27-4-3, it shall be unlawful for the Commissioner of  
2247 Revenue, or any deputy, agent, clerk or other officer or employee  
2248 of the Department of Revenue, to divulge or make known in any  
2249 manner the amount of income or any particulars set forth or  
2250 disclosed in any report or return required on any taxes collected  
2251 by reports received by the Department of Revenue. This provision  
2252 relates to all taxes collected by the Department of Revenue and  
2253 not referred to in Sections 27-7-83, 27-13-57 and 27-65-81,  
2254 requiring confidentiality of income tax, franchise tax and sales  
2255 tax returns. All system edits, thresholds, and any other  
2256 automated system calculations used by the Department of Revenue in  
2257 the processing of returns or statistics or used to determine the  
2258 correct tax due for all taxes administered by the department shall  
2259 be considered confidential information and may not be divulged or



2260 made known. Nothing in this section shall be construed to  
2261 prohibit the publication of statistics, so classified as to  
2262 prevent the identification of particular reports or returns and  
2263 the items thereof, or the inspection by the Attorney General, or  
2264 any other attorney representing the state, of the report or return  
2265 of any taxpayer who shall bring action to set aside the tax  
2266 thereon, except the Attorney General's authority to bring action  
2267 shall be subject to provisions of Sections 1 and 2 of this act, or  
2268 against whom an action or proceeding has been instituted to  
2269 recover any tax or penalty imposed. Additionally, nothing in this  
2270 section shall prohibit the Commissioner of Revenue from making  
2271 available information necessary to recover taxes owing the state  
2272 pursuant to the authority granted in Section 27-75-16.

2273 The term "proper judicial order" as used in this section  
2274 shall not include subpoenas or subpoenas duces tecum but shall  
2275 include only those orders entered by a court of record in this  
2276 state after furnishing notice and a hearing to the taxpayer and  
2277 the Department of Revenue. The court shall not authorize the  
2278 furnishing of such information unless it is satisfied that the  
2279 information is needed to pursue pending litigation wherein the  
2280 return itself is in issue, or the judge is satisfied that the need  
2281 for furnishing the information outweighs the rights of the  
2282 taxpayer to have such information secreted.

2283 However, information relating to possible tax liability to  
2284 other states or the federal government may be furnished to the



2285 revenue departments of those states or the federal government when  
2286 the states or federal government grant a like comity to  
2287 Mississippi.

2288 (2) The State Auditor and the employees of his office shall  
2289 have the right to examine only such tax returns as are necessary  
2290 for auditing the Department of Revenue, and the same prohibitions  
2291 against disclosure which apply to the Department of Revenue shall  
2292 apply to the State Auditor and his office.

2293 (3) Officers and employees of the Mississippi Development  
2294 Authority who execute a confidentiality agreement with the  
2295 Department of Revenue shall be authorized to discuss and examine  
2296 information to which this section applies at the offices of the  
2297 Mississippi Department of Revenue. This disclosure is limited to  
2298 information necessary to properly administer the programs under  
2299 the jurisdiction of the Mississippi Development Authority. The  
2300 Department of Revenue is authorized to disclose to officers and  
2301 employees of the Mississippi Development Authority who execute a  
2302 confidentiality agreement the information necessary under the  
2303 circumstances. The same prohibitions against disclosure which  
2304 apply to the Department of Revenue shall apply to the officers or  
2305 employees of the Mississippi Development Authority.

2306 (4) Information required by the University Research Center  
2307 to prepare the analyses required by Sections 57-13-101 through  
2308 57-13-109 shall be furnished to the University Research Center  
2309 upon request. It shall be unlawful for any officer or employee of



2310 the University Research Center to divulge or make known in any  
2311 manner the amount of income or any particulars set forth or  
2312 disclosed in any information received by the center from the  
2313 Department of Revenue other than as may be required by Sections  
2314 57-13-101 through 57-13-109 in an analysis prepared pursuant to  
2315 Sections 57-13-101 through 57-13-109.

2316 (5) Information required by the Mississippi Development  
2317 Authority to prepare the reports required by Section 57-1-12.2  
2318 shall be furnished to the Mississippi Development Authority upon  
2319 request. It shall be unlawful for any officer or employee of the  
2320 Mississippi Development Authority to divulge or make known in any  
2321 manner the amount of income or any particulars set forth or  
2322 disclosed in any information received by the Mississippi  
2323 Development Authority from the Department of Revenue other than as  
2324 may be required by Section 57-1-12.2 in a report prepared pursuant  
2325 to Section 57-1-12.2.

2326 (6) Information necessary to comply with Chapter 13, Title  
2327 85, may be furnished to financial institutions. It shall be  
2328 unlawful for any officer or employee of the financial institution  
2329 to divulge or make known in any manner the amount of income or any  
2330 particulars set forth or disclosed in any information received by  
2331 the financial institution from the Department of Revenue other  
2332 than as may be authorized by Chapter 13, Title 85.

2333 (7) Any person who violates the provisions of this section  
2334 shall be guilty of a misdemeanor and, on conviction thereof, shall



2335 be fined not more than One Thousand Dollars (\$1,000.00) or  
2336 imprisoned not more than six (6) months in the county jail, or  
2337 both.

2338 (8) The Commissioner of Revenue and the Department of  
2339 Revenue are authorized to disclose to the Child Support Unit and  
2340 to the Fraud Investigation Unit of the Department of Human  
2341 Services without the need for a subpoena or proper judicial order  
2342 the name, address, social security number, amount of income,  
2343 amount of sales tax, source of income, assets and other relevant  
2344 information, records and tax forms for individuals who are  
2345 delinquent in the payment of any child support as defined in  
2346 Section 93-11-101 or who are under investigation for fraud or  
2347 abuse of any state or federal program or statute as provided in  
2348 Section 43-1-23.

2349 **SECTION 46.** Section 27-7-83, Mississippi Code of 1972, is  
2350 amended as follows:

2351 27-7-83. (1) Returns and return information filed or  
2352 furnished under the provisions of this chapter shall be  
2353 confidential, and except in accordance with proper judicial order,  
2354 as otherwise authorized by this section or as authorized in  
2355 Section 27-4-3, it shall be unlawful for the Commissioner of  
2356 Revenue or any deputy, agent, clerk or other officer or employee  
2357 of the Department of Revenue or the Mississippi Department of  
2358 Information Technology Services, or any former employee thereof,  
2359 to divulge or make known in any manner the amount of income or any



2360 particulars set forth or disclosed in any report or return  
2361 required. The provisions of this section shall apply fully to any  
2362 federal return, a copy of any portion of a federal return, or any  
2363 information reflected on a federal return which is attached to or  
2364 made a part of the state tax return. Likewise, the provisions of  
2365 this section shall apply to any federal return or portion thereof,  
2366 or to any federal return information data which is acquired from  
2367 the Internal Revenue Service for state tax administration purposes  
2368 pursuant to the Federal-State Exchange Program cited at Section  
2369 6103, Federal Internal Revenue Code. The term "proper judicial  
2370 order" as used in this section shall not include subpoenas or  
2371 subpoenas duces tecum, but shall include only those orders entered  
2372 by a court of record in this state after furnishing notice and a  
2373 hearing to the taxpayer and the Department of Revenue. The court  
2374 shall not authorize the furnishing of such information unless it  
2375 is satisfied that the information is needed to pursue pending  
2376 litigation wherein the return itself is in issue, or the judge is  
2377 satisfied that the need for furnishing the information outweighs  
2378 the rights of the taxpayer to have such information secreted.

2379 (2) Returns and return information with respect to taxes  
2380 imposed by this chapter shall be open to inspection by or  
2381 disclosure to the Commissioner of the Internal Revenue Service of  
2382 the United States, or the proper officer of any state imposing an  
2383 income tax similar to that imposed by this chapter, or the  
2384 authorized representatives of such agencies. Such inspection



2385 shall be permitted, or such disclosure made, only upon written  
2386 request by the head of such agencies, or the district director in  
2387 the case of the Internal Revenue Service, and only to the  
2388 representatives of such agencies designated in a written statement  
2389 to the Commissioner of Revenue as the individuals who are to  
2390 inspect or to receive the return or return information on behalf  
2391 of such agency. The Commissioner of Revenue is authorized to  
2392 enter into agreements with the Internal Revenue Service and with  
2393 other states for the exchange of returns and return information  
2394 data, or the disclosure of returns or return information data to  
2395 such agencies, only to the extent that the statutes of the United  
2396 States or of such other state, as the case may be, grant  
2397 substantially similar privileges to the proper officer of this  
2398 state charged with the administration of the tax laws of this  
2399 state.

2400 (3) (a) The return of a person shall, upon written request,  
2401 be open to inspection by or disclosure to:

2402 (i) In the case of the return of an individual,  
2403 that individual;

2404 (ii) In the case of an income tax return filed  
2405 jointly, either of the individuals with respect to whom the return  
2406 is filed;

2407 (iii) In the case of the return of a partnership,  
2408 any person who was a member of such partnership during any part of  
2409 the period covered by the return;





2410 (iv) In the case of the return of a corporation or  
2411 a subsidiary thereof, any person designated by resolution of its  
2412 board of directors or other similar governing body, or any officer  
2413 or employee of such corporation upon written request signed by any  
2414 principal officer and attested to by the secretary or other  
2415 officer;

2416 (v) In the case of the return of an estate, the  
2417 administrator, executor or trustee of such estate, and any heir at  
2418 law, next of kin or beneficiary under the will, of the decedent,  
2419 but only to the extent that such latter persons have a material  
2420 interest which will be affected by information contained therein;

2421 (vi) In the case of the return of a trust, the  
2422 trustee or trustees, jointly or separately, and any beneficiary of  
2423 such trust, but only to the extent that such beneficiary has a  
2424 material interest which will be affected by information contained  
2425 therein;

2426 (vii) In the case of the return of an individual  
2427 or a return filed jointly, any claimant agency seeking to collect  
2428 a debt through the setoff procedure established in Sections  
2429 27-7-701 through 27-7-713 and Sections 27-7-501 through 27-7-519,  
2430 from an individual with respect to whom the return is filed.

2431 (b) If an individual described in paragraph (a) is  
2432 legally incompetent, the applicable return shall, upon written  
2433 request, be open to inspection by or disclosure to the committee,  
2434 trustee or guardian of his estate.



2435           (c) If substantially all of the property of the person  
2436 with respect to whom the return is filed is in the hands of a  
2437 trustee in bankruptcy or receiver, such return or returns for  
2438 prior years of such person shall, upon written request, be open to  
2439 inspection by or disclosure to such trustee or receiver, but only  
2440 if the Commissioner of Revenue finds that such receiver or  
2441 trustee, in his fiduciary capacity, has a material interest which  
2442 will be affected by information contained therein.

2443           (d) Any return to which this section applies shall,  
2444 upon written request, also be open to inspection by or disclosure  
2445 to the attorney-in-fact duly authorized in writing by any of the  
2446 persons described in paragraph (a) of this subsection to inspect  
2447 the return or receive the information on his behalf, subject to  
2448 the conditions provided in paragraph (a).

2449           (e) Return information with respect to any taxpayer may  
2450 be open to inspection by or disclosure to any person authorized by  
2451 this subsection to inspect any return of such taxpayer if the  
2452 Commissioner of Revenue determines that such disclosure would not  
2453 seriously impair state tax administration.

2454           (4) The State Auditor and the employees of his office shall  
2455 have the right to examine only such tax returns as are necessary  
2456 for auditing the Department of Revenue, and the same prohibitions  
2457 against disclosure which apply to the Department of Revenue shall  
2458 apply to the State Auditor and his employees or former employees.



2459 (5) Officers and employees of the Mississippi Development  
2460 Authority who execute a confidentiality agreement with the  
2461 Department of Revenue shall be authorized to discuss and examine  
2462 information to which this section applies at the offices of the  
2463 Mississippi Department of Revenue. This disclosure is limited to  
2464 information necessary to properly administer the programs under  
2465 the jurisdiction of the Mississippi Development Authority. The  
2466 Department of Revenue is authorized to disclose to officers and  
2467 employees of the Mississippi Development Authority who execute a  
2468 confidentiality agreement the information necessary under the  
2469 circumstances. The same prohibitions against disclosure which  
2470 apply to the Department of Revenue shall apply to the officers or  
2471 employees of the Mississippi Development Authority.

2472 (6) Information required by the University Research Center  
2473 to prepare the analyses required by Sections 57-13-101 through  
2474 57-13-109 shall be furnished to the University Research Center  
2475 upon request. It shall be unlawful for any officer or employee of  
2476 the University Research Center 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 center from the  
2479 Department of Revenue other than as may be required by Sections  
2480 57-13-101 through 57-13-109 in an analysis prepared pursuant to  
2481 Sections 57-13-101 through 57-13-109.

2482 (7) Information required by the Mississippi Development  
2483 Authority to prepare the reports required by Section 57-1-12.2



2484 shall be furnished to the Mississippi Development Authority upon  
2485 request. It shall be unlawful for any officer or employee of the  
2486 Mississippi Development Authority to divulge or make known in any  
2487 manner the amount of income or any particulars set forth or  
2488 disclosed in any information received by the Mississippi  
2489 Development Authority from the Department of Revenue other than as  
2490 may be required by Section 57-1-12.2 in a report prepared pursuant  
2491 to Section 57-1-12.2.

2492 (8) Information necessary to comply with Chapter 13, Title  
2493 85, may be furnished to financial institutions. It shall be  
2494 unlawful for any officer or employee of the financial institution  
2495 to divulge or make known in any manner the amount of income or any  
2496 particulars set forth or disclosed in any information received by  
2497 the financial institution from the Department of Revenue other  
2498 than as may be authorized by Chapter 13, Title 85.

2499 (9) Nothing in this section shall be construed to prohibit  
2500 the publication of statistics, so classified as to prevent the  
2501 identification of particular reports or returns and the items  
2502 thereof, or the inspection by the Attorney General, or any other  
2503 attorney representing the state, of the report or return of any  
2504 taxpayer who shall bring action, except the Attorney General's  
2505 authority to bring action shall be subject to the provisions of  
2506 Sections 1 and 2 of this act, to set aside the tax thereon, or  
2507 against whom any action or proceeding has been instituted to  
2508 recover any tax or penalty imposed.



2509           (10) Nothing in this section shall prohibit the commissioner  
2510 from making available information necessary to recover taxes owing  
2511 the state pursuant to the authority granted in Section 27-75-16.

2512           (11) Reports and returns required under the provisions of  
2513 this chapter shall be preserved in accordance with approved  
2514 records control schedules. No records, however, may be destroyed  
2515 without the approval of the Director of the Department of Archives  
2516 and History.

2517           (12) The Department of Revenue is authorized to disclose to  
2518 the Child Support Unit and to the Fraud Investigation Unit of the  
2519 Department of Human Services without the need for a subpoena or  
2520 proper judicial order the name, address, social security number,  
2521 amount of income, source of income, assets and other relevant  
2522 information, records and tax forms for individuals who are  
2523 delinquent in the payment of any child support as defined in  
2524 Section 93-11-101 or who are under investigation for fraud or  
2525 abuse of any state or federal program or statute as provided in  
2526 Section 43-1-23.

2527           (13) Nothing in this section shall prohibit the Department  
2528 of Revenue from exchanging information with the federal government  
2529 that is necessary to offset income tax refund payment on debts  
2530 owed to this state or the United States.

2531           (14) Nothing in this section shall prohibit the department  
2532 from making available information that is necessary to be



2533 disclosed for the administration and enforcement of Section  
2534 27-7-87.

2535           **SECTION 47.** Section 27-9-39, Mississippi Code of 1972, is  
2536 amended as follows:

2537           27-9-39. Action may be brought at any time by the  
2538 commissioner or the Attorney General, except the Attorney  
2539 General's authority to bring action shall be subject to provisions  
2540 of Sections 1 and 2 of this act, of the state in the name of the  
2541 commissioner to recover the amount of any tax, penalties and  
2542 interest due under this chapter. Such action shall be brought in  
2543 the county and district where the taxpayer resides.

2544           All administrative provisions of the Mississippi Sales Tax  
2545 Law shall apply with like force and effect to all persons liable  
2546 for taxes under the provisions of this chapter, and the  
2547 commissioner and the \* \* \* Department of Revenue shall exercise  
2548 all power and authority and perform all the duties with respect to  
2549 taxpayers under this chapter as are provided in said Mississippi  
2550 Sales Tax Law. In case of conflict between the provisions of this  
2551 chapter and any provision in the Mississippi Sales Tax Law, then  
2552 the provisions of this chapter shall control.

2553           **SECTION 48.** Section 27-9-55, Mississippi Code of 1972, is  
2554 brought forward as follows:

2555           27-9-55. (1) Except in accordance with proper judicial  
2556 order, or as otherwise provided by law, it shall be unlawful for  
2557 the members of the commission, any deputy, agent, clerk, or other



2558 officer, or employee, to divulge or make known in any manner the  
2559 value of any estate or any particulars set forth or disclosed in  
2560 any report or return required. Nothing herein shall be construed  
2561 to prohibit the publication of statistics, so classified so as to  
2562 prevent the identification of particular reports or returns and  
2563 the items thereof, or the inspection by the Attorney General or  
2564 other legal representatives of the state, of the report or return  
2565 of any taxpayer who shall bring action to set aside or review the  
2566 tax based thereon or against whom an action or proceeding has been  
2567 instituted to recover any tax or penalty imposed by this chapter.  
2568 Reports and returns shall be preserved in accordance with approved  
2569 records control schedules. No records, however, may be destroyed  
2570 without the approval of the Director of the Department of Archives  
2571 and History.

2572 (2) Notwithstanding the provisions of this section, the  
2573 commissioner may permit the Commissioner of Internal Revenue of  
2574 the United States or the proper officer of any state imposing an  
2575 estate tax similar to that imposed by this chapter, or the  
2576 authorized representative of either such officer, to inspect the  
2577 estate tax returns of any individual, or may furnish to such  
2578 officer or his authorized representatives an abstract of the  
2579 return for estate tax of any executor or supply him with  
2580 information concerning any item contained in any return, or  
2581 disclosed by the report of any investigation of the return of any  
2582 executor, but such permission shall be granted, or such



2583 information furnished to such officer or his representative only  
2584 if the statutes of the United States or of such other state, as  
2585 the case may be, grant substantially similar privileges to the  
2586 proper officer of this state charged with the administration of  
2587 this chapter.

2588         **SECTION 49.** Section 27-13-27, Mississippi Code of 1972, is  
2589 brought forward as follows:

2590         27-13-27. (1) If any corporation or organization taxable  
2591 under this chapter after receiving due process under the  
2592 provisions of this chapter, shall fail or refuse to pay the tax  
2593 demanded and determined by the commissioner, together with all  
2594 penalties and interest shown to be due, or if such corporation or  
2595 organization shall fail to file a protest against such assessment,  
2596 or appeal therefrom, then the commissioner, in addition to the  
2597 other authority conferred upon him in this chapter, may request  
2598 the administrative dissolution of such corporation or organization  
2599 pursuant to Sections 79-4-14.20 through 79-4-14.23, or the  
2600 revocation of the certificate of authority of such corporation or  
2601 organization pursuant to Section 79-4-15.30 through 79-4-15.33, as  
2602 the case may be. Whereupon, the commissioner shall notify the  
2603 Secretary of State of such request for administrative dissolution  
2604 or revocation of certificate of authority.

2605         (2) Any officer, agent, or employee of any organization  
2606 subject to the provisions of this chapter, who shall exercise,  
2607 attempt to exercise or cause to be exercised, any of the rights,





2608 privileges, powers or franchises of any such organization after  
2609 such administrative dissolution or revocation of certificate of  
2610 authority shall be deemed to have acted in violation of the  
2611 provisions of this chapter, and as a penalty therefor, shall be  
2612 fined a sum not less than One Hundred Dollars (\$100.00) and not  
2613 more than One Thousand Dollars (\$1,000.00) to be collected by the  
2614 Attorney General of the State of Mississippi upon recommendation  
2615 of the commissioner, by appropriate action in any court of  
2616 competent jurisdiction and each such act shall be deemed a  
2617 separate violation of the provisions of this chapter, and the  
2618 amount of the penalty shall be stated in the action brought by the  
2619 Attorney General of the State of Mississippi. The penalty herein  
2620 provided shall be against the person violating the provisions of  
2621 this chapter and be proceeded against in personam and shall be in  
2622 addition to the tax, interest, penalty and increase assessed  
2623 against the organization, nor shall its collection or settlement  
2624 in any way relieve the organization as such from its liabilities.  
2625 Provided, however, that the commissioner, for good cause shown in  
2626 writing, and satisfactory explanation of the delinquency or  
2627 violation, may recommend the compromise or cessation of the action  
2628 against the offending officer, agent or employee and the Attorney  
2629 General of the State of Mississippi shall be governed by the  
2630 recommendation of the commissioner.

2631 (3) If any organization thus administratively dissolved or  
2632 for which a certificate of authority has been revoked shall



2633 appear, either by its principal officer or officers, or its  
2634 attorney, within twelve (12) months from the date of such  
2635 administrative dissolution or revocation of certificate of  
2636 authority, and make satisfactory explanation of the cause of the  
2637 default; and pay all taxes due, together with all interest,  
2638 penalties and increases finally determined by the commissioner to  
2639 be due, then it shall be the duty of the commissioner to  
2640 immediately notify the Secretary of State.

2641 (4) Upon the setting aside of such administrative  
2642 dissolution or revocation of certificate of authority, said  
2643 organization shall be restored to all rights of which it was  
2644 deprived by such administrative dissolution or revocation of  
2645 certificate of authority, and authorized to resume all activities  
2646 as though said administrative dissolution or revocation of  
2647 certificate of authority had not been imposed.

2648 (5) If, however, the administrative dissolution or  
2649 revocation of certificate of authority has not been set aside  
2650 within a period of twelve (12) months from the date of the  
2651 original imposition thereof, all rights to have such  
2652 administrative dissolution or revocation of certificate of  
2653 authority set aside shall cease; and after the expiration of said  
2654 twelve-month period, said organization, insofar as being a going  
2655 concern, with rights to exercise powers originally granted are  
2656 concerned, shall be considered as nonexistent; and the disposition



2657 of assets, and winding up of the affairs of the organization may  
2658 be accomplished in such manner as may be provided by law.

2659 **SECTION 50.** Section 27-13-57, Mississippi Code of 1972, is  
2660 brought forward as follows:

2661 27-13-57. (1) Except in accordance with the proper judicial  
2662 order, or as otherwise provided in this section or as authorized  
2663 in Section 27-4-3, it shall be unlawful for the Commissioner of  
2664 Revenue or any deputy, agent, clerk or other officer or employee  
2665 of the Department of Revenue to divulge or make known in any  
2666 manner any particulars set forth or disclosed in any report or  
2667 return required under this chapter. When a combined report or  
2668 return is filed as authorized by Section 27-13-17(5), each report  
2669 or return which composes the combined return shall be considered  
2670 separate for the purpose of any examinations authorized in this  
2671 section and only particulars relating to the specific return or  
2672 report set forth in the judicial order or as otherwise provided  
2673 shall be considered lawfully divulged. The term "proper judicial  
2674 order" as used in this section shall not include subpoenas or  
2675 subpoenas duces tecum, but shall include only those orders entered  
2676 by a court of record in this state after furnishing notice and a  
2677 hearing to the taxpayer and the Department of Revenue. The court  
2678 shall not authorize the furnishing of such information unless it  
2679 is satisfied that the information is needed to pursue pending  
2680 litigation wherein the return itself is in issue, or the judge is  
2681 satisfied that the need for furnishing the information outweighs



2682 the rights of the taxpayer to have such information secreted.  
2683 Nothing in this section shall be construed to prohibit the  
2684 publication of statistics, so classified as to prevent the  
2685 identification of particular reports or returns and the items  
2686 thereof, or the inspection by the Attorney General or any other  
2687 attorney representing the state of the report or return of any  
2688 taxpayer who shall bring action to set aside or review the tax  
2689 based thereon, or against whom an action or proceeding has been  
2690 instituted to recover any tax or penalty imposed by this chapter.  
2691 Reports and returns shall be preserved in accordance with approved  
2692 records control schedules. No records, however, may be destroyed  
2693 without the approval of the Director of the Department of Archives  
2694 and History.

2695         However, information relating to possible tax liability of  
2696 other states or the federal government may be furnished to the  
2697 revenue department of those states or the federal government when  
2698 those states or the federal government grant a like comity to  
2699 Mississippi.

2700         (2) The State Auditor and the employees of his office shall  
2701 have the right to examine only such tax returns as are necessary  
2702 for auditing the Department of Revenue, and the same prohibitions  
2703 against disclosure which apply to the Department of Revenue shall  
2704 apply to the State Auditor and his office.

2705         (3) Officers and employees of the Mississippi Development  
2706 Authority who execute a confidentiality agreement with the



2707 Department of Revenue shall be authorized to discuss and examine  
2708 information to which this section applies at the offices of the  
2709 Mississippi Department of Revenue. This disclosure is limited to  
2710 information necessary to properly administer the programs under  
2711 the jurisdiction of the Mississippi Development Authority. The  
2712 Department of Revenue is authorized to disclose to officers and  
2713 employees of the Mississippi Development Authority who execute a  
2714 confidentiality agreement the information necessary under the  
2715 circumstances. The same prohibitions against disclosure which  
2716 apply to the Department of Revenue shall apply to the officers or  
2717 employees of the Mississippi Development Authority.

2718 (4) Information required by the University Research Center  
2719 to prepare the analyses required by Sections 57-13-101 through  
2720 57-13-109 shall be furnished to the University Research Center  
2721 upon request. It shall be unlawful for any officer or employee of  
2722 the University Research Center to divulge or make known in any  
2723 manner any particulars set forth or disclosed in any information  
2724 received by the center from the Department of Revenue other than  
2725 as may be required by Sections 57-13-101 through 57-13-109 in an  
2726 analysis prepared pursuant to Sections 57-13-101 through  
2727 57-13-109.

2728 (5) Information required by the Mississippi Development  
2729 Authority to prepare the reports required by Section 57-1-12.2  
2730 shall be furnished to the Mississippi Development Authority upon  
2731 request. It shall be unlawful for any officer or employee of the



2732 Mississippi Development Authority to divulge or make known in any  
2733 manner the amount of income or any particulars set forth or  
2734 disclosed in any information received by the Mississippi  
2735 Development Authority from the Department of Revenue other than as  
2736 may be required by Section 57-1-12.2 in a report prepared pursuant  
2737 to Section 57-1-12.2.

2738 (6) Information necessary to comply with Chapter 13, Title  
2739 85 may be furnished to financial institutions. It shall be  
2740 unlawful for any officer or employee of the financial institution  
2741 to divulge or make known in any manner the amount of income or any  
2742 particulars set forth or disclosed in any information received by  
2743 the financial institution from the Department of Revenue other  
2744 than as may be authorized by Chapter 13, Title 85.

2745 (7) Nothing in this section shall prohibit the Commissioner  
2746 of Revenue from making available information necessary to recover  
2747 taxes owing the state pursuant to the authority granted in Section  
2748 27-75-16, Mississippi Code of 1972.

2749 (8) Any person violating the provisions of this section  
2750 shall be guilty of a misdemeanor and, on conviction, shall be  
2751 punished by a fine of not exceeding Five Hundred Dollars  
2752 (\$500.00), or by imprisonment not exceeding one (1) year, or both,  
2753 at the discretion of the court, and if the offender be an officer  
2754 or employee of the state he shall be dismissed from office and be  
2755 incapable of holding any public office in this state for a period  
2756 of five (5) years thereafter.



2757           **SECTION 51.** Section 27-17-499, Mississippi Code of 1972, is  
2758 amended as follows:

2759           27-17-499. It shall be the duty of the officer required to  
2760 collect privilege taxes to require all persons liable for a  
2761 privilege tax to pay the same, and he shall cause all persons  
2762 doing business without a privilege license as required under this  
2763 chapter, to be prosecuted. He is further required to make demands  
2764 in writing for payment of the tax due, plus an initial penalty of  
2765 ten percent (10%), and thereafter a penalty of one percent (1%)  
2766 per month for each month or part thereof during which the tax  
2767 remains delinquent. If payment is not made upon demand, he shall  
2768 forthwith bring suit in his official character against all such  
2769 persons legally liable for privilege taxes; and such suits shall  
2770 be prosecuted to final judgment and execution thereon if the  
2771 judgment be in favor of the officer. No officer required to  
2772 collect this tax shall be liable for any costs in such suits.

2773           The officer required to collect privilege taxes shall be  
2774 liable for the amount of the tax, together with a penalty  
2775 calculated in the same manner as the penalty for delinquent  
2776 privilege taxes, that he fails to collect; and the liability of  
2777 such officer shall extend to all cases where he might collect such  
2778 taxes but negligently fails to do so.

2779           It is further provided that for willful failure to carry out  
2780 any of the provisions of this chapter, the officer whose duty it  
2781 is to collect privilege taxes shall be liable to the state on his



2782 official bond for a penalty of One Hundred Dollars (\$100.00) for  
2783 each such failure, and it shall be the duty of the Attorney  
2784 General to bring suit for such penalty, subject to the provisions  
2785 of Sections 1 and 2 of this act.

2786 **SECTION 52.** Section 27-19-155, Mississippi Code of 1972, is  
2787 amended as follows:

2788 27-19-155. The license or number tag herein provided for  
2789 shall be purchased by the License Tag Commission, composed of the  
2790 Governor, Commissioner of Revenue, Attorney General and the State  
2791 Treasurer, upon competitive bids, after having given three (3)  
2792 weeks' notice of the time and place of purchase, by publishing  
2793 said notice in at least three (3) newspapers, at least one (1) of  
2794 which shall be published in the State of Mississippi, for a period  
2795 of three (3) weeks prior to the date of purchase. The successful  
2796 bidder shall enter into a bond with some surety company,  
2797 authorized to do business in the state, as surety thereon, payable  
2798 to the State of Mississippi, in a sum equal to the amount of his  
2799 contract, conditioned for the faithful and prompt carrying out of  
2800 said bid, and, in the event of the failure to comply with the  
2801 terms of said contract, the amount of said bond shall be forfeited  
2802 as liquidated damages and may be recovered by the Attorney General  
2803 in any appropriate action, subject to the provisions of Sections 1  
2804 and 2 of this act. The License Tag Commission is hereby  
2805 authorized and empowered to renegotiate any contract entered into





2806 for the purchase of license tags in order to obtain any other or  
2807 additional tags necessitated by the passage of this article.

2808 All monies received by the Department of Revenue as  
2809 registration or tag fees, either from the tax collectors, or from  
2810 licenses issued by the Department of Revenue, shall be paid into  
2811 the State Treasury on the same day in which such funds are  
2812 collected by the Department of Revenue.

2813 **SECTION 53.** Section 27-33-61, Mississippi Code of 1972, is  
2814 amended as follows:

2815 27-33-61. Any county attorney, district attorney, or the  
2816 Attorney General shall bring suit and prosecute it to a  
2817 conclusion, in the name of the state, or county, or district, when  
2818 requested to do so by a member of the board of supervisors, or  
2819 the \* \* \* Department of Revenue, if upon investigation the suit  
2820 appears to be meritorious; except the Attorney General's authority  
2821 to bring suit shall be subject to provisions of Sections 1 and 2  
2822 of this act.

2823 **SECTION 54.** Section 27-35-309, Mississippi Code of 1972, is  
2824 brought forward as follows:

2825 27-35-309. (1) The Department of Revenue shall, if  
2826 practicable, on or before the first Monday of June of each year,  
2827 make out for each person, firm, company or corporation listed in  
2828 Section 27-35-303, Mississippi Code of 1972, an assessment of the  
2829 company's property, both real and personal, tangible and  
2830 intangible. The Department of Revenue shall apportion the



2831 assessment of value of each company's property according to the  
2832 provisions of this article, except as provided in subsection (3)  
2833 of this section, as follows:

2834 (a) When the property of such public service company is  
2835 located in more than one (1) county in this state, the Department  
2836 of Revenue shall direct the company to apportion the assessed  
2837 value between the counties and municipalities and all other taxing  
2838 districts therein, in the proportion which the property located  
2839 therein bears to the entire value of the property of such company  
2840 as valued by the department, so that to each county, municipality  
2841 and taxing district therein, there shall be apportioned such part  
2842 of the entire valuation as will fairly equalize the relative value  
2843 of the property therein located to the whole value thereof.

2844 (b) When the property of such public utility required  
2845 to be assessed by the provisions of this article is located in  
2846 more than one (1) state, the assessed value thereof shall be  
2847 apportioned by the Department of Revenue in such manner as will  
2848 fairly and equitably determine the principal sum for the value  
2849 thereof in this state, and after ascertaining such value it shall  
2850 be apportioned by them as herein provided.

2851 The assessment roll shall contain all the property of any  
2852 such public service company, railroad, person, firm or corporation  
2853 and the value thereof, and so made that each county, municipality,  
2854 and taxing district shall receive its just share of taxes  
2855 proportionately to the amount of property therein situated.



2856           (2)   (a)   The assessment when made shall remain open for  
2857 thirty (30) days in the Office of the Department of Revenue, and  
2858 be for such time subject to the objections thereto which may be  
2859 filed with the Executive Director of the Board of Tax Appeals; but  
2860 real estate belonging to railroads and which forms no part of the  
2861 road, and is wholly disconnected from its railroad business, shall  
2862 not be assessed by the Department of Revenue, but shall be  
2863 assessed as other real estate is assessed by the tax assessor of  
2864 the county where situated.

2865           (b)   The apportionment of the assessed value as required  
2866 by this section shall be filed with the Department of Revenue by  
2867 such public service company on or before the first day of August  
2868 in each year. If such company shall fail, refuse or neglect to  
2869 render the apportionment of assessed value as required by this  
2870 section, such company shall be subject to the penalties provided  
2871 for in Section 27-35-305. The filing of an objection by such  
2872 public service company shall not preclude such company from filing  
2873 the property apportionment as required by this section.

2874           (3)   Any nuclear generating plant which is located in the  
2875 state, which is owned or operated by a public utility rendering  
2876 electric service within the state and not exempt from ad valorem  
2877 taxation under any other statute and which is not owned or  
2878 operated by an instrumentality of the federal government shall be  
2879 exempt from county, municipal and district ad valorem taxes. In  
2880 lieu of the payment of county, municipal and district ad valorem



2881 taxes, such public utility shall pay to the Department of Revenue  
2882 a sum based on the assessed value of such nuclear generating plant  
2883 in an amount to be determined and distributed as follows:

2884 (a) The Department of Revenue shall annually assign an  
2885 assessed value to any nuclear generating plant described in this  
2886 subsection in the same manner as for ad valorem tax purposes by  
2887 using accepted industry methods for appraising and assessing  
2888 public utility property. The assessed value assigned shall be  
2889 used for the purpose of determining the in-lieu tax due under this  
2890 section and shall not be included on the ad valorem tax rolls of  
2891 the situs taxing authority nor be subject to ad valorem taxation  
2892 by the situs taxing authority nor shall the assessed value  
2893 assigned be used in determining the debt limit of the situs taxing  
2894 authority. However, the assessed value so assigned may be used by  
2895 the situs taxing authority for the purpose of determining salaries  
2896 of its public officials.

2897 (b) On or before February 1, 1987, for the 1986 taxable  
2898 year and on or before February 1 of each year through the 1989  
2899 taxable year, such utility shall pay to the Department of Revenue  
2900 a sum equal to two percent (2%) of the assessed value as  
2901 ascertained by the Department of Revenue, but such payment shall  
2902 not be less than Sixteen Million Dollars (\$16,000,000.00) for any  
2903 of the four (4) taxable years; all such payments in excess of  
2904 Sixteen Million Dollars (\$16,000,000.00) for these four (4)  
2905 taxable years shall be paid into the General Fund of the state.



2906 On or before February 1, 1991, for the 1990 taxable year and on or  
2907 before February 1 of each year thereafter, such utility shall pay  
2908 to the Department of Revenue a sum equal to two percent (2%) of  
2909 the assessed value as ascertained by the Department of Revenue,  
2910 but such payment shall not be less than Twenty Million Dollars  
2911 (\$20,000,000.00) for any taxable year for as long as such nuclear  
2912 power plant is licensed to operate and is not being permanently  
2913 decommissioned; all such payments in excess of Sixteen Million  
2914 Dollars (\$16,000,000.00) for taxable years 1990 and thereafter  
2915 shall be paid as follows:

2916 (i) An amount of Three Million Forty Thousand  
2917 Dollars (\$3,040,000.00) annually, beginning with fiscal year 1991,  
2918 shall be transferred by the Department of Revenue to Claiborne  
2919 County. Such payments may be expended by the Board of Supervisors  
2920 of Claiborne County for any purpose for which a county is  
2921 authorized by law to levy an ad valorem tax and shall not be  
2922 included or considered as proceeds of ad valorem taxes for the  
2923 purposes of the growth limitation on ad valorem taxes under  
2924 Sections 27-39-305 and 27-39-321. However, should the Board of  
2925 Supervisors of Claiborne County withdraw its support of the Grand  
2926 Gulf Nuclear Station off-site emergency plan or otherwise fail to  
2927 satisfy its off-site emergency plan commitments as determined by  
2928 the Mississippi Emergency Management Agency and the Federal  
2929 Emergency Management Agency, Five Hundred Thousand Dollars  
2930 (\$500,000.00) annually of the funds designated for Claiborne



2931 County as described by this subsection (i) shall be deposited in  
2932 the Grand Gulf Disaster Assistance Fund as provided in Section  
2933 33-15-51.

2934 (ii) An amount of One Hundred Sixty Thousand  
2935 Dollars (\$160,000.00) annually, beginning with fiscal year 1991,  
2936 shall be transferred by the Department of Revenue to the City of  
2937 Port Gibson, Mississippi. Such payments may be expended by the  
2938 Board of Aldermen of the City of Port Gibson for any purpose for  
2939 which a municipality is authorized by law to levy an ad valorem  
2940 tax and shall not be included or considered as proceeds of ad  
2941 valorem taxes for the purposes of the growth limitation on ad  
2942 valorem taxes under Sections 27-39-305 and 27-39-321. However,  
2943 should the Board of Aldermen of the City of Port Gibson withdraw  
2944 its support of the Grand Gulf Nuclear Station off-site emergency  
2945 plan or otherwise fail to satisfy its off-site emergency plan  
2946 commitment, as determined by the Mississippi Emergency Management  
2947 Agency and the Federal Emergency Management Agency, Fifty Thousand  
2948 Dollars (\$50,000.00) annually of the funds designated for the City  
2949 of Port Gibson as described by this subsection (ii) shall be  
2950 deposited in the Grand Gulf Disaster Assistance Fund as provided  
2951 in Section 33-15-51.

2952 (iii) The remaining balance of the payments in  
2953 excess of Sixteen Million Dollars (\$16,000,000.00) annually, less  
2954 amounts transferred under (i) and (ii) of this subsection,



2955 beginning with fiscal year 1991, shall be allocated in accordance  
2956 with subsection (3) (f) of this section.

2957           (c) Pursuant to certification by the Attorney General  
2958 to the State Treasurer and the State Tax Commission that the suit  
2959 against the State of Mississippi pending on the effective date of  
2960 House Bill 8, First Extraordinary Session of 1990, [Laws, 1990 Ex  
2961 Session, Ch. 12, eff June 26, 1990], in the Chancery Court for the  
2962 First Judicial District of Hinds County, Mississippi, styled  
2963 Albert Butler et al v. the Mississippi State Tax Commission et al,  
2964 has been voluntarily dismissed with prejudice as to all plaintiffs  
2965 at the request of the complainants and that no attorney's fees or  
2966 court costs have been assessed against the state and each of the  
2967 parties, including Claiborne County and each municipality and  
2968 school district located in the county, have signed and delivered  
2969 to the Attorney General a full and complete release in favor of  
2970 the State of Mississippi and its elected officials of all claims  
2971 that have been asserted or may be asserted in the suit pending on  
2972 the effective date of House Bill 8, First Extraordinary Session of  
2973 1990, [Laws, 1990 Ex Session, Ch. 12, eff June 26, 1990], in the  
2974 Chancery Court for the First Judicial District of Hinds County,  
2975 Mississippi, styled *Albert Butler et al v. the Mississippi State*  
2976 *Tax Commission et al*, and the deposit into the State General Fund  
2977 of in-lieu payments and interest thereon due the state under  
2978 subsection (3) (b) of this section but placed in escrow because of  
2979 the lawsuit described above, the state shall promptly transfer to



2980 the Board of Supervisors of Claiborne County out of the State  
2981 General Fund an amount of Two Million Dollars (\$2,000,000.00)  
2982 which shall be a one-time distribution to Claiborne County from  
2983 the state. Such payment may be expended by the Board of  
2984 Supervisors of Claiborne County for any purposes for which a  
2985 county is authorized by law to levy an ad valorem tax and shall  
2986 not be included or considered as proceeds of ad valorem taxes for  
2987 the purposes of the growth limitation on ad valorem taxes for the  
2988 1991 fiscal year under Sections 27-39-321 and 27-39-305.

2989 (d) After distribution of the one-time payment to  
2990 Claiborne County as set forth in subsection (3)(c) of this  
2991 section, the Department of Revenue upon certification that the  
2992 pending lawsuit as described in subsection (3)(c) of this section  
2993 has been voluntarily dismissed shall promptly deposit an amount of  
2994 Five Hundred Thousand Dollars (\$500,000.00) into the Grand Gulf  
2995 Disaster Assistance Trust Fund as provided for in Section  
2996 33-15-51, which shall be a one-time payment, to be utilized in  
2997 accordance with the provisions of such section.

2998 (e) After distribution of the one-time payment to  
2999 Claiborne County as set forth in subsection (3)(c) of this section  
3000 and the payment to the Grand Gulf Disaster Assistance Trust Fund  
3001 as set forth in subsection (3)(d) of this section, the Department  
3002 of Revenue upon certification that the pending lawsuit as  
3003 described in subsection (3)(c) of this section has been  
3004 voluntarily dismissed shall promptly distribute ten percent (10%)





3005 of the remainder of the prior payments remaining in escrow to the  
3006 General Fund of the state and the balance of the prior payments  
3007 remaining in escrow shall be distributed to the counties and  
3008 municipalities in this state wherein such public utility has  
3009 rendered electric service in the proportion that the amount of  
3010 electric energy consumed by the retail customers of such public  
3011 utility in each county, excluding municipalities therein, and in  
3012 each municipality, for the next preceding fiscal year bears to the  
3013 total amount of electric energy consumed by all retail customers  
3014 of such public utility in the State of Mississippi for the next  
3015 preceding fiscal year. The payments distributed to the counties  
3016 and municipalities under this paragraph (e) may be expended by  
3017 such counties and municipalities for any lawful purpose and shall  
3018 not be included or considered as proceeds of ad valorem taxes for  
3019 the purposes of the growth limitation on ad valorem taxes under  
3020 Sections 27-39-321 and 27-39-305.

3021 (f) After distribution of the payments for fiscal year  
3022 1991 as set forth in Section 19-9-151 and distribution of the  
3023 payments as provided for in subsection (3) (b) of this section, the  
3024 Department of Revenue shall distribute ten percent (10%) of the  
3025 remainder of the payments to the General Fund of the state and the  
3026 balance to the counties and municipalities in this state wherein  
3027 such public utility renders electric service in the proportion  
3028 that the amount of electric energy consumed by the retail  
3029 customers of such public utility in each county, excluding



3030 municipalities therein, and in each municipality for the next  
3031 preceding fiscal year bears to the total amount of electric energy  
3032 consumed by all retail customers of such public utility in the  
3033 State of Mississippi for the next preceding fiscal year.

3034 (g) No county, including municipalities therein, shall  
3035 receive in excess of twenty percent (20%) of the funds distributed  
3036 under paragraph (f) of this subsection.

3037 (h) The revenues received by counties and  
3038 municipalities under paragraph (f) of this subsection shall not be  
3039 included or considered as proceeds of ad valorem taxes for the  
3040 purposes of the growth limitation on ad valorem taxes under  
3041 Sections 27-39-305 and 27-39-321.

3042 **SECTION 55.** Section 27-35-325, Mississippi Code of 1972, is  
3043 amended as follows:

3044 27-35-325. The Department of Revenue is hereby authorized  
3045 and empowered and it shall be its duty to assess any property  
3046 required to be assessed by the Department of Revenue as the state  
3047 assessor of railroads, which it discovers escaping taxation in  
3048 former years by reason of not being assessed; and to assess or  
3049 cause to be assessed and taxed, any such property which it  
3050 discovers escaping taxation by reason of not being assessed in or  
3051 for the benefit of any road district, school district, or other  
3052 taxing district or municipality, although the property may have  
3053 been assessed and taxed for state and general county taxes;  
3054 however, the right to so assess property shall expire at the end



3055 of seven (7) years from the date when the right so to do first  
3056 accrued. When any property is discovered escaping assessment and  
3057 taxation which, under the law, is required to be assessed by the  
3058 Department of Revenue as state assessor of railroads, the  
3059 Department of Revenue shall assess the same for such purpose and  
3060 for the years it has escaped taxation, and shall give notice by  
3061 United States mail, or otherwise, by the Commissioner of Revenue  
3062 of the Department of Revenue to the owner of the property, or  
3063 agent, of such owner, showing what property has escaped assessment  
3064 and for what years, and all other proper information, and the  
3065 owner shall have thirty (30) days in which to file objections.  
3066 The Department of Revenue shall deal with the assessment in all  
3067 respects with the same powers as if made at the time regular  
3068 assessment of such property is made, and shall have power to  
3069 require such information as it may desire for the correct  
3070 determination of all questions before it. When any objection is  
3071 heard and determined, the Board of Tax Appeals shall by order  
3072 approve or disapprove, or may modify the assessment, and make it  
3073 final. If no objection is made in regard to the assessment or if  
3074 the assessment is approved or modified by the Board of Tax  
3075 Appeals, the Department of Revenue shall certify it to the clerk  
3076 of the board of supervisors of the county or counties where the  
3077 property is located, and such assessment shall be dealt with by  
3078 the clerk and tax collector as is required in cases of assessments  
3079 when made at the regular time. In all cases where suit is



3080 necessary, it shall be the duty of the Attorney General to  
3081 represent the Department of Revenue whenever requested to do so,  
3082 subject to the provisions of Sections 1 and 2 of this act.

3083         **SECTION 56.** Section 27-41-83, Mississippi Code of 1972, is  
3084 amended as follows:

3085         27-41-83. The owner of lands sold or struck off to this  
3086 state as provided in Section 27-41-81 shall not have the right to  
3087 cut merchantable timber, cordwood or brush from any such land  
3088 until such land be redeemed from the tax sale and title again be  
3089 perfected in the individual owner thereof, and such former owner  
3090 of said property during the period of redemption shall not have  
3091 the right to prospect for or to extract and/or attempt to extract  
3092 from any such lands so forfeited to the state for nonpayment of  
3093 taxes any minerals, stone or gravel that may be found on or under  
3094 said land, and provided further that the former owner of any land  
3095 so forfeited to the state for nonpayment of taxes shall commit no  
3096 waste on the lands or premises so forfeited to the state during  
3097 the period of redemption.

3098         If the former owner or any other person in violation of the  
3099 provisions of this section cuts, fells, removes or otherwise  
3100 injures any tree on property forfeited to the state for taxes  
3101 either during the period of redemption or after the title matures  
3102 in the state, or extracts, or attempts to extract, minerals  
3103 therefrom including rock, stone and gravel, commits or permits to  
3104 be committed waste or any other trespass on such land, such person



3105 shall be liable for a penalty in the sum of Five Dollars (\$5.00)  
3106 per acre for each acre upon which any trespass or violation of  
3107 this section is committed, and, in addition to said penalty, such  
3108 person shall be liable for actual damages for the property taken  
3109 or injured. All such penalties and damages may be recovered in  
3110 one and the same action and suits to recover the same shall be  
3111 instituted and prosecuted in the name of the state by the Attorney  
3112 General, subject to the provisions of Sections 1 and 2 of this  
3113 act, and any penalties and damages recovered in such actions shall  
3114 be apportioned fifty percent (50%) to the state and fifty percent  
3115 (50%) to the county in which the land lies. Provided that during  
3116 the period of redemption the owner may cut and use wood from  
3117 contiguous woodlands for fuel, fences and like farm purposes, but  
3118 not for sale.

3119 Any person violating any of the provisions of this section  
3120 shall be guilty of a misdemeanor and, upon conviction therefor,  
3121 shall be fined not less than Ten Dollars (\$10.00) nor more than  
3122 Fifty Dollars (\$50.00), in the discretion of the court, and upon  
3123 the second offense, may be sentenced to serve not more than sixty  
3124 (60) days in the county jail, in the discretion of the trial  
3125 court.

3126 **SECTION 57.** Section 27-41-85, Mississippi Code of 1972, is  
3127 amended as follows:

3128 27-41-85. The Attorney General, by and with the consent of  
3129 the Governor, may employ special counsel to assist him in the



3130 investigation and prosecution of such claims or demands and suits  
3131 under Section 27-41-83, subject to the provisions of Sections 1  
3132 and 2 of this act; and he may contract to pay such attorneys so  
3133 employed such reasonable compensation as may be agreed upon, not  
3134 to exceed twenty percent (20%) of the amount recovered and  
3135 collected.

3136         **SECTION 58.** Section 27-41-87, Mississippi Code of 1972, is  
3137 brought forward as follows:

3138         27-41-87. The board of supervisors of any county affected is  
3139 hereby authorized to pay such reasonable expenses, except  
3140 attorneys' fees, as may be incurred in obtaining information  
3141 deemed necessary to maintain an action under Section 27-41-83.

3142         In any case where funds are received by the Attorney General  
3143 in consequence of any action or demand under Section 27-41-83,  
3144 involving lands in more than one (1) county, and where the court  
3145 in which said suit was filed does not allot the funds between said  
3146 counties, or where said counties cannot agree among themselves as  
3147 to the proper distribution of such funds, then the Attorney  
3148 General may apply to the chancery court in the county where the  
3149 land or some part thereof is located in vacation or in term time  
3150 for an allotment and distribution of the funds between the  
3151 counties. It shall be the duty of the Attorney General in such  
3152 case to notify the interested counties that he has filed such  
3153 application, and he shall notify them when and where said  
3154 application will be heard. The judgment of the chancellor in such



3155 matters will be final, and the Attorney General shall distribute  
3156 said funds in accordance with the chancellor's order, and a copy  
3157 of said order shall be filed with the chancery clerk in each of  
3158 the interested counties. The counties shall have the right to  
3159 agree among themselves as to the proper distribution of any such  
3160 fund; and where such agreement is had, it shall be entered on the  
3161 minutes of the board of supervisors in each county, and the  
3162 Attorney General shall then distribute the funds in accordance  
3163 therewith. However, it shall be the duty of the court hereafter,  
3164 in which suit is filed or tried, to make proper distribution of  
3165 such funds between said counties.

3166       **SECTION 59.** Section 27-45-21, Mississippi Code of 1972, is  
3167 amended as follows:

3168       27-45-21. (1) It shall be the duty of the chancery clerk,  
3169 within thirty (30) days after the period of redemption has  
3170 expired, to certify to the Secretary of State a list, on forms  
3171 provided by the Secretary of State, of all lands struck off to the  
3172 state for taxes, which have not been redeemed. The list shall  
3173 show a description of the land, all costs, officer's and printer's  
3174 fees, the tax for which it sold, segregated as to state, county,  
3175 levee and drainage districts, and of all taxes due on the lands  
3176 for the year in which it was struck off to the state, segregated  
3177 as to state, county, levee and drainage districts, a total of two  
3178 (2) years' taxes listed separately (the taxes for which it sold  
3179 and accrued taxes for one (1) year). If any chancery clerk shall



3180 fail or neglect to transmit such lists within the time specified,  
3181 he shall be liable to the state on his official bond in the  
3182 penalty of Fifty Dollars (\$50.00) for each day that he is in  
3183 default. The penalty to be collected by the Department of  
3184 Revenue, or by the Attorney General, in a suit instituted for that  
3185 purpose, subject to the provisions of Sections 1 and 2 of this  
3186 act, and upon request of the Secretary of State; provided that the  
3187 Secretary of State, if so requested by any chancery clerk before  
3188 the expiration of ten (10) days and for good cause shown, may  
3189 grant a reasonable extension of the time within which the clerk  
3190 shall transmit his list.

3191 (2) The Secretary of State may provide the forms described  
3192 in subsection (1) of this section for certifying lands struck off  
3193 to the state for taxes to the chancery clerk as an electronic  
3194 record. The chancery clerk may certify the list of all lands  
3195 struck off to the state by completing and submitting the form  
3196 containing the electronic signature of the chancery clerk to the  
3197 Secretary of State. An electronic record of the list submitted by  
3198 the chancery clerk to the Secretary of State in the prescribed  
3199 form and containing the electronic signature of the chancery clerk  
3200 shall vest good title in the State of Mississippi to all lands  
3201 listed in the form.

3202 **SECTION 60.** Section 27-65-81, Mississippi Code of 1972, is  
3203 amended as follows:





3204           27-65-81. (1) Applications, returns and information  
3205 contained therein filed or furnished under this chapter shall be  
3206 confidential, and except in accordance with proper judicial order,  
3207 or as otherwise authorized by this section or as authorized by  
3208 Section 27-4-3, it shall be unlawful for the Commissioner of  
3209 Revenue or any deputy, agent, clerk or other officer or employee  
3210 of the Department of Revenue or Department of Information  
3211 Technology Services, or any former employee thereof, to divulge or  
3212 make known in any manner the amount of income or any particulars  
3213 set forth or disclosed on any application, report or return  
3214 required.

3215           The term "proper judicial order" as used in this section  
3216 shall not include subpoenas or subpoenas duces tecum but shall  
3217 include only those orders entered by a court of record in this  
3218 state after furnishing notice and a hearing to the taxpayer and  
3219 the Department of Revenue. The court shall not authorize the  
3220 furnishing of such information unless it is satisfied that the  
3221 information is needed to pursue pending litigation wherein the  
3222 return itself is in issue, or the judge is satisfied that the need  
3223 for furnishing the information outweighs the rights of the  
3224 taxpayer to have such information secreted.

3225           (2) Such information contained on the application, returns  
3226 or reports may be furnished to:



3227 (a) Members and employees of the Department of Revenue  
3228 and the income tax department thereof, for the purpose of  
3229 checking, comparing and correcting returns;

3230 (b) The Attorney General, or any other attorney  
3231 representing the state in any action in respect to the amount of  
3232 tax under the provisions of this chapter, subject to the  
3233 provisions of Sections 1 and 2 of this act;

3234 (c) The revenue department of other states or the  
3235 federal government when said states or federal government grants a  
3236 like comity to Mississippi.

3237 (3) The State Auditor and the employees of his office shall  
3238 have the right to examine only such tax returns as are necessary  
3239 for auditing the Department of Revenue, and the same prohibitions  
3240 against disclosure which apply to the Department of Revenue shall  
3241 apply to the State Auditor and his office.

3242 (4) Officers and employees of the Mississippi Development  
3243 Authority who execute a confidentiality agreement with the  
3244 Department of Revenue shall be authorized to discuss and examine  
3245 information to which this section applies at the offices of the  
3246 Mississippi Department of Revenue. This disclosure is limited to  
3247 information necessary to properly administer the programs under  
3248 the jurisdiction of the Mississippi Development Authority. The  
3249 Department of Revenue is authorized to disclose to officers and  
3250 employees of the Mississippi Development Authority who execute a  
3251 confidentiality agreement the information necessary under the



3252 circumstances. The same prohibitions against disclosure which  
3253 apply to the Department of Revenue shall apply to the officers or  
3254 employees of the Mississippi Development Authority.

3255 (5) Information required by the University Research Center  
3256 to prepare the analyses required by Sections 57-13-101 through  
3257 57-13-109 shall be furnished to the University Research Center  
3258 upon request. It shall be unlawful for any officer or employee of  
3259 the University Research Center to divulge or make known in any  
3260 manner the amount of income or any particulars set forth or  
3261 disclosed in any information received by the center from the  
3262 Department of Revenue other than as may be required by Sections  
3263 57-13-101 through 57-13-109 in an analysis prepared pursuant to  
3264 Sections 57-13-101 through 57-13-109.

3265 (6) Information required by the Mississippi Development  
3266 Authority to prepare the reports required by Section 57-1-12.2  
3267 shall be furnished to the Mississippi Development Authority upon  
3268 request. It shall be unlawful for any officer or employee of the  
3269 Mississippi Development Authority to divulge or make known in any  
3270 manner the amount of income or any particulars set forth or  
3271 disclosed in any information received by the Mississippi  
3272 Development Authority from the Department of Revenue other than as  
3273 may be required by Section 57-1-12.2 in a report prepared pursuant  
3274 to Section 57-1-12.2.

3275 (7) Information necessary to comply with Chapter 13, Title  
3276 85, may be furnished to financial institutions. It shall be



3277 unlawful for any officer or employee of the financial institution  
3278 to divulge or make known in any manner the amount of income or any  
3279 particulars set forth or disclosed in any information received by  
3280 the financial institution from the Department of Revenue other  
3281 than as may be authorized by Chapter 13, Title 85.

3282 (8) Nothing in this section shall prohibit the Commissioner  
3283 of Revenue from making available information necessary to recover  
3284 taxes owing the state pursuant to the authority granted in Section  
3285 27-75-16.

3286 (9) The Department of Revenue is authorized to disclose to  
3287 the Child Support Unit and to the Fraud Investigation Unit of the  
3288 Department of Human Services without the need for a subpoena or  
3289 proper judicial order the name, address, social security number,  
3290 amount of income, amount of sales tax, source of income, assets  
3291 and other relevant information, records and tax forms for  
3292 individuals who are delinquent in the payment of any child support  
3293 as defined in Section 93-11-101 or who are under investigation for  
3294 fraud or abuse of any state or federal program or statute as  
3295 provided in Section 43-1-23.

3296 **SECTION 61.** Section 27-73-1, Mississippi Code of 1972, is  
3297 brought forward as follows:

3298 27-73-1. (1) If any person, firm or corporation has paid,  
3299 or shall hereafter pay to the Auditor of Public Accounts or the  
3300 Commissioner of Insurance, through error or otherwise, whether  
3301 paid under protest or not, any ad valorem, privilege or excise tax



3302 for which the person, firm or corporation was not liable, or if  
3303 any such taxpayer has paid any tax in excess of the sum properly  
3304 due and such erroneous payment or overpayment has been paid into  
3305 the proper treasury, the taxpayer shall be entitled to a refund of  
3306 the taxes so erroneously paid. Taxes erroneously paid within the  
3307 meaning of this section shall include double payment, or  
3308 overpayment, or payment on state, United States, vacant and exempt  
3309 land, and the purchase price paid for the redemption of lands  
3310 erroneously sold for taxes.

3311       Claims for refund under the provisions of this section shall  
3312 be filed with the Auditor of Public Accounts and shall be  
3313 supported by proper documents showing the overpayment or erroneous  
3314 payment for which claim is made. The auditor is hereby authorized  
3315 and required to make a careful investigation and audit of all such  
3316 claims and if he shall find that the taxes or monies covered by  
3317 the claim have been erroneously paid into the treasury of the  
3318 state, county, drainage or levee districts, he shall distribute  
3319 the claim against each separate fund in proportion to the amount  
3320 paid over to such fund in each case, and submit the audited claim  
3321 with the voucher and evidence upon which the claim is based, to  
3322 the Attorney General for his approval. The Attorney General shall  
3323 have plenary power to require the claimant or the officer who  
3324 collected the tax to furnish any additional documents or  
3325 information as may in his opinion be necessary or proper to enable  
3326 him to determine the merits of the claim.



3327           If the Attorney General shall be of the opinion that the  
3328 claim is in proper form and complies with the requirements of this  
3329 section, he shall approve the claim and return it to the Auditor  
3330 of Public Accounts, who shall thereupon file in his office the  
3331 audited claim, together with the Attorney General's approval and  
3332 all other documents relating to the claim, as a voucher, and issue  
3333 his warrant on the State Treasurer in favor of the claimant for  
3334 the amount of purchase money or taxes erroneously paid into the  
3335 State Treasury. The auditor shall then certify to the clerk of  
3336 the board of supervisors, the secretary of the drainage district  
3337 board, or the secretary of the levee board, as the case may be,  
3338 the amount, if any, found to be due to the claimant by the county,  
3339 drainage district or levee district. Upon receipt of the  
3340 certificate, the board of supervisors, or the commissioners of the  
3341 drainage district or of the levee district, shall cause a warrant  
3342 to be issued on the treasurer of the county or drainage or levee  
3343 district, as the case may be, in favor of the claimant for the  
3344 amount erroneously paid into their respective treasuries.

3345           If the Attorney General shall disapprove the claim, he shall  
3346 return it to the Auditor of Public Accounts accompanied by his  
3347 opinion which shall show the reason for his disapproval, whereupon  
3348 the auditor shall promptly notify the claimant of the disapproval.  
3349 A claimant taxpayer being aggrieved at the disapproval may, within  
3350 six (6) months from the date thereof, file in the chancery court  
3351 his petition for appeal and review. All petitions for appeal and



3352 review shall be filed in the chancery court of the county in which  
3353 the money for which refund is claimed was originally paid, and  
3354 shall be accompanied by a bond in the sum of Five Hundred Dollars  
3355 (\$500.00) conditioned to pay all costs which may accrue in the  
3356 case, which bond shall be approved by the clerk of the court.  
3357 Upon the approval of the bond, the chancery clerk shall give the  
3358 Attorney General and the Auditor of Public Accounts notice, as  
3359 required by law, of the filing of the petition. It shall be the  
3360 duty of the auditor to promptly transmit to the court in which the  
3361 appeal is pending a certified copy of the entire record of the  
3362 claim as shown by the files in his office, which record shall be  
3363 docketed by the clerk in the cause, and the controversy shall be  
3364 tried by the court on such record. It shall be the duty of the  
3365 Attorney General to defend on behalf of the state, and he may  
3366 request the district attorney, county attorney or attorney for the  
3367 drainage or levee district, as the case may be, to defend on  
3368 behalf of the county, drainage or levee district. If the claimant  
3369 taxpayer shall prevail, judgment shall be entered requiring the  
3370 payment of the claim in like manner as if it had been duly  
3371 approved by the Attorney General. If, however, the action of the  
3372 Attorney General in disapproving the claim shall be affirmed by  
3373 the court, judgment shall be entered against the appealing  
3374 taxpayer for the costs of the proceedings.

3375       Nothing in this section shall be so construed as to authorize  
3376 the recovery or repayment of any tax heretofore levied and



3377 collected by any special road district, drainage district, or  
3378 separate school district, on account of, or upon the ground that  
3379 the law authorizing such tax was unconstitutional, whether the  
3380 unconstitutionality of such tax be based upon the creation or mode  
3381 of operation of any special road district, drainage district or  
3382 separate school district. Provided further, that nothing in this  
3383 section shall be construed as authorizing the refunding of state  
3384 taxes paid into the State Treasury through error, or otherwise, or  
3385 satisfying a judgment or decree against the state except through  
3386 an appropriation therefor by the Legislature.

3387 (2) This section shall not be construed as repealing or  
3388 modifying Section 27-73-7, or any other law providing for the  
3389 application for or the certification of a claim for refund, but  
3390 shall be taken and construed as an additional and supplemental  
3391 method of refunding taxes erroneously paid.

3392 **SECTION 62.** Section 27-75-13, Mississippi Code of 1972, is  
3393 amended as follows:

3394 27-75-13. The Attorney General of the State of Mississippi,  
3395 or the officer authorized by the law of the State of Mississippi  
3396 to collect the tax owing to the State of Mississippi, or its  
3397 political subdivisions, is hereby empowered in his official  
3398 capacity to bring and prosecute to final judgment or decree suits  
3399 in the courts of other states or territories of the United States  
3400 and the District of Columbia in the name of the State of  
3401 Mississippi, or its political subdivisions, to recover any taxes,





3402 as defined in this chapter, and which includes penalties and  
3403 interest, which are now or may hereafter be owing to the State of  
3404 Mississippi, or its political subdivisions, subject to the  
3405 provisions of Sections 1 and 2 of this act, and to take such other  
3406 proceedings as authorized by the laws of the state where the suit  
3407 is brought to collect or enforce any judgment or decree rendered  
3408 therein. The officer bringing such suit is authorized to pay any  
3409 court costs or court fees which may be incurred in such suit and  
3410 required to be paid by the laws of the state, territory or  
3411 District of Columbia wherein the action is brought, and such court  
3412 costs or fees may be paid out of the fund appropriated for the  
3413 operation of the office of such officer bringing said suit, and  
3414 any political subdivision of the state may allow or appropriate  
3415 funds necessary to pay such costs.

3416       **SECTION 63.** Section 27-75-15, Mississippi Code of 1972, is  
3417 amended as follows:

3418       27-75-15. The Attorney General or the officer authorized by  
3419 the law of the State of Mississippi to collect any tax owing to  
3420 the State of Mississippi or its political subdivisions, is hereby  
3421 authorized to employ attorneys residing in a sister state,  
3422 district or territory, where suits are instituted to recover taxes  
3423 due the State of Mississippi, pursuant to this chapter, to aid and  
3424 assist in the prosecution of any such suit, when it appears to be  
3425 in the best interest of the State of Mississippi, subject to the  
3426 provisions of Sections 1 and 2 of this act. It is further



3427 provided that such attorney fees may, within the discretion of the  
3428 designated officers, be set on a fixed or contingent fee basis.  
3429 The fixed fee shall be paid out of the fund appropriated for the  
3430 operation of the office of such officer bringing suit, and the  
3431 contingent fee shall be deducted from and paid out of the proceeds  
3432 of the particular claim, subject, however, to the approval of the  
3433 Governor as to the employment and amount of such fee in either  
3434 instance.

3435         **SECTION 64.** Section 27-77-15, Mississippi Code of 1972, is  
3436 brought forward as follows:

3437         27-77-15. (1) Except as otherwise provided in this section,  
3438 it shall be unlawful for the executive director, the Board of Tax  
3439 Appeals, the commissioner, the agency, or an officer, agent or  
3440 employee of the agency or the Board of Tax Appeals, to divulge or  
3441 make known in any manner the information contained in the files,  
3442 records and orders of the agency, a hearing officer of the agency,  
3443 the board of review or the Board of Tax Appeals in regard to an  
3444 appeal to a hearing officer, the board of review or the Board of  
3445 Tax Appeals under this chapter.

3446         (2) For purposes of this section, the term "appellant" means  
3447 the taxpayer, IFTA licensee, IRP registrant, permittee, tag holder  
3448 or title interest holder who filed the appeal to the board of  
3449 review or the Board of Tax Appeals under this chapter which  
3450 resulted in the files, records and orders of that appeal.



3451           (3) The executive director, the Board of Tax Appeals, the  
3452 commissioner, the agency, hearing officer or an agent or employee  
3453 of the agency or the Board of Tax Appeals is permitted to divulge  
3454 and make known information otherwise prohibited from disclosure  
3455 under subsection (1) of this section in any of the following  
3456 circumstances:

3457           (a) Where the information is being disclosed as a  
3458 result of complying with the provisions of this chapter and/or  
3459 with regulations promulgated to enforce the provisions of this  
3460 chapter.

3461           (b) Where the information is being provided to the  
3462 appellant or his designated representative.

3463           (c) Where the information is being disclosed to  
3464 employees or officers of the agency.

3465           (d) Where the information is being provided or  
3466 disclosed pursuant to a written authorization executed by the  
3467 appellant as prescribed by regulation.

3468           (e) Where the information is being provided or  
3469 disclosed in the course of a court action in which the agency, the  
3470 Board of Tax Appeals, the commissioner, an officer or employee of  
3471 the agency or the Board of Tax Appeals and the appellant are  
3472 parties, including, but not limited to, an action brought under  
3473 this chapter or in the course of the bankruptcy case of the  
3474 appellant.



3475 (f) Where the information is being provided to the  
3476 Internal Revenue Service or a taxing authority of another state  
3477 under an information exchange agreement where similar information  
3478 can be obtained by the agency from the Internal Revenue Service or  
3479 state taxing authority receiving the information.

3480 (g) Where the information is being provided pursuant to  
3481 the International Registration Plan (IRP) or the International  
3482 Fuel Tax Agreement (IFTA) or any regulations, rules or procedures  
3483 adopted under such plan or agreement.

3484 (h) Where the disclosure of information is authorized  
3485 under Section 27-19-123, 27-55-49, 27-55-557, 27-57-39, 27-59-53  
3486 or 27-61-20.

3487 (i) Where the information is being provided to the  
3488 State Auditor or his employees in the course of his audit of the  
3489 agency; however, the prohibitions against disclosure which apply  
3490 to the agency shall also apply to the State Auditor and his  
3491 employees or former employees.

3492 (j) Where the information is being provided to the  
3493 Attorney General or any other attorney representing the state or  
3494 the agency in an action brought by the appellant to set aside the  
3495 tax, in an action brought by the state or agency to recover the  
3496 tax imposed, or in an action where the appellant is being  
3497 prosecuted for a crime under the tax laws of this state.



3498           (k) Where the information is being provided by the  
3499 commissioner to a contractor of collection services pursuant to  
3500 the authority granted the commissioner in Section 27-75-16.

3501           (1) Where the information is being provided in  
3502 accordance with a proper judicial order. The term "proper  
3503 judicial order" as used in this paragraph shall not include  
3504 subpoenas or subpoenas duces tecum, but shall include only those  
3505 orders entered by a court of record in this state after furnishing  
3506 notice and a hearing to the appellant and the Department of  
3507 Revenue. The court shall not authorize the furnishing of such  
3508 information unless it is satisfied that the information is needed  
3509 to pursue pending litigation in which the information itself is in  
3510 issue, or the judge is satisfied that the need for furnishing the  
3511 information outweighs the rights of the appellant to have such  
3512 information secreted.

3513           (4) Nothing in subsection (1) of this section shall prohibit  
3514 the inspection or disclosure of the minutes of the Board of Tax  
3515 Appeals except to the extent that such minutes reflect the  
3516 specific amount of a tax assessment or refund claim or the  
3517 specific amount of tax or refund claim determined by the Board of  
3518 Tax Appeals to be due.

3519           (5) Information that is prohibited from being disclosed in  
3520 subsection (1) of this section shall be exempt from the provisions  
3521 of the Mississippi Public Records Act of 1983.



3522 (6) Due to the need to discuss confidential tax information,  
3523 the hearings before a hearing officer, the board of review and the  
3524 Board of Tax Appeals under this chapter, and the meetings in which  
3525 the board of review and the Board of Tax Appeals deliberate and  
3526 vote on the issues raised at such hearings shall be exempt from  
3527 the provisions of Section 25-41-1 et seq.

3528 **SECTION 65.** Section 27-104-29, Mississippi Code of 1972, is  
3529 amended as follows:

3530 27-104-29. (1) The Legislative Budget Office or the State  
3531 Fiscal Officer may request and the Attorney General is authorized,  
3532 upon receipt of such request, to bring an injunctive action  
3533 against any special-fund agency failing to comply with the terms  
3534 of Sections 27-103-101 through 27-103-139 and 27-104-1 through  
3535 27-104-29, subject to the provisions of Sections 1 and 2 of this  
3536 act.

3537 (2) Such injunctive action by the Attorney General may be  
3538 either a mandatory injunction to force the filing of the required  
3539 budget or a prohibitory injunction to prevent the special-fund  
3540 agency from engaging in further business or other activities until  
3541 such time as the terms of Sections 27-103-101 through 27-103-139  
3542 and 27-104-1 through 27-104-29 have been complied with.

3543 **SECTION 66.** Section 27-105-25, Mississippi Code of 1972, is  
3544 amended as follows:

3545 27-105-25. (1) In the event of the failure of any public  
3546 funds depository to pay any check lawfully issued by the State of



3547 Mississippi or any agency or department of the state or any  
3548 county, municipality or other governmental unit on any funds on  
3549 deposit belonging to the State of Mississippi or any agency or  
3550 department of the state or any county, municipality or other  
3551 governmental unit in the depository, the State Treasurer is  
3552 empowered to sell such securities as are placed with him by the  
3553 depository, or so much of them as is necessary to cover back into  
3554 the Treasury of the State of Mississippi or any agency or  
3555 department of the state or any county, municipality or other  
3556 governmental unit the amount of state funds on deposit with the  
3557 depository with accrued interest thereon in excess of applicable  
3558 deposit insurance, and the sale of the securities shall be made by  
3559 the State Treasurer at the best price that he can obtain at either  
3560 public or private sale, and in the event of the failure of the  
3561 depository to pay any check when the depository has placed as  
3562 security surety bonds, the Treasurer shall notify the Attorney  
3563 General and that officer shall take such immediate action as he  
3564 may deem most expedient for covering back into the Treasury of the  
3565 State of Mississippi or any agency or department of the state or  
3566 any county, municipality or other governmental unit all state  
3567 money on deposit in the depository, subject to the provisions of  
3568 Sections 1 and 2 of this act. In addition, the Attorney General  
3569 is authorized to employ counsel, if necessary, to more speedily  
3570 enforce the payment and expense of that collection, including  
3571 counsel fees, to be charged against the depository, and, in



3572 addition thereto, the depository will be liable for damages at the  
3573 rate of one percent (1%) per month for any delay in paying over  
3574 any state funds when demanded, and the bond of any depository  
3575 shall be liable for those expenses and damages.

3576 (2) If the loss to the State of Mississippi or any agency or  
3577 department of the state or any county, municipality or other  
3578 governmental unit (hereinafter "public depositors") of the  
3579 depository that is also a public funds guaranty pool member is not  
3580 covered by deposit insurance or the proceeds of the sale of  
3581 securities, the State Treasurer shall provide coverage of the  
3582 remaining loss by assessment against the other public funds  
3583 guaranty pool members. The assessment shall be determined by  
3584 multiplying the total amount of the loss to all public depositors  
3585 by a percentage that represents the share of public fund deposits  
3586 held by the depository divided by the total public deposits held  
3587 by all public funds guaranty pool members, excluding the public  
3588 deposits of the defaulting depository, as determined by the State  
3589 Treasurer from the average of the six (6) most recent month-end  
3590 reports of the public funds guaranty pool members provided under  
3591 Section 27-105-6. Each public funds guaranty pool member shall  
3592 pay its assessment to the State Treasurer within seven (7)  
3593 business days after it receives notice of the assessment. If a  
3594 public funds guaranty pool member fails to pay its assessment when  
3595 due, the State Treasurer shall satisfy the assessment by selling





3596 securities pledged by any depository failing to pay the  
3597 assessment.

3598 (3) The State Treasurer shall distribute the funds to the  
3599 public depositors of the public funds depository in default  
3600 according to their validated claims.

3601 (4) Public depositors receiving payment under the provisions  
3602 of this section shall assign to the State Treasurer any interest  
3603 they may have in funds that may subsequently be made available to  
3604 the depository in default, if the depository in default or its  
3605 receiver provides funds to the State Treasurer, the State  
3606 Treasurer shall distribute the funds, plus all accrued interest  
3607 that has accumulated from the investment of the funds, if any, to  
3608 the public funds guaranty pool members that paid assessments on  
3609 the same pro rata basis as the assessments were paid.

3610 **SECTION 67.** Section 29-1-7, Mississippi Code of 1972, is  
3611 brought forward as follows:

3612 29-1-7. The Land Commissioner may prosecute suits in the  
3613 name of the state, concerning the public lands, through the  
3614 Attorney General, subject to the provisions of Sections 1 and 2 of  
3615 this act, a district attorney, or some attorney at law employed by  
3616 him for that purpose, with the consent of the Governor.

3617 **SECTION 68.** Section 29-1-137, Mississippi Code of 1972, is  
3618 amended as follows:

3619 29-1-137. The Attorney General of the state shall act as  
3620 attorney for the commission and shall advise it as to all



3621 questions arising in connection with the administration of  
3622 Sections 29-1-125 through 29-1-143, and as to all matters in  
3623 controversy. He shall represent the commission in any and all  
3624 suits at law or equity arising from the administration of said  
3625 sections, and shall bring suit for the collection of any sum due  
3626 the state on behalf of the commission, as the agent of the state,  
3627 in all cases which he believes the conditions warrant suit,  
3628 subject to the provisions of Sections 1 and 2 of this act. He  
3629 may, if deemed advisable, sue in his own name as the chief law  
3630 officer of the state. He shall represent the commission in all  
3631 cases involving the title of lands in question, and on any and all  
3632 other matters arising from the administration of the cited  
3633 sections.

3634 The Attorney General may request and direct any district  
3635 attorney to aid in the trial of any suit in the district which he  
3636 serves and, when so requested, the district attorney shall assist  
3637 in the conduct and trial of any suit in his district; but the  
3638 Attorney General shall prepare all bills, declarations, and  
3639 pleadings.

3640 **SECTION 69.** Section 29-3-9, Mississippi Code of 1972, is  
3641 amended as follows:

3642 29-3-9. In all cases where this chapter has not been  
3643 complied with, the official involved shall forthwith comply with  
3644 same. It shall be the duty of the state land commissioner to  
3645 ascertain whether or not said statutes have been complied with.



3646 If said state land commissioner shall find that said statutes have  
3647 not been complied with in any case, he shall call the same to the  
3648 attention of the board of education involved. If any board of  
3649 education shall fail or refuse to comply with the mandate of this  
3650 section, then the action of mandamus shall lie to compel such  
3651 compliance, and such action may be brought either by the Attorney  
3652 General, subject to the provisions of Sections 1 and 2 of this  
3653 act, or any resident citizen of the State of Mississippi on the  
3654 relation of the Attorney General. If the state land commissioner  
3655 shall find that any board of education is failing to take the  
3656 necessary steps to effectively comply with said statutes in any  
3657 case, he shall so certify to the Attorney General. It shall  
3658 thereupon be the duty of the Attorney General to institute an  
3659 action for issuance of a writ of mandamus as hereinabove provided,  
3660 and to such end he is hereby authorized and empowered to employ  
3661 competent local counsel to assist him in the prosecution of the  
3662 same. It shall also be the duty of the state land commissioner in  
3663 conjunction with the Attorney General, to submit a special report  
3664 in writing to the next regular session of the Legislature, which  
3665 said report shall set forth any instances of noncompliance with  
3666 said chapter and the steps which have been taken to secure  
3667 compliance with same.

3668         **SECTION 70.** Section 31-7-127, Mississippi Code of 1972, is  
3669 amended as follows:



3670           31-7-127. In order to ensure the proper enforcement of  
3671 Sections 31-7-101 through 31-7-127, as well as to ensure the  
3672 enforcement of all other laws pertaining to county government or  
3673 the board of supervisors, the district attorney, in addition to  
3674 any other powers he already has, shall have the power to  
3675 investigate the personnel, records or supervisors of any county in  
3676 his district and shall have the power to bring criminal or civil  
3677 actions to recover funds illegally spent, to recover damages, or  
3678 to seek injunctive relief to prevent unlawful acts or compel  
3679 lawful ones by supervisors or other personnel of county  
3680 government. In the event of a refusal or failure of the district  
3681 attorney to act, the Attorney General in a proper case may  
3682 exercise the above powers of the district attorney,  
3683 notwithstanding the absence of a request for investigation or  
3684 action by the district attorney, subject to the provisions of  
3685 Sections 1 and 2 of this act.

3686           **SECTION 71.** Section 31-17-59, Mississippi Code of 1972, is  
3687 amended as follows:

3688           31-17-59. It shall be the duty of the Auditor and the State  
3689 Treasurer, within sixty (60) days after the close of each fiscal  
3690 year, to check the records in their offices and ascertain  
3691 definitely the amount of bonds and interest coupons which have  
3692 matured more than twelve (12) months before the close of the last  
3693 fiscal year and which have not been paid; and if it shall appear  
3694 that funds for the payment of such bonds and coupons have been



3695 forwarded to the paying agent and have not been used for the  
3696 purpose of paying such bonds and coupons, it shall be the duty of  
3697 the State Treasurer to make demand upon the paying agent for the  
3698 repayment of said funds into the State Treasury within thirty (30)  
3699 days from the date of such demand.

3700 In like manner, it shall be the duty of the clerk of the  
3701 board of supervisors of each county and of the municipal clerk of  
3702 each municipality, within sixty (60) days after the close of each  
3703 fiscal year, to check the bond register and other records in his  
3704 office and ascertain definitely the amount of bonds and interest  
3705 coupons of the county, any taxing district, or of the  
3706 municipality, as the case may be, which have matured more than  
3707 twelve (12) months before the close of the last fiscal year and  
3708 which have not been paid; and if it shall appear that funds for  
3709 the payment of such bonds and coupons have been forwarded to the  
3710 paying agent and have not been used for the purpose of paying such  
3711 bonds and coupons, it shall be the duty of the clerk of the board  
3712 of supervisors, or the municipal clerk, as the case may be, to  
3713 make demand upon the paying agent for the repayment of said funds  
3714 into the county depository or municipal depository, as the case  
3715 may be, within thirty (30) days from the date of such demand.

3716 In the event such paying agent shall fail to refund into the  
3717 State Treasury, the county depository, or municipal depository, as  
3718 the case may be, such unexpended balance or balances as provided  
3719 for in Sections 31-17-57 and 31-17-59, it shall be the duty of the



3720 Attorney General on behalf of the state subject to the provisions  
3721 of Sections 1 and 2 of this act, or the board of supervisors or  
3722 municipal authorities on behalf of the county or municipality, as  
3723 the case may be, to cause suit to be instituted for the recovery  
3724 of such funds.

3725         **SECTION 72.** Section 31-19-25, Mississippi Code of 1972, is  
3726 amended as follows:

3727         31-19-25. All bonds issued pursuant to any laws of this  
3728 state and hereafter sold by the governing authority of or on  
3729 behalf of any county, road district, school district, drainage  
3730 district or other political subdivision or instrumentality of this  
3731 state shall be advertised for sale on sealed bids or at public  
3732 auction. Such advertisement shall be published at least two (2)  
3733 times in a newspaper published in the county in which the  
3734 political subdivision or instrumentality is situated, and if no  
3735 newspaper is published in such county, then in a newspaper  
3736 published in an adjoining county; with respect to a political  
3737 subdivision or instrumentality which is composed of more than one  
3738 (1) county, such advertisement shall be published at least two (2)  
3739 times in a newspaper having a general circulation in each county  
3740 all or a portion of which is part of the political subdivision or  
3741 instrumentality. The first publication in each case shall be made  
3742 at least ten (10) days preceding the date fixed for the reception  
3743 of bids, and such notice shall give the time and place of sale.



3744           The governing authority may reject any and all bids, whether  
3745 so stated in the notice of sale or not. If the bonds are not sold  
3746 pursuant to such advertisement, they may be sold by the governing  
3747 authority by private sale at any time within sixty (60) days after  
3748 the date advertised for the reception of bids; but no such private  
3749 sale shall be made at a price less than the highest bid which  
3750 shall have been received pursuant to such advertisement. If not  
3751 so sold at private sale, said bonds shall be readvertised in the  
3752 manner herein prescribed.

3753           Every bid for the purchase of any of such bonds shall be  
3754 accompanied by a cashier's check, certified check or exchange,  
3755 payable to the proper governing authority, issued or certified by  
3756 a bank located in this state in the amount of not less than two  
3757 percent (2%) of the par value of the bonds offered for sale, as a  
3758 guaranty that the bidder will carry out his contract and purchase  
3759 the bonds if the bid is accepted. If the successful bidder fails  
3760 to purchase the bonds pursuant to his bid and contract, the amount  
3761 of such good faith check shall be retained by the governing  
3762 authority and covered into the proper fund as liquidated damages  
3763 for such failure.

3764           This section shall not apply to the sale of bonds by the  
3765 State of Mississippi through the State Bond Commission or the sale  
3766 of bonds or any other indebtedness incurred by a county in  
3767 connection with a project as defined under Section  
3768 57-75-5(f) (xxviii) or Section 57-75-5(f) (xxix).



3769 A failure to comply with any provision of this section shall  
3770 not invalidate such bonds, but any member of the governing board,  
3771 commission or other governing authority who shall willfully  
3772 violate any of said provisions and shall willfully fail to give  
3773 the notices herein required shall be liable personally and on his  
3774 official bond for a penalty in each case of Five Hundred Dollars  
3775 (\$500.00) and, in addition thereto, for all financial loss that  
3776 may result to the county, municipality, road district, school  
3777 district, drainage district or other political subdivision or  
3778 instrumentality of the state or county resulting from such willful  
3779 failure to comply herewith. Such penalty and damages may be  
3780 recovered by suit of the Attorney General, subject to the  
3781 provisions of Sections 1 and 2 of this act, a district attorney or  
3782 of any citizen of such county or other political subdivision in  
3783 any court of competent jurisdiction, for the use and benefit of  
3784 the county or other such political subdivision or instrumentality.

3785 **SECTION 73.** Section 37-37-21, Mississippi Code of 1972, is  
3786 amended as follows:

3787 37-37-21. When, as a result of any audits performed under  
3788 the terms of this chapter, the State Auditor has reason to believe  
3789 that any false or erroneous report or violation of law presents  
3790 ample evidence therefor, he shall report the same to the Attorney  
3791 General. The Attorney General shall thereupon institute suit in  
3792 the name of the State of Mississippi and prosecute to a conclusion  
3793 such actions as may be necessary to make recovery from any and all





3794 persons civilly liable, subject to the provisions of Sections 1  
3795 and 2 of this act. The Attorney General shall also refer the  
3796 matter to the proper district attorney for the institution of any  
3797 appropriate criminal proceedings. Any funds recovered by such  
3798 suits shall be paid into the appropriate school district fund in  
3799 accordance with the loss such fund or funds may have sustained.

3800       **SECTION 74.** Section 37-41-25, Mississippi Code of 1972, is  
3801 amended as follows:

3802       37-41-25. Any superintendent of schools, member of the  
3803 school board, superintendent, principal or carrier, or bus driver,  
3804 who shall knowingly make any false report, list or record, or who  
3805 shall knowingly make use of any false report, list or record  
3806 concerning the number of school children being transported or  
3807 entitled to be transported in any county or school district shall  
3808 be guilty of a misdemeanor and upon conviction shall be punished  
3809 by imprisonment in the county jail for a period not to exceed  
3810 sixty (60) days, or by a fine of not less than One Hundred Dollars  
3811 (\$100.00) nor more than Three Hundred Dollars (\$300.00), or by  
3812 both such fine and imprisonment, in the discretion of the court.  
3813 In addition, any such person shall be civilly liable for all  
3814 amounts of public funds which are illegally, unlawfully or  
3815 wrongfully expended or paid out by virtue of or pursuant to such  
3816 false report, list or record, and upon conviction or adjudication  
3817 of civil liability hereunder such person shall forfeit his license  
3818 to teach for a period of three (3) years, if such person is the



3819 holder of such a license. Any suit to recover such funds  
3820 illegally, unlawfully, or wrongfully expended or paid out may be  
3821 brought in the name of the State of Mississippi by the Attorney  
3822 General or the proper district attorney or county attorney,  
3823 subject to the provisions of Sections 1 and 2 of this act. In the  
3824 event such suit be brought against a person who is under bond, the  
3825 sureties upon such bond shall likewise be liable for such amount  
3826 illegally, unlawfully or wrongfully expended or paid out.

3827 **SECTION 75.** Section 37-43-45, Mississippi Code of 1972, is  
3828 amended as follows:

3829 37-43-45. Any loss occasioned by the neglect, carelessness  
3830 or failure of duty by the county superintendent or any principal  
3831 or teacher in charge of any school, shall entitle the state to  
3832 bring suit for the recovery of the amount of the loss or losses  
3833 occasioned thereby.

3834 Any writ or suit of any nature instituted under the  
3835 provisions of this chapter shall be brought in the name of the  
3836 State of Mississippi by the Attorney General subject to the  
3837 provisions of Sections 1 and 2 of this act. Any money or \* \* \*  
3838 monies recovered by such suit shall be placed to the credit of the  
3839 State Textbook Fund.

3840 **SECTION 76.** Section 37-51-17, Mississippi Code of 1972, is  
3841 amended as follows:

3842 37-51-17. Each applicant, if an adult, or his parent or  
3843 legal guardian in his behalf, if a minor, before being granted a



3844 loan shall enter into a contract with the State of Mississippi  
3845 agreeing to the terms and conditions upon which the loan shall be  
3846 made. Said contract shall include such terms and conditions as  
3847 are necessary to carry out the full purpose and intent of this  
3848 chapter. The form of said contract shall be prepared and approved  
3849 by the Attorney General of this state, and said contract shall be  
3850 signed by the executive secretary of the commission.

3851 The commission is hereby vested with full and complete  
3852 authority to sue in its own name any applicant for any balance due  
3853 the state on any such contract. Such suit shall be filed and  
3854 conducted by the Attorney General of the State of Mississippi,  
3855 subject to the provisions of Sections 1 and 2 of this act, or by  
3856 private counsel, which the commission is hereby authorized to  
3857 employ for such purpose.

3858 **SECTION 77.** Section 37-101-241, Mississippi Code of 1972, is  
3859 amended as follows:

3860 37-101-241. (1) There is hereby created the Commission on  
3861 College Accreditation. Said commission shall be composed of the  
3862 Executive Director of the Mississippi Community College Board, the  
3863 Commissioner of Higher Education, or their designees, and three  
3864 (3) additional members, one (1) of whom shall be selected by the  
3865 foregoing two (2) members and who shall represent the private  
3866 colleges within the state, and two (2) of whom shall be selected  
3867 by the Mississippi Association of Colleges. The latter three (3)  
3868 members shall each serve for a term of three (3) years.



3869           (2) The commission shall meet and organize by electing from  
3870 among its membership a chairman, a vice chairman and a secretary.  
3871 The commission shall keep full and complete minutes and records of  
3872 all its proceedings and actions.

3873           (3) The commission shall have the power and authority, and  
3874 it shall be its duty, to prepare an approved list of community,  
3875 junior and senior colleges and universities or other entities  
3876 which offer one or more postsecondary academic degrees and are  
3877 domiciled, incorporated or otherwise located in the State of  
3878 Mississippi. Postsecondary academic degrees include, but are not  
3879 limited to, associate, bachelor, masters and doctorate degrees.  
3880 The commission shall adopt standards which are in keeping with the  
3881 best educational practices in accreditation and receive reports  
3882 from the institutions seeking to be placed on the approved list.

3883           (4) The above-described community, junior and senior  
3884 colleges and universities or other entities must be approved  
3885 annually by the commission in order to grant diplomas of  
3886 graduation, degrees or offer instruction.

3887           (5) The commission shall petition the chancery court of the  
3888 county in which a person or agent offers one or more postsecondary  
3889 academic degrees subject to the provisions of this chapter or  
3890 advertises for the offering of such degrees without having first  
3891 obtained approval by the commission, for an order enjoining such  
3892 offering or advertising. The court may grant such injunctive  
3893 relief upon a showing that the respondent named in the petition is



3894 offering or advertising one or more postsecondary academic degrees  
3895 without having obtained prior approval of the commission. The  
3896 Attorney General or the district attorney of the district,  
3897 including the county in which such action is brought, shall, upon  
3898 request of the commission, represent the commission in bringing  
3899 any such action, subject to the provisions of Sections 1 and 2 of  
3900 this act.

3901 (6) The provisions of subsection (5) shall not apply to  
3902 community, junior and senior colleges and universities with the  
3903 main campus in Mississippi that were chartered, authorized or  
3904 approved by the commission prior to July 1, 1988.

3905 (7) The provisions of this section shall not apply to the  
3906 proprietary schools and colleges subject to regulation under  
3907 Section 75-60-1 et seq.

3908 (8) The Commission on College Accreditation may promulgate  
3909 rules and regulations and establish appropriate fees for the  
3910 implementation of this section.

3911 (9) The commission shall have the power and authority, and  
3912 it shall be its duty, to execute site visits when deemed necessary  
3913 by the commission. The members of the commission and  
3914 commission-appointed evaluation teams shall receive reasonable  
3915 traveling expenses and other authorized expenses incurred in the  
3916 performance of commission duties, together with other expenses of  
3917 the operation of the commission. The members of the Commission on  
3918 College Accreditation shall serve without salary compensation but



3919 shall receive a per diem and mileage as authorized by law  
3920 including time of going to and returning from site visits of said  
3921 commission, together with actual travel and hotel expenses  
3922 incident to the site visits of the commission, and in the  
3923 discharge of duties prescribed by the commission.

3924         **SECTION 78.** Section 37-101-279, Mississippi Code of 1972, is  
3925 amended as follows:

3926             37-101-279. (1) If a borrower defaults on an educational  
3927 loan or scholarship, the Attorney General of the State of  
3928 Mississippi shall bring suit against the defaulting party as soon  
3929 as practicable, subject to the provisions of Sections 1 and 2 of  
3930 this act.

3931             (2) A suit against a defaulting party under this section may  
3932 be brought in the county in which the defaulting person resides,  
3933 in which the lender is located, or in any Hinds County court.

3934         **SECTION 79.** Section 37-101-291, Mississippi Code of 1972, is  
3935 amended as follows:

3936             37-101-291. (1) In order to help alleviate the problem of  
3937 the shortage of health care professionals at the state health  
3938 institutions, there is established a program of paid educational  
3939 leave for the study of such health care professions as defined in  
3940 Section 37-101-285 and licensed practical nursing by any employee  
3941 who works at a state health institution and who declares an  
3942 intention to work in such respective health care occupation in the  
3943 same state health institution in which the employee was working



3944 when granted educational leave, for a minimum period of time after  
3945 graduation.

3946 (2) The paid educational leave program shall be administered  
3947 by the respective state health institutions.

3948 (3) (a) Within the limits of the funds available to a state  
3949 health institution for such purpose, the institution may grant  
3950 paid educational leave to those applicants deemed qualified  
3951 therefor, upon such terms and conditions as it may impose and as  
3952 provided for in this section.

3953 (b) In order to be eligible for paid educational leave,  
3954 an applicant must:

3955 (i) Be working at a state health institution at  
3956 the time of application;

3957 (ii) Attend any college or school approved and  
3958 designated by the state health institution; and

3959 (iii) Agree to work in a health care profession as  
3960 defined in Section 37-101-285 or as a licensed practical nurse in  
3961 the same state health institution for a period of time equivalent  
3962 to the period of time for which the applicant receives paid  
3963 educational leave compensation, calculated to the nearest whole  
3964 month, but in no event less than two (2) years.

3965 (c) (i) Before being granted paid educational leave,  
3966 each applicant shall enter into a contract with the state health  
3967 institution, which shall be deemed a contract with the State of  
3968 Mississippi, agreeing to the terms and conditions upon which the



3969 paid educational leave shall be granted to him. The contract  
3970 shall include such terms and provisions necessary to carry out the  
3971 full purpose and intent of this section. The form of such  
3972 contract shall be prepared and approved by the Attorney General of  
3973 this state, and shall be signed by the executive director of the  
3974 respective state health institution and the recipient. If the  
3975 recipient is a minor, his minority disabilities shall be removed  
3976 by a chancery court of competent jurisdiction before the contract  
3977 is signed.

3978 (ii) The state health institution shall have the  
3979 authority to cancel any contract made between it and any recipient  
3980 for paid educational leave upon such cause being deemed sufficient  
3981 by the executive director of such institution.

3982 (iii) The state health institution is vested with  
3983 full and complete authority and power to sue in its own name any  
3984 recipient for any balance due the state on any such uncompleted  
3985 contract, which suit shall be filed and handled by the Attorney  
3986 General of the state, subject to the provisions of Sections 1 and  
3987 2 of this act. The state health institution may contract with a  
3988 collection agency or banking institution, subject to approval by  
3989 the Attorney General, for collection of any balance due the state  
3990 from any recipient. The State of Mississippi, agencies of the  
3991 state and the state health institution and its employees are  
3992 immune from any suit brought in law or equity for actions taken by  
3993 the collection agency or banking institution incidental to or





3994 arising from their performance under the contract. The state  
3995 health institution, collection agency and banking institution may  
3996 negotiate for the payment of a sum that is less than full payment  
3997 in order to satisfy any balance the recipient owes the state,  
3998 subject to approval by the facility director of the sponsoring  
3999 facility within the state health institution.

4000 (iv) Failure to meet the terms of an educational  
4001 loan contract shall be grounds for revocation of the professional  
4002 license which was earned through the paid educational leave  
4003 compensation granted under this section.

4004 (v) A finding by the sponsoring agency of a  
4005 default by the recipient shall be a finding of unprofessional  
4006 conduct and therefore, a basis for the revocation of the  
4007 professional license which was obtained through the educational  
4008 leave program. The finding also will be grounds for revocation of  
4009 any license, as defined by Section 93-11-153.

4010 (vi) Notice of pending default status shall be  
4011 mailed to the recipient at the last known address by the  
4012 sponsoring agency.

4013 (vii) The sponsoring agency shall conduct a  
4014 hearing of pending default status, make a final determination, and  
4015 issue an Order of Default, if appropriate.

4016 (viii) Recipients may appear either personally or  
4017 by counsel, or both, and produce and cross-examine witnesses or  
4018 evidence in the recipient's behalf. The procedure of the hearing



4019 shall not be bound by the Mississippi Rules of Civil Procedure and  
4020 Evidence.

4021 (ix) If a recipient is found to be in default, a  
4022 copy of an Order of Default shall be forwarded to the appropriate  
4023 licensing agency.

4024 (x) Appeals from a finding of default by the  
4025 sponsoring agency shall be to the Circuit Court of Hinds County.  
4026 Actions taken by a licensing entity in revoking a license when  
4027 required by this section are not actions from which an appeal may  
4028 be taken under the general licensing and disciplinary provisions  
4029 applicable to the licensing agency.

4030 (xi) Rules and regulations governing hearing and  
4031 other applicable matters shall be promulgated by the sponsoring  
4032 agency.

4033 (xii) A license which has been revoked pursuant to  
4034 this statute shall be reinstated upon a showing of proof that the  
4035 recipient is no longer in default.

4036 (xiii) A finding by the sponsoring facility of  
4037 educational leave default is a disciplinary action, not a  
4038 collection action, and therefore shall not be affected by the  
4039 recipient declaring bankruptcy.

4040 (4) (a) Any recipient who is granted paid educational leave  
4041 by a state health institution shall be compensated by the  
4042 institution during the time the recipient is in school, at the  
4043 rate of pay received by a nurse's aide employed at the respective



4044 state health institution. All educational leave compensation  
4045 received by the recipient while in school shall be considered  
4046 earned conditioned upon the fulfillment of the terms and  
4047 obligations of the educational leave contract and this section.  
4048 However, no recipient of full-time educational leave shall accrue  
4049 personal or major medical leave while the recipient is on paid  
4050 educational leave. Recipients of paid educational leave shall be  
4051 responsible for their individual costs of tuition and books.

4052 (b) Paid educational leave shall be granted only upon  
4053 the following conditions:

4054 (i) The recipient shall fulfill his or her  
4055 obligation under the contract with the State of Mississippi by  
4056 working as a professional in a health care profession defined in  
4057 Section 37-101-285 or as a licensed practical nurse in a state  
4058 health institution; a recipient sponsored by a health institution  
4059 under the supervision of the Mississippi Department of Mental  
4060 Health may fulfill his or her obligation under the contract with  
4061 the State of Mississippi at another health institution under the  
4062 supervision of the Mississippi Department of Mental Health with  
4063 prior written approval of the Director of the Department of Mental  
4064 Health institution with which he or she originally contracted for  
4065 educational leave. The total compensation that the recipient was  
4066 paid while on educational leave shall be considered as  
4067 unconditionally earned on an annual pro rata basis for each year  
4068 of service rendered under the educational leave contract as a



4069 health care professional in his respective state health  
4070 institution.

4071 (ii) If the recipient does not work as a  
4072 professional in a health care profession as defined in Section  
4073 37-101-285 or as a licensed practical nurse in his respective  
4074 state health institution for the period required under subsection  
4075 (3)(b)(iii) of this section, the recipient shall be liable for  
4076 repayment on demand of the remaining portion of the compensation  
4077 that the recipient was paid while on paid educational leave which  
4078 has not been unconditionally earned, with interest accruing at ten  
4079 percent (10%) per annum from the recipient's date of graduation or  
4080 the date that the recipient last worked at that state health  
4081 institution, whichever is the later date. In addition, there  
4082 shall be included in any contract for paid educational leave a  
4083 provision for liquidated damages equal to Five Thousand Dollars  
4084 (\$5,000.00) which may be reduced on a pro rata basis for each year  
4085 served under such contract.

4086 (iii) If any recipient fails or withdraws from  
4087 school at any time before completing his or her health care  
4088 training, the recipient shall be liable for repayment on demand of  
4089 the amount of the total compensation that the recipient was paid  
4090 while on paid educational leave, with interest accruing at ten  
4091 percent (10%) per annum from the date the recipient failed or  
4092 withdrew from school. However, the recipient shall not be liable  
4093 for liquidated damages, and if the recipient returns to work in



4094 the same position held in the same state health institution prior  
4095 to accepting educational leave, the recipient shall not be liable  
4096 for payment of any interest on the amount owed.

4097 (iv) The issuance and renewal of the professional  
4098 license required to work in a health care profession as defined in  
4099 Section 37-101-285 for which the educational leave was granted  
4100 shall be contingent upon the repayment of the total compensation  
4101 that the recipient received while on paid educational leave. No  
4102 license shall be granted until a contract for repayment is  
4103 executed. No license shall be renewed without proof of an  
4104 existing contract which is not in default. Failure to meet the  
4105 terms of an educational loan contract shall be grounds for  
4106 revocation of the professional license which was earned through  
4107 the paid educational leave compensation granted under this  
4108 section. Any person who receives any amount of paid educational  
4109 leave compensation while in school and subsequently receives a  
4110 professional license shall be deemed to have earned the  
4111 professional license through paid educational leave.

4112 (v) The obligations of educational leave  
4113 recipients under contracts entered into before July 1, 2002, shall  
4114 remain unchanged. However, state health institutions may use the  
4115 collection or license revocation provisions of this section to  
4116 collect money owed under all educational leave contracts,  
4117 regardless of when those contracts were executed.



4118           **SECTION 80.** Section 37-101-292, Mississippi Code of 1972, is  
4119 amended as follows:

4120           37-101-292. (1) Within the limits of the funds available to  
4121 the Mississippi Transportation Commission for such purpose, the  
4122 Executive Director of the Mississippi Department of Transportation  
4123 may pay a stipend to contractual services employees for  
4124 educational expenses such as tuition, books and related fees to  
4125 pursue junior or senior undergraduate level year coursework toward  
4126 a bachelor's degree in civil engineering or graduate level  
4127 coursework toward a master's degree in civil engineering to those  
4128 applicants deemed qualified. It is the intent of the Legislature  
4129 that such an educational program shall be used as a method of  
4130 encouraging recruitment of well-qualified civil engineers for  
4131 employment with the Mississippi Department of Transportation.

4132           (2) (a) In order to be eligible for this program an  
4133 undergraduate participant must:

4134                       (i) Have successfully obtained a minimum of  
4135 fifty-eight (58) semester hours toward a bachelor of science in  
4136 civil engineering from a state institution of higher learning that  
4137 has been fully accredited by the Accreditation Board of  
4138 Engineering and Technology;

4139                       (ii) Have achieved a minimum grade point average  
4140 of 2.75 on a 4.0 scale on the previously obtained semester hours  
4141 toward a bachelor of science in civil engineering; and



4142 (iii) Agree to work as a civil engineer at the  
4143 Mississippi Department of Transportation for a period of time  
4144 equivalent to the period of time for which the applicant receives  
4145 a stipend for educational expenses calculated to the nearest whole  
4146 month.

4147 (b) In order to be eligible for this program a graduate  
4148 participant must:

4149 (i) Have obtained a bachelor of science in civil  
4150 engineering from a state institution of higher learning that has  
4151 been fully accredited by the Accreditation Board of Engineering  
4152 and Technology;

4153 (ii) Have met the regular admission standards and  
4154 been accepted into a master of science in civil engineering  
4155 program at a state institution of higher learning that has been  
4156 fully accredited by the Accreditation Board of Engineering and  
4157 Technology;

4158 (iii) Have submitted a proposed graduate program  
4159 thesis project for review by the Department of Transportation; and

4160 (iv) Agree to work as a civil engineer at the  
4161 Mississippi Department of Transportation for a period of time  
4162 equivalent to the period of time for which the applicant receives  
4163 a stipend for educational expenses calculated to the nearest whole  
4164 month.

4165 (3) (a) Each participant shall enter into a contract with  
4166 the Mississippi Transportation Commission, which shall be deemed a



4167 contract with the State of Mississippi, agreeing to the terms and  
4168 conditions upon which the stipend shall be granted to him. The  
4169 contract shall include such terms and provisions necessary to  
4170 carry out the full purpose and intent of this section. The form  
4171 of such contract shall be prepared and approved by the Attorney  
4172 General of this state, and shall be signed by the Executive  
4173 Director of the Mississippi Department of Transportation and the  
4174 recipient. If the recipient is a minor, his minority disabilities  
4175 shall be removed by a chancery court of competent jurisdiction  
4176 before the contract is signed.

4177 (b) The Mississippi Transportation Commission may  
4178 cancel any contract made between it and any participant upon such  
4179 cause being deemed sufficient by the Executive Director.

4180 (c) The Mississippi Transportation Commission is vested  
4181 with full and complete authority and power to sue in its own name  
4182 any recipient for any balance due the state on any such  
4183 uncompleted contract, which suit shall be filed and handled by the  
4184 Attorney General of the state, subject to the provisions of  
4185 Sections 1 and 2 of this act. The Mississippi Transportation  
4186 Commission may contract with a collection agency or banking  
4187 institution, subject to approval by the Attorney General, for  
4188 collection of any balance due the state from any recipient. The  
4189 State of Mississippi, the Mississippi Transportation Commission  
4190 and the Mississippi Department of Transportation and its employees  
4191 are immune from any suit brought in law or equity for actions





4192 taken by the collection agency or banking institution incidental  
4193 to or arising from their performance under the contract. The  
4194 Mississippi Transportation Commission may negotiate for the  
4195 payment of a sum that is less than full payment in order to  
4196 satisfy any balance the recipient owes the state, if necessary or  
4197 advisable.

4198 (d) Notice of pending default status shall be mailed to  
4199 the recipient at the last known address prior to commencing a  
4200 lawsuit.

4201 (e) The sponsoring agency shall conduct a hearing of  
4202 pending default status, make a final determination, and issue an  
4203 Order of Default, if appropriate.

4204 (f) Recipients may appear either personally or by  
4205 counsel, or both, and produce and cross-examine witnesses or  
4206 evidence in the recipient's behalf. The procedure of the hearing  
4207 shall not be bound by the Mississippi Rules of Civil Procedure and  
4208 Evidence.

4209 (g) Appeals from a finding of default by the sponsoring  
4210 agency shall be to the Circuit Court of Hinds County.

4211 (h) Rules and regulations governing this program and  
4212 other applicable matters may be promulgated by the sponsoring  
4213 agency.

4214 **SECTION 81.** Section 37-101-293, Mississippi Code of 1972, is  
4215 amended as follows:



4216 37-101-293. (1) Within the limits of the funds available to  
4217 any state agency for such purpose, the administrative head of such  
4218 state agency may grant paid educational leave on a part-time or  
4219 full-time basis and reimburse employees for educational expenses  
4220 such as tuition, books and related fees to pursue undergraduate or  
4221 graduate level education to those applicants deemed qualified.

4222 It is the intent of the Legislature that such educational  
4223 leave program shall be used as an incentive for employees to  
4224 develop job-related skills and to develop employees for  
4225 higher-level professional and management positions.

4226 (2) In order to be eligible for paid educational leave,  
4227 reimbursement for educational expenses or both, an applicant must:

4228 (a) Be working at a state agency for at least three (3)  
4229 years at the time of application or be working at a state agency  
4230 at the time of application for part-time graduate level education  
4231 in a particular profession deemed by the administrative head of  
4232 the state agency to meet a critical need within the state agency;

4233 (b) Attend any college or school located in the State  
4234 of Mississippi and approved by the administrative head of such  
4235 agency, unless such course of study is not available at a  
4236 Mississippi college or school, in which case the applicant may  
4237 attend an out-of-state college or school;

4238 (c) Agree to work as an employee in the same state  
4239 agency for at least three (3) full years after completion of the  
4240 course of study or, in the case of employees on educational leave



4241 on a part-time basis or receiving reimbursement for educational  
4242 expenses only, to work for a time prorated based upon the total  
4243 amount of expenses, including leave, paid for by the agency.

4244 (3) (a) Before being granted paid educational leave, or  
4245 being approved for reimbursement of educational expense or both,  
4246 each applicant shall enter into a contract with the state agency,  
4247 which shall be deemed a contract with the State of Mississippi,  
4248 agreeing to the terms and conditions upon which the paid  
4249 educational leave will be granted to him. The contract shall  
4250 include such terms and provisions necessary to implement the  
4251 purpose and intent of this section. The form of such contract  
4252 shall be prepared by the Attorney General of this state and  
4253 approved by the State Personnel Board, and shall be signed by the  
4254 administrative head of the state agency and signed by the  
4255 recipient. If the recipient is a minor, his minority disabilities  
4256 shall be removed by a chancery court of competent jurisdiction  
4257 before the contract is signed.

4258 (b) Educational expenses for tuition, books and  
4259 associated fees shall be reimbursed to the employee only after the  
4260 employee has submitted documentation that the approved course has  
4261 been successfully completed.

4262 (c) If the recipient does not work as an employee in  
4263 that state agency for the period of employment specified in the  
4264 contract, the recipient shall be liable for repayment on demand of  
4265 the remaining portion of the compensation that he or she was paid



4266 while on paid educational leave and educational expenses paid,  
4267 with interest accruing at ten percent (10%) per annum from the  
4268 recipient's date of graduation, or the date that the recipient  
4269 last worked at that state agency, whichever is the later date. In  
4270 addition, there shall be included in any contract for paid  
4271 educational leave a provision for liquidated damages equal to Two  
4272 Thousand Dollars (\$2,000.00) per year for each year remaining to  
4273 be served under such contract.

4274 (d) If any recipient fails or withdraws from school at  
4275 any time before completing his or her education, the recipient  
4276 shall be liable for repayment on demand of the amount of the total  
4277 compensation that he or she was paid while on paid educational  
4278 leave, with interest accruing at ten percent (10%) per annum from  
4279 the date the recipient failed or withdrew from school. However,  
4280 if the recipient remains or returns to work in the same position  
4281 he or she held in the same state agency prior to accepting  
4282 educational leave, he or she shall not be liable for payment of  
4283 any interest on the amount owed.

4284 (e) The state agency shall have the authority to cancel  
4285 any contract made between it and any recipient for paid  
4286 educational leave or educational expenses or both upon such cause  
4287 being deemed sufficient by the administrative head of the agency.

4288 (f) The state agency is vested with full and complete  
4289 authority and power to sue in its own name any recipient for any  
4290 balance due the state on any such uncompleted contract, which suit



4291 shall be conducted and handled by the Attorney General of the  
4292 state, subject to the provisions of Sections 1 and 2 of this act.

4293 (g) Persons who default on contracts entered into under  
4294 this section shall have the default determined and lose their  
4295 professional health care licenses under the procedures provided in  
4296 Section 37-101-291.

4297 (4) At the discretion of the administrative head of the  
4298 state agency, any recipient who is granted paid educational leave  
4299 by the state agency, including nurses, shall be compensated by  
4300 such agency as prescribed by the State Personnel Board during the  
4301 time he or she is in school. For employees who are on educational  
4302 leave on a full-time basis, the State Personnel Board shall  
4303 establish a maximum salary amount at which any employee may be  
4304 paid full compensation while on educational leave and shall  
4305 establish a deduction ratio or reduced percentage rate of  
4306 compensation to be paid to all employees compensated at a salary  
4307 level above such maximum salary amount. No recipient of full-time  
4308 educational leave shall accrue personal or major medical leave  
4309 while he or she is on paid educational leave.

4310 (5) Each state agency granting paid educational leave to  
4311 employees or reimbursing educational expenses or both shall file  
4312 an annual report with the Legislature which shall detail for each  
4313 recipient of paid educational leave the position of the employee,  
4314 the cost of the educational assistance and the degree program and  
4315 school attended.



4316 (6) Within the limits of funds available to the Mississippi  
4317 Department of Mental Health, the Executive Director of the  
4318 Department of Mental Health may grant educational leave to medical  
4319 residents of the University of Mississippi and pay a stipend in an  
4320 amount not to exceed the salary of a medical resident. In order  
4321 to be eligible for paid educational leave under this subsection,  
4322 the applicant must be approved by the Department of Mental Health  
4323 Educational Leave Committee and meet all obligations established  
4324 under agreements between the Department of Mental Health and the  
4325 University of Mississippi and regulations promulgated by the Board  
4326 of Mental Health. The recipient shall fulfill his or her  
4327 obligation under this program on an annual pro rata basis for each  
4328 year on paid education leave.

4329 **SECTION 82.** Section 37-135-31, Mississippi Code of 1972, is  
4330 brought forward as follows:

4331 37-135-31.

4332 **Interstate Compact on Educational**  
4333 **Opportunity for Military Children**

4334 **ARTICLE I**

4335 **PURPOSE**

4336 **Section 1.** It is the purpose of this compact to remove  
4337 barriers to educational success imposed on children of military  
4338 families because of frequent moves and deployment of their parents  
4339 by:





4365 **DEFINITIONS**

4366 **Section 2.** As used in this compact, unless the context  
4367 clearly requires a different construction:

4368 A. "Active duty" means full-time duty status in the active  
4369 uniformed service of the United States, including members of the  
4370 National Guard and Reserve on active duty orders pursuant to 10  
4371 USC, Sections 1209 and 1211.

4372 B. "Children of military families" means school-aged  
4373 children, enrolled in Kindergarten through 12th Grade, in the  
4374 household of an active duty member.

4375 C. "Compact commissioner" means the voting representative of  
4376 each compacting state appointed pursuant to Article VIII of this  
4377 compact.

4378 D. "Deployment" means the period one (1) month prior to the  
4379 service members' departure from their home station on military  
4380 orders through six (6) months after return to their home station.

4381 E. "Educational records" means those official records,  
4382 files, and data directly related to a student and maintained by  
4383 the school or local education agency, including, but not limited  
4384 to, records encompassing all the material kept in the student's  
4385 cumulative folder such as general identifying data, records of  
4386 attendance and of academic work completed, records of achievement  
4387 and results of evaluative tests, health data, disciplinary status,  
4388 test protocols, and individualized education programs.





4389           F. "Extracurricular activities" means a voluntary activity  
4390 sponsored by the school or local education agency or an  
4391 organization sanctioned by the local education agency.  
4392 Extracurricular activities include, but are not limited to,  
4393 preparation for and involvement in public performances, contests,  
4394 athletic competitions, demonstrations, displays and club  
4395 activities.

4396           G. "Interstate Commission on Educational Opportunity for  
4397 Military Children" means the commission that is created under  
4398 Article IX of this compact, which is generally referred to as the  
4399 Interstate Commission.

4400           H. "Local education agency" means a public authority legally  
4401 constituted by the state as an administrative agency to provide  
4402 control of and direction for Kindergarten through 12th Grade  
4403 public educational institutions.

4404           I. "Member state" means a state that has enacted this  
4405 compact.

4406           J. "Military installation" means a base, camp, post,  
4407 station, yard, center, homeport facility for any ship, or other  
4408 activity under the jurisdiction of the Department of Defense,  
4409 including any leased facility, which is located within any of the  
4410 several states, the District of Columbia, the Commonwealth of  
4411 Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the  
4412 Northern Marianas Islands, and any other U.S. Territory. Such



4413 term does not include any facility used primarily for civil works,  
4414 river and harbor projects, or flood control projects.

4415 K. "Nonmember state" means a state that has not enacted this  
4416 compact.

4417 L. "Receiving state" means the state to which a child of a  
4418 military family is sent, brought, or caused to be sent or brought.

4419 M. "Rule" means a written statement by the Interstate  
4420 Commission promulgated pursuant to Article XII of this compact  
4421 that is of general applicability; implements, interprets, or  
4422 prescribes a policy or provision of the compact, or an  
4423 organizational, procedural, or practice requirement of the  
4424 Interstate Commission and has the force and effect of statutory  
4425 law in a member state; and includes the amendment, repeal, or  
4426 suspension of an existing rule.

4427 N. "Sending state" means the state from which a child of a  
4428 military family is sent, brought, or caused to be sent or brought.

4429 O. "State" means a state of the United States, the District  
4430 of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin  
4431 Islands, Guam, American Samoa, the Northern Marianas Islands, and  
4432 any other U.S. Territory.

4433 P. "Student" means the child of a military family for whom  
4434 the local education agency receives public funding and who is  
4435 formally enrolled in Kindergarten through 12th Grade.

4436 Q. "Transition" means: (i) the formal and physical process  
4437 of transferring from school to school or (ii) the period of time



4438 in which a student moves from one school in the sending state to  
4439 another school in the receiving state.

4440 R. "Uniformed services" means the Army, Navy, Air Force,  
4441 Marine Corps, Coast Guard, as well as the Commissioned Corps of  
4442 the National Oceanic and Atmospheric Administration, and Public  
4443 Health Services.

4444 S. "Veteran" means a person who served in the active  
4445 military, naval, or air service and who was discharged or released  
4446 therefrom under conditions other than dishonorable.

4447 **ARTICLE III**

4448 **APPLICABILITY**

4449 **Section 3.** A. Except as otherwise provided in subsection B,  
4450 this compact shall apply to the children of:

4451 1. Active duty members of the uniformed services as  
4452 defined in this compact, including members of the National Guard  
4453 and Reserve on active duty orders pursuant to 10 USC, Sections  
4454 1209 and 1211;

4455 2. Members or veterans of the uniformed services who  
4456 are severely injured and medically discharged or retired for a  
4457 period of one (1) year after medical discharge or retirement; and

4458 3. Members of the uniformed services who die on active  
4459 duty or as a result of injuries sustained on active duty for a  
4460 period of one (1) year after death.

4461 B. The provisions of this interstate compact shall only  
4462 apply to local education agencies as defined in this compact.



4463 C. The provisions of this interstate compact shall not apply  
4464 to the children of:

4465 1. Inactive members of the National Guard and Military  
4466 Reserves;

4467 2. Members of the uniformed services now retired,  
4468 except as provided in subsection A;

4469 3. Veterans of the uniformed services, except as  
4470 provided in subsection A; and

4471 4. Other U.S. Department of Defense personnel and other  
4472 federal agency civilian and contract employees not defined as  
4473 active duty members of the uniformed services.

4474 **ARTICLE IV**

4475 **EDUCATIONAL RECORDS AND ENROLLMENT**

4476 **Section 4.** A. Unofficial or "hand-carried" education  
4477 records. In the event that official education records cannot be  
4478 released to the parents for the purpose of transfer, the custodian  
4479 of the records in the sending state shall prepare and furnish to  
4480 the parent a complete set of unofficial educational records  
4481 containing uniform information as determined by the Interstate  
4482 Commission. Upon receipt of the unofficial education records by a  
4483 school in the receiving state, the school shall enroll and  
4484 appropriately place the student based on the information provided  
4485 in the unofficial records pending validation by the official  
4486 records, as quickly as possible.



4487           B. Official education records/transcripts. Simultaneous  
4488 with the enrollment and conditional placement of the student, the  
4489 school in the receiving state shall request the student's official  
4490 education records from the school in the sending state. Upon  
4491 receipt of this request, the school in the sending state will  
4492 process and furnish the official education records to the school  
4493 in the receiving state within ten (10) days or within such time as  
4494 is reasonably determined under the rules promulgated by the  
4495 Interstate Commission.

4496           C. Immunizations. Compacting states shall give thirty (30)  
4497 days from the date of enrollment or within such time as is  
4498 reasonably determined under the rules promulgated by the  
4499 Interstate Commission for students to obtain any immunization(s)  
4500 required by the receiving state. For a series of immunizations,  
4501 initial vaccinations must be obtained within thirty (30) days or  
4502 within such time as is reasonably determined under the rules  
4503 promulgated by the Interstate Commission.

4504           D. Kindergarten and First Grade entrance age. Students  
4505 shall be allowed to continue their enrollment at the grade level  
4506 in the receiving state commensurate with their grade level  
4507 (including kindergarten) from a local education agency in the  
4508 sending state at the time of transition, regardless of age. A  
4509 student who has satisfactorily completed the prerequisite grade  
4510 level in the local education agency in the sending state shall be  
4511 eligible for enrollment in the next highest grade level in the



4512 receiving state, regardless of age. A student transferring after  
4513 the start of the school year in the receiving state shall enter  
4514 the school in the receiving state on their validated level from an  
4515 accredited school in the sending state.

4516 **ARTICLE V**

4517 **PLACEMENT AND ATTENDANCE**

4518 **Section 5.** A. Course placement. When the student transfers  
4519 before or during the school year, the receiving state school shall  
4520 initially honor placement of the student in educational courses  
4521 based on the student's enrollment in the sending state school  
4522 and/or educational assessments conducted at the school in the  
4523 sending state if the courses are offered. Course placement  
4524 includes, but is not limited to, honors, International  
4525 Baccalaureate, advanced placement, vocational, technical, and  
4526 career pathway courses. Continuing the student's academic program  
4527 from the previous school and promoting placement in academically  
4528 and career challenging courses should be paramount when  
4529 considering placement. This does not preclude the school in the  
4530 receiving state from performing subsequent evaluations to ensure  
4531 appropriate placement and continued enrollment of the student in  
4532 the course(s).

4533 B. Educational program placement. The receiving state  
4534 school shall initially honor placement of the student in  
4535 educational programs based on current educational assessments  
4536 conducted at the school in the sending state or



4537 participation/placement in like programs in the sending state.  
4538 Such programs include, but are not limited to, (i) gifted and  
4539 talented programs, and (ii) English as a second language (ESL).  
4540 This does not preclude the school in the receiving state from  
4541 performing subsequent evaluations to ensure appropriate placement  
4542 of the student.

4543 C. Special education services. In compliance with the  
4544 federal requirements of the Individuals with Disabilities  
4545 Education Act (IDEA), 20 USC, Section 1400 et seq., the receiving  
4546 state shall initially provide comparable services to a student  
4547 with disabilities based on his/her current Individualized  
4548 Education Program (IEP) and in compliance with the requirements of  
4549 Section 504 of the Rehabilitation Act, 29 USC, Section 794, and  
4550 with Title II of the Americans with Disabilities Act, 42 USC,  
4551 Sections 12131-12165, and the receiving state shall make  
4552 reasonable accommodations and modifications to address the needs  
4553 of incoming students with disabilities, subject to an existing 504  
4554 or Title II Plan, to provide the student with equal access to  
4555 education. This does not preclude the school in the receiving  
4556 state from performing subsequent evaluations to ensure appropriate  
4557 placement of the student.

4558 D. Placement flexibility. Local education agency  
4559 administrative officials shall have flexibility in waiving  
4560 course/program prerequisites or other preconditions for placement



4561 in courses/programs offered under the jurisdiction of the local  
4562 education agency.

4563 E. Absence as related to deployment activities. A student  
4564 whose parent or legal guardian is an active duty member of the  
4565 uniformed services, as defined by the compact, and has been called  
4566 to duty for, is on leave from, or has immediately returned from  
4567 deployment to a combat zone or combat support posting, shall be  
4568 granted additional excused absences at the discretion of the local  
4569 education agency superintendent to visit with his or her parent or  
4570 legal guardian relative to such leave or deployment of the parent  
4571 or guardian.

4572 **ARTICLE VI**

4573 **ELIGIBILITY**

4574 **Section 6.** A. Eligibility for enrollment.

4575 1. Special power of attorney, relative to the  
4576 guardianship of a child of a military family, and executed under  
4577 applicable law, shall be sufficient for the purposes of enrollment  
4578 and all other actions requiring parental participation and  
4579 consent;

4580 2. A local education agency shall be prohibited from  
4581 charging local tuition to a transitioning military child placed in  
4582 the care of a noncustodial parent or other person standing in loco  
4583 parentis who lives in a jurisdiction other than that of the  
4584 custodial parent; and





4585           3. A transitioning military child, placed in the care  
4586 of a noncustodial parent or other person standing in loco parentis  
4587 who lives in a jurisdiction other than that of the custodial  
4588 parent, may continue to attend the school in which he/she was  
4589 enrolled while residing with the custodial parent.

4590           B. Eligibility for extracurricular participation. State and  
4591 local education agencies shall facilitate the opportunity for  
4592 transitioning military children's inclusion in extracurricular  
4593 activities, regardless of application deadlines, to the extent  
4594 they are otherwise qualified.

4595   **ARTICLE VII**

4596   **GRADUATION**

4597           **Section 7.** In order to facilitate the on-time graduation of  
4598 children of military families, state and local education agencies  
4599 shall incorporate the following procedures:

4600           A. Waiver requirements. Local education agency  
4601 administrative officials shall waive specific courses required for  
4602 graduation if similar coursework has been satisfactorily completed  
4603 in another local education agency or shall provide reasonable  
4604 justification for denial. Should a waiver not be granted to a  
4605 student who would qualify to graduate from the sending school, the  
4606 local education agency shall provide an alternative means of  
4607 acquiring required coursework so that graduation may occur on  
4608 time.



4609 B. Exit exams. States shall accept: (i) exit or  
4610 end-of-course exams required for graduation from the sending  
4611 state, (ii) national norm-referenced achievement tests, or (iii)  
4612 alternative testing, in lieu of testing requirements for  
4613 graduation in the receiving state. In the event the above  
4614 alternatives cannot be accommodated by the receiving state for a  
4615 student transferring in his or her senior year, then the  
4616 provisions of Article VII, subsection C shall apply.

4617 C. Transfers during senior year. Should a military student  
4618 transferring at the beginning or during his or her senior year be  
4619 ineligible to graduate from the receiving local education agency  
4620 after all alternatives have been considered, the sending and  
4621 receiving local education agencies shall ensure the receipt of a  
4622 diploma from the sending local education agency, if the student  
4623 meets the graduation requirements of the sending local education  
4624 agency. In the event that one of the states in question is not a  
4625 member of this compact, the member state shall use best efforts to  
4626 facilitate the on-time graduation of the student in accordance  
4627 with subsections A and B of this Article.

4628 **ARTICLE VIII**

4629 **STATE COORDINATION**

4630 **Section 8.** A. Each member state shall, through the creation  
4631 of a State Council or use of an existing body or board, provide  
4632 for the coordination among its agencies of government, local  
4633 education agencies, and military installations concerning the



4634 state's participation in, and compliance with, this compact and  
4635 Interstate Commission activities. While each member state may  
4636 determine the membership of its own State Council, its membership  
4637 must include at least: (i) the state superintendent of education,  
4638 (ii) the superintendent of a school district with a high  
4639 concentration of military children, (iii) one (1) representative  
4640 from a military installation, (iv) one (1) representative each  
4641 from the legislative and executive branches of government, and  
4642 other offices and stakeholder groups the State Council deems  
4643 appropriate. A member state that does not have a school district  
4644 deemed to contain a high concentration of military children may  
4645 appoint a superintendent from another school district to represent  
4646 local education agencies on the State Council.

4647 B. The State Council of each member state shall appoint or  
4648 designate a military family education liaison to assist military  
4649 families and the state in facilitating the implementation of this  
4650 compact.

4651 C. The Governor of each member state shall appoint or  
4652 designate a compact commissioner responsible for the  
4653 administration and management of the state's participation in the  
4654 compact and who is empowered to establish statewide policy related  
4655 to matters governed by this compact.

4656 D. The compact commissioner and the military family  
4657 education liaison designated herein shall be ex officio members of



4658 the State Council, unless either is already a full voting member  
4659 of the State Council.

4660 **ARTICLE IX**

4661 **INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY**

4662 **FOR MILITARY CHILDREN**

4663 **Section 9.** The member states hereby create the Interstate  
4664 Commission on Educational Opportunity for Military Children. The  
4665 activities of the Interstate Commission are the formation of  
4666 public policy and are a discretionary state function. The  
4667 Interstate Commission shall:

4668 A. Be a body corporate and joint agency of the member states  
4669 and shall have all the responsibilities, powers, and duties set  
4670 forth herein and such additional powers as may be conferred upon  
4671 it by a subsequent concurrent action of the respective  
4672 Legislatures of the member states in accordance with the terms of  
4673 this compact.

4674 B. Consist of one (1) Interstate Commission voting  
4675 representative from each member state who shall be that state's  
4676 compact commissioner and who is empowered to establish statewide  
4677 policy related to matters governed by this compact.

4678 1. Each member state represented at a meeting of the  
4679 Interstate Commission is entitled to one (1) vote;

4680 2. A majority of the total member states shall  
4681 constitute a quorum for the transaction of business, unless a



4682 larger quorum is required by the bylaws of the Interstate  
4683 Commission;

4684           3. A representative shall not delegate a vote to  
4685 another member state. In the event the compact commissioner is  
4686 unable to attend a meeting of the Interstate Commission, the  
4687 Governor or State Council may delegate voting authority to another  
4688 person from the state for a specified meeting; and

4689           4. The bylaws may provide for meetings of the  
4690 Interstate Commission to be conducted by telecommunication or  
4691 electronic communication.

4692           C. Consist of ex officio, nonvoting representatives who are  
4693 members of interested organizations. Such ex officio members, as  
4694 defined in the bylaws, may include, but not be limited to, members  
4695 of the representative organizations of military family advocates,  
4696 local education agency officials, parent and teacher groups, the  
4697 U.S. Department of Defense, the Education Commission of the  
4698 States, the Interstate Agreement on the Qualification of  
4699 Educational Personnel, and other interstate compacts affecting the  
4700 education of children of military members.

4701           D. Meet at least once each calendar year. The chairperson  
4702 may call additional meetings and, upon the request of a simple  
4703 majority of the member states, shall call additional meetings.

4704           E. Establish an executive committee, whose members shall  
4705 include the officers of the Interstate Commission and such other  
4706 members of the Interstate Commission as determined by the bylaws.



4707 Members of the executive committee shall serve a one-year term.  
4708 Members of the executive committee shall be entitled to one (1)  
4709 vote each. The executive committee shall have the power to act on  
4710 behalf of the Interstate Commission, with the exception of  
4711 rule-making, during periods when the Interstate Commission is not  
4712 in session. The executive committee shall oversee the day-to-day  
4713 activities of the administration of the compact, including  
4714 enforcement and compliance with the provisions of the compact, its  
4715 bylaws and rules, and other such duties as deemed necessary. The  
4716 U.S. Department of Defense shall serve as an ex officio, nonvoting  
4717 member of the executive committee.

4718 F. Establish bylaws and rules that provide for conditions  
4719 and procedures under which the Interstate Commission shall make  
4720 its information and official records available to the public for  
4721 inspection or copying. The Interstate Commission may exempt from  
4722 disclosure information or official records to the extent they  
4723 would adversely affect personal privacy rights or proprietary  
4724 interests.

4725 G. Public notice shall be given by the Interstate Commission  
4726 of all meetings, and all meetings shall be open to the public,  
4727 except as set forth in the rules or as otherwise provided in the  
4728 compact. The Interstate Commission and its committees may close a  
4729 meeting, or portion thereof, when it determines by two-thirds  
4730 (2/3) vote that an open meeting would be likely to:



4731           1. Relate solely to the Interstate Commission's  
4732 internal personnel practices and procedures;  
4733           2. Disclose matters specifically exempted from  
4734 disclosure by federal and state statute;  
4735           3. Disclose trade secrets or commercial or financial  
4736 information that is privileged or confidential;  
4737           4. Involve accusing a person of a crime or formally  
4738 censuring a person;  
4739           5. Disclose information of a personal nature where  
4740 disclosure would constitute a clearly unwarranted invasion of  
4741 personal privacy;  
4742           6. Disclose investigative records compiled for law  
4743 enforcement purposes; or  
4744           7. Specifically relate to the Interstate Commission's  
4745 participation in a civil action or other legal proceeding.  
4746           H. For a meeting, or portion of a meeting, closed pursuant  
4747 to the provisions of subsection G, the Interstate Commission's  
4748 legal counsel or designee shall certify that the meeting may be  
4749 closed and shall reference each relevant exemptible provision.  
4750 The Interstate Commission shall keep minutes, which shall fully  
4751 and clearly describe all matters discussed in a meeting and shall  
4752 provide a full and accurate summary of actions taken, and the  
4753 reasons therefor, including a description of the views expressed  
4754 and the record of a roll call vote. All documents considered in  
4755 connection with an action shall be identified in such minutes.



4756 All minutes and documents of a closed meeting shall remain under  
4757 seal, subject to release by a majority vote of the Interstate  
4758 Commission.

4759 I. The Interstate Commission shall collect standardized data  
4760 concerning the educational transition of the children of military  
4761 families under this compact as directed through its rules, which  
4762 shall specify the data to be collected, the means of collection  
4763 and data exchange, and reporting requirements. Such methods of  
4764 data collection, exchange, and reporting shall, insofar as is  
4765 reasonably possible, conform to current technology and coordinate  
4766 its information functions with the appropriate custodian of  
4767 records as identified in the bylaws and rules.

4768 J. The Interstate Commission shall create a process that  
4769 permits military officials, education officials, and parents to  
4770 inform the Interstate Commission if and when there are alleged  
4771 violations of the compact or its rules or when issues subject to  
4772 the jurisdiction of the compact or its rules are not addressed by  
4773 the state or local education agency. This subsection shall not be  
4774 construed to create a private right of action against the  
4775 Interstate Commission or any member state.

4776 **ARTICLE X**

4777 **POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

4778 **Section 10.** The Interstate Commission shall have the  
4779 following powers:

4780 A. To provide for dispute resolution among member states.





4781           B. To promulgate rules and take all necessary actions to  
4782 effect the goals, purposes, and obligations as enumerated in this  
4783 compact. The rules shall have the force and effect of statutory  
4784 law and shall be binding in the compact states to the extent and  
4785 in the manner provided in this compact.

4786           C. To issue, upon request of a member state, advisory  
4787 opinions concerning the meaning or interpretation of the  
4788 interstate compact, its bylaws, rules, and actions.

4789           D. To enforce compliance with the compact provisions, the  
4790 rules promulgated by the Interstate Commission, and the bylaws,  
4791 using all necessary and proper means, including, but not limited  
4792 to, the use of judicial process.

4793           E. To establish and maintain offices, which shall be located  
4794 within one or more of the member states.

4795           F. To purchase and maintain insurance and bonds.

4796           G. To borrow, accept, hire, or contract for services of  
4797 personnel.

4798           H. To establish and appoint committees, including, but not  
4799 limited to, an executive committee as required by Article IX,  
4800 subsection E, which shall have the power to act on behalf of the  
4801 Interstate Commission in carrying out its powers and duties  
4802 hereunder.

4803           I. To elect or appoint such officers, attorneys, employees,  
4804 agents, or consultants, and to fix their compensation, define  
4805 their duties, and determine their qualifications and to establish



4806 the Interstate Commission's personnel policies and programs  
4807 relating to conflicts of interest, rates of compensation, and  
4808 qualifications of personnel.

4809 J. To accept any and all donations and grants of money,  
4810 equipment, supplies, materials, and services and to receive,  
4811 utilize, and dispose of them.

4812 K. To lease, purchase, accept contributions or donations of,  
4813 or otherwise to own, hold, improve, or use any property, real,  
4814 personal, or mixed.

4815 L. To sell, convey, mortgage, pledge, lease, exchange,  
4816 abandon, or otherwise dispose of any property, real, personal, or  
4817 mixed.

4818 M. To establish a budget and make expenditures.

4819 N. To adopt a seal and bylaws governing the management and  
4820 operation of the Interstate Commission.

4821 O. To report annually to the Legislatures, Governors,  
4822 judiciary, and state councils of the member states concerning the  
4823 activities of the Interstate Commission during the preceding year.  
4824 Such reports shall also include any recommendations that may have  
4825 been adopted by the Interstate Commission.

4826 P. To coordinate education, training, and public awareness  
4827 regarding the compact, its implementation, and operation for  
4828 officials and parents involved in such activity.

4829 Q. To establish uniform standards for the reporting,  
4830 collecting, and exchanging of data.



4831 R. To maintain corporate books and records in accordance  
4832 with the bylaws.

4833 S. To perform such functions as may be necessary or  
4834 appropriate to achieve the purposes of this compact.

4835 T. To provide for the uniform collection and sharing of  
4836 information between and among member states, schools, and military  
4837 families under this compact.

4838 **ARTICLE XI**

4839 **ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION**

4840 **Section 11.** A. The Interstate Commission shall, by a  
4841 majority of the members present and voting, within twelve (12)  
4842 months after the first Interstate Commission meeting, adopt bylaws  
4843 to govern its conduct as may be necessary or appropriate to carry  
4844 out the purposes of the compact, including, but not limited to:

4845 1. Establishing the fiscal year of the Interstate  
4846 Commission;

4847 2. Establishing an executive committee and such other  
4848 committees as may be necessary;

4849 3. Providing for the establishment of committees and  
4850 for governing any general or specific delegation of authority or  
4851 function of the Interstate Commission;

4852 4. Providing reasonable procedures for calling and  
4853 conducting meetings of the Interstate Commission and ensuring  
4854 reasonable notice of each such meetings;



4855           5. Establishing the titles and responsibilities of the  
4856 officers and staff of the Interstate Commission;

4857           6. Providing a mechanism for concluding the operations  
4858 of the Interstate Commission and the return of surplus funds that  
4859 may exist upon the termination of the compact after the payment  
4860 and reserving all of its debts and obligations; and

4861           7. Providing "start-up" rules for initial  
4862 administration of the compact.

4863           B. The Interstate Commission shall, by a majority of the  
4864 members, elect annually from among its members a chairperson, a  
4865 vice chairperson and a treasurer, each of whom shall have the  
4866 authority and duties as may be specified in the bylaws. The  
4867 chairperson or, in the chairperson's absence or disability, the  
4868 vice chairperson shall preside at all meetings of the Interstate  
4869 Commission. The officers so elected shall serve without  
4870 compensation or remuneration from the Interstate Commission  
4871 provided that, subject to the availability of budgeted funds, the  
4872 officers shall be reimbursed for ordinary and necessary costs and  
4873 expenses incurred by them in the performance of their  
4874 responsibilities as officers of the Interstate Commission.

4875           C. Executive Committee, officers, and personnel.

4876           1. The executive committee shall have such authority  
4877 and duties as may be set forth in the bylaws, including, but not  
4878 limited to: (a) managing the affairs of the Interstate Commission  
4879 in a manner consistent with the bylaws and purposes of the



4880 Interstate Commission; (b) overseeing an organizational structure  
4881 within and appropriate procedures for the Interstate Commission to  
4882 provide for the creation of rules, operating procedures, and  
4883 administrative and technical support functions; and (c) planning,  
4884 implementing, and coordinating communications and activities with  
4885 other state, federal, and local government organizations in order  
4886 to advance the goals of the Interstate Commission.

4887           2. The executive committee may, subject to the approval  
4888 of the Interstate Commission, appoint or retain an executive  
4889 director for such period, upon such terms and conditions, and for  
4890 such compensation as the Interstate Commission may deem  
4891 appropriate. The executive director shall serve as secretary to  
4892 the Interstate Commission, but shall not be a member of the  
4893 Interstate Commission. The executive director shall hire and  
4894 supervise such other persons as may be authorized by the  
4895 Interstate Commission.

4896           D. The Interstate Commission's executive director and its  
4897 employees shall be immune from suit and liability, either  
4898 personally or in their official capacity, for a claim for damage  
4899 to or loss of property or personal injury or other civil liability  
4900 caused or arising out of or relating to an actual or alleged act,  
4901 error, or omission that occurred, or that such person had a  
4902 reasonable basis for believing occurred, within the scope of  
4903 Interstate Commission employment, duties, or responsibilities,  
4904 provided that such person shall not be protected from suit or



4905 liability for damage, loss, injury, or liability caused by the  
4906 intentional or willful and wanton misconduct of such person.

4907           1. The liability of the Interstate Commission's  
4908 executive director and employees or the Interstate Commission  
4909 representatives, acting within the scope of their employment or  
4910 duties for acts, errors, or omissions occurring within such  
4911 person's state, may not exceed the limits of liability set forth  
4912 under the constitution and laws of that state for state officials,  
4913 employees, and agents. The Interstate Commission is considered to  
4914 be an instrumentality of the states for the purposes of any such  
4915 action. Nothing in this subsection D shall be construed to  
4916 protect such person from suit or liability for damage, loss,  
4917 injury, or liability caused by the intentional or willful and  
4918 wanton misconduct of such person.

4919           2. The Interstate Commission shall defend the executive  
4920 director and its employees and, subject to the approval of the  
4921 Attorney General or other appropriate legal counsel of the member  
4922 state represented by an Interstate Commission representative,  
4923 shall defend such Interstate Commission representative in any  
4924 civil action seeking to impose liability arising out of an actual  
4925 or alleged act, error, or omission that occurred within the scope  
4926 of Interstate Commission employment, duties, or responsibilities,  
4927 or that the defendant had a reasonable basis for believing  
4928 occurred within the scope of Interstate Commission employment,  
4929 duties, or responsibilities provided that the actual or alleged



4930 act, error, or omission did not result from intentional or willful  
4931 and wanton misconduct on the part of such person.

4932           3. To the extent not covered by the state involved,  
4933 member state, or the Interstate Commission, the representatives or  
4934 employees of the Interstate Commission shall be held harmless in  
4935 the amount of a settlement or judgment, including attorney's fees  
4936 and costs, obtained against such persons arising out of an actual  
4937 or alleged act, error, or omission that occurred within the scope  
4938 of Interstate Commission employment, duties, or responsibilities,  
4939 or that such persons had a reasonable basis for believing occurred  
4940 within the scope of Interstate Commission employment, duties, or  
4941 responsibilities, provided that the actual or alleged act, error,  
4942 or omission did not result from intentional or willful and wanton  
4943 misconduct on the part of such persons.

4944                           **ARTICLE XII**

4945                           **RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

4946           **Section 12.** A. Rule-making authority. The Interstate  
4947 Commission shall promulgate reasonable rules in order to  
4948 effectively and efficiently achieve the purposes of this compact.  
4949 Notwithstanding the foregoing, in the event the Interstate  
4950 Commission exercises its rule-making authority in a manner that is  
4951 beyond the scope of the purposes of this compact, or the powers  
4952 granted hereunder, then such an action by the Interstate  
4953 Commission shall be invalid and have no force or effect.



4954 B. Rule-making procedure. Rules shall be made pursuant to a  
4955 rule-making process that substantially conforms to the "Model  
4956 State Administrative Procedure Act," of 1981 Act, Uniform Laws  
4957 Annotated, Vol. 15, p. 1 (2000) as amended, as may be appropriate  
4958 to the operations of the Interstate Commission.

4959 C. Not later than thirty (30) days after a rule is  
4960 promulgated, any person may file a petition for judicial review of  
4961 the rule provided that the filing of such a petition shall not  
4962 stay or otherwise prevent the rule from becoming effective unless  
4963 the court finds that the petitioner has a substantial likelihood  
4964 of success. The court shall give deference to the actions of the  
4965 Interstate Commission consistent with applicable law and shall not  
4966 find the rule to be unlawful if the rule represents a reasonable  
4967 exercise of the Interstate Commission's authority.

4968 D. If a majority of the Legislatures of the compacting  
4969 states rejects a rule by enactment of a statute or resolution in  
4970 the same manner used to adopt the compact, then such rule shall  
4971 have no further force and effect in any compacting state.

4972 **ARTICLE XIII**

4973 **OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION**

4974 **Section 13. A. Oversight.**

4975 1. The executive, legislative, and judicial branches of  
4976 state government in each member state shall enforce this compact  
4977 and shall take all actions necessary and appropriate to effectuate  
4978 the compact's purposes and intent. The provisions of this compact





4979 and the rules promulgated hereunder shall have standing as  
4980 statutory law;

4981           2. All courts shall take judicial notice of the compact  
4982 and the rules in any judicial or administrative proceeding in a  
4983 member state pertaining to the subject matter of this compact  
4984 which may affect the powers, responsibilities, or actions of the  
4985 Interstate Commission; and

4986           3. The Interstate Commission shall be entitled to  
4987 receive all service of process in any such proceeding and shall  
4988 have standing to intervene in the proceeding for all purposes.  
4989 Failure to provide service of process to the Interstate Commission  
4990 shall render a judgment or order void as to the Interstate  
4991 Commission, this compact, or promulgated rules.

4992           B. Default, technical assistance, suspension, and  
4993 termination.

4994           If the Interstate Commission determines that a member state  
4995 has defaulted in the performance of its obligations or  
4996 responsibilities under this compact, or the bylaws or promulgated  
4997 rules, the Interstate Commission shall:

4998           1. Provide written notice to the defaulting state and  
4999 other member states of the nature of the default, the means of  
5000 curing the default, and any action taken by the Interstate  
5001 Commission. The Interstate Commission shall specify the  
5002 conditions by which the defaulting state must cure its default;



5003           2. Provide remedial training and specific technical  
5004 assistance regarding the default;

5005           3. If the defaulting state fails to cure the default,  
5006 the defaulting state shall be terminated from the compact upon an  
5007 affirmative vote of a majority of the member states, and all  
5008 rights, privileges, and benefits conferred by this compact shall  
5009 be terminated from the effective date of termination. A cure of  
5010 the default does not relieve the offending state of obligations or  
5011 liabilities incurred during the period of the default;

5012           4. Suspension or termination of membership in the  
5013 compact shall be imposed only after all other means of securing  
5014 compliance have been exhausted. Notice of intent to suspend or  
5015 terminate shall be given by the Interstate Commission to the  
5016 Governor, the majority and minority leaders of the defaulting  
5017 state's Legislature, and each of the member states;

5018           5. The state which has been suspended or terminated is  
5019 responsible for all assessments, obligations, and liabilities  
5020 incurred through the effective date of suspension or termination,  
5021 including obligations the performance of which extends beyond the  
5022 effective date of suspension or termination;

5023           6. The Interstate Commission shall not bear any costs  
5024 relating to any state that has been found to be in default or  
5025 which has been suspended or terminated from the compact, unless  
5026 otherwise mutually agreed upon in writing between the Interstate  
5027 Commission and the defaulting state; and



5028           7. The defaulting state may appeal the action of the  
5029 Interstate Commission by petitioning the United States District  
5030 Court for the District of Columbia or the federal district where  
5031 the Interstate Commission has its principal offices. The  
5032 prevailing party shall be awarded all costs of such litigation  
5033 including reasonable attorney's fees.

5034           C. Dispute resolution.

5035           1. The Interstate Commission shall attempt, upon the  
5036 request of a member state, to resolve disputes that are subject to  
5037 the compact and that may arise among member states and between  
5038 member and nonmember states.

5039           2. The Interstate Commission shall promulgate a rule  
5040 providing for both mediation and binding dispute resolution for  
5041 disputes as appropriate.

5042           D. Enforcement.

5043           1. The Interstate Commission, in the reasonable  
5044 exercise of its discretion, shall enforce the provisions and rules  
5045 of this compact.

5046           2. The Interstate Commission may by majority vote of  
5047 the members initiate legal action in the United States District  
5048 Court for the District of Columbia or, at the discretion of the  
5049 Interstate Commission, in the federal district where the  
5050 Interstate Commission has its principal offices to enforce  
5051 compliance with the provisions of the compact, its promulgated  
5052 rules and bylaws against a member state in default. The relief



5053 sought may include both injunctive relief and damages. In the  
5054 event judicial enforcement is necessary, the prevailing party  
5055 shall be awarded all costs of such litigation including reasonable  
5056 attorney's fees.

5057 3. The remedies herein shall not be the exclusive  
5058 remedies of the Interstate Commission. The Interstate Commission  
5059 may avail itself of any other remedies available under state law  
5060 or the regulation of a profession.

5061 **ARTICLE XIV**

5062 **FINANCING OF THE INTERSTATE COMMISSION**

5063 **Section 14.** A. The Interstate Commission shall pay or  
5064 provide for the payment of the reasonable expenses of its  
5065 establishment, organization, and ongoing activities.

5066 B. The Interstate Commission may levy on and collect an  
5067 annual assessment from each member state to cover the cost of the  
5068 operations and activities of the Interstate Commission and its  
5069 staff, which must be in a total amount sufficient to cover the  
5070 Interstate Commission's annual budget as approved each year. The  
5071 aggregate annual assessment amount shall be allocated based upon a  
5072 formula to be determined by the Interstate Commission, which shall  
5073 promulgate a rule binding upon all member states.

5074 C. The Interstate Commission shall not incur obligations of  
5075 any kind prior to securing the funds adequate to meet the same nor  
5076 shall the Interstate Commission pledge the credit of any of the



5077 member states, except by and with the authority of the member  
5078 state.

5079 D. The Interstate Commission shall keep accurate accounts of  
5080 all receipts and disbursements. The receipts and disbursements of  
5081 the Interstate Commission shall be subject to the audit and  
5082 accounting procedures established under its bylaws. However, all  
5083 receipts and disbursements of funds handled by the Interstate  
5084 Commission shall be audited yearly by a certified or licensed  
5085 public accountant and the report of the audit shall be included in  
5086 and become part of the annual report of the Interstate Commission.

5087 **ARTICLE XV**

5088 **MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT**

5089 **Section 15.** A. Any state is eligible to become a member  
5090 state.

5091 B. The compact shall become effective and binding upon  
5092 legislative enactment of the compact into law by no less than ten  
5093 (10) of the states. The effective date shall be no earlier than  
5094 December 1, 2008. Thereafter it shall become effective and  
5095 binding as to any other member state upon enactment of the compact  
5096 into law by that state. The Governors of nonmember states or  
5097 their designees shall be invited to participate in the activities  
5098 of the Interstate Commission on a nonvoting basis prior to  
5099 adoption of the compact by all states.

5100 C. The Interstate Commission may propose amendments to the  
5101 compact for enactment by the member states. No amendment shall



5102 become effective and binding upon the Interstate Commission and  
5103 the member states unless and until it is enacted into law by  
5104 unanimous consent of the member states.

5105 **ARTICLE XVI**

5106 **WITHDRAWAL AND DISSOLUTION**

5107 **Section 16.** A. Withdrawal.

5108 1. Once effective, the compact shall continue in force  
5109 and remain binding upon each and every member state, provided that  
5110 a member state may withdraw from the compact specifically by  
5111 repealing the statute which enacted the compact into law.

5112 2. Withdrawal from this compact shall be by the  
5113 enactment of a statute repealing the same, but shall not take  
5114 effect until one (1) year after the effective date of such statute  
5115 and until written notice of the withdrawal has been given by the  
5116 withdrawing state to the Governor of each other member  
5117 jurisdiction.

5118 3. The withdrawing state shall immediately notify the  
5119 chairperson of the Interstate Commission in writing upon the  
5120 introduction of legislation repealing this compact in the  
5121 withdrawing state. The Interstate Commission shall notify the  
5122 other member states of the withdrawing state's intent to withdraw  
5123 within sixty (60) days of its receipt thereof.

5124 4. The withdrawing state is responsible for all  
5125 assessments, obligations, and liabilities incurred through the  
5126 effective date of withdrawal, including obligations the



5127 performance of which extends beyond the effective date of  
5128 withdrawal.

5129           5. Reinstatement following withdrawal of a member state  
5130 shall occur upon the withdrawing state reenacting the compact or  
5131 upon such later date as determined by the Interstate Commission.

5132           B. Dissolution of compact.

5133           1. This compact shall dissolve effective upon the date  
5134 of the withdrawal or default of the member state that reduces the  
5135 membership in the compact to one (1) member state.

5136           2. Upon the dissolution of this compact, the compact  
5137 becomes null and void and shall be of no further force or effect  
5138 and the business and affairs of the Interstate Commission shall be  
5139 concluded and surplus funds shall be distributed in accordance  
5140 with the bylaws.

5141   **ARTICLE XVII**

5142   **SEVERABILITY AND CONSTRUCTION**

5143           **Section 17.** A. The provisions of this compact shall be  
5144 severable and if any phrase, clause, sentence, or provision is  
5145 deemed unenforceable, the remaining provisions of the compact  
5146 shall be enforceable.

5147           B. The provisions of this compact shall be liberally  
5148 construed to effectuate its purposes.

5149           C. Nothing in this compact shall be construed to prohibit  
5150 the applicability of other interstate compacts to which the states  
5151 are members.



5152 **ARTICLE XVIII**

5153 **BINDING EFFECT OF COMPACT AND OTHER LAWS**

5154 **Section 18.** A. Other laws.

5155 1. Nothing herein prevents the enforcement of any other  
5156 law of a member state that is not inconsistent with this compact.

5157 2. All member states' laws conflicting with this  
5158 compact are superseded to the extent of the conflict.

5159 B. Binding effect of the compact.

5160 1. All lawful actions of the Interstate Commission,  
5161 including all rules and bylaws promulgated by the Interstate  
5162 Commission, are binding upon the member states.

5163 2. All agreements between the Interstate Commission and  
5164 the member states are binding in accordance with their terms.

5165 3. In the event any provision of this compact exceeds  
5166 the constitutional limits imposed on the Legislature of any member  
5167 state, such provision shall be ineffective to the extent of the  
5168 conflict with the constitutional provision in question in that  
5169 member state.

5170 **SECTION 83.** Section 37-151-107, Mississippi Code of 1972, is  
5171 amended as follows:

5172 37-151-107. Any superintendent of education, member of the  
5173 local school board of any school district, superintendent,  
5174 principal, teacher, carrier, bus driver or member or employee of  
5175 the State Department of Education or State Board of Education, or  
5176 any other person, who shall willfully violate any of the





5177 provisions of this chapter, or who shall willfully make any false  
5178 report, list or record, or who shall willfully make use of any  
5179 false report, list or record, concerning the number of school  
5180 children in average daily attendance or the number of children  
5181 being transported or entitled to be transported in any county or  
5182 school district, shall be guilty of a misdemeanor and upon  
5183 conviction shall be punished by imprisonment in the county jail  
5184 for a period not to exceed sixty (60) days or by a fine of not  
5185 less than One Hundred Dollars (\$100.00), nor more than Three  
5186 Hundred Dollars (\$300.00), or by both such fine and imprisonment,  
5187 in the discretion of the court. In addition, any such person  
5188 shall be civilly liable for all amounts of public funds which are  
5189 illegally, unlawfully or wrongfully expended or paid out by virtue  
5190 of or pursuant to such false report, list or record, and upon  
5191 conviction or adjudication of civil liability hereunder, such  
5192 person shall forfeit his license to teach for a period of three  
5193 (3) years, if such person is the holder of such a license. Any  
5194 suit to recover such funds illegally, unlawfully or wrongfully  
5195 expended or paid out may be brought in the name of the State of  
5196 Mississippi by the Attorney General, subject to the provisions of  
5197 Sections 1 and 2 of this act, or the proper district attorney or  
5198 county attorney, and, in the event such suit be brought against a  
5199 person who is under bond, the sureties upon such bond shall  
5200 likewise be liable for such amount illegally, unlawfully or  
5201 wrongfully expended or paid out.



5202           **SECTION 84.** Section 39-3-201, Mississippi Code of 1972, is  
5203 brought forward as follows:

5204           39-3-201. The Interstate Library Compact is hereby enacted  
5205 into law and entered into by this state with all states legally  
5206 joining therein in the form substantially as follows:

5207   **INTERSTATE LIBRARY COMPACT**

5208   Article I. Policy and Purpose

5209           Because the desire for the services provided by libraries  
5210 transcends governmental boundaries and can most effectively be  
5211 satisfied by giving such services to communities and people  
5212 regardless of jurisdictional lines, it is the policy of the states  
5213 party to this compact to cooperate and share their  
5214 responsibilities; to authorize cooperation and sharing with  
5215 respect to those types of library facilities and services which  
5216 can be more economically or efficiently developed and maintained  
5217 on a cooperative basis, and to authorize cooperation and sharing  
5218 among localities, states and others in providing joint or  
5219 cooperative library services in areas where the distribution of  
5220 population or of existing and potential library resources make the  
5221 provision of library service on an interstate basis the most  
5222 effective way of providing adequate and efficient service.

5223   Article II. Definitions

5224           As used in this compact:



5225           (a) "Public library agency" means any unit or agency of  
5226 local or state government operating or having power to operate a  
5227 library.

5228           (b) "Private library agency" means any nongovernmental  
5229 entity which operates or assumes a legal obligation to operate a  
5230 library.

5231           (c) "Library agreement" means a contract establishing  
5232 an interstate library district pursuant to this compact or  
5233 providing for the joint or cooperative furnishing of library  
5234 services.

5235           Article III. Interstate Library Districts

5236           (a) Any one or more public library agencies in a party  
5237 state in cooperation with any public library agency or agencies in  
5238 one or more other party states may establish and maintain an  
5239 interstate library district. Subject to the provisions of this  
5240 compact and any other laws of the party states which pursuant  
5241 hereto remain applicable, such district may establish, maintain  
5242 and operate some or all of the library facilities and services for  
5243 the area concerned in accordance with the terms of a library  
5244 agreement therefor. Any private library agency or agencies within  
5245 an interstate library district may cooperate therewith, assume  
5246 duties, responsibilities and obligations thereto, and receive  
5247 benefits therefrom as provided in any library agreement to which  
5248 such agency or agencies become party.



5249           (b) Within an interstate library district, and as  
5250 provided by a library agreement, the performance of library  
5251 functions may be undertaken on a joint or cooperative basis or may  
5252 be undertaken by means of one or more arrangements between or  
5253 among public or private library agencies for the extension of  
5254 library privileges to the use of facilities or services operated  
5255 or rendered by one or more of the individual library agencies.

5256           (c) If a library agreement provides for joint  
5257 establishment, maintenance or operation of library facilities or  
5258 services by an interstate library district, such district shall  
5259 have power to do any one or more of the following in accordance  
5260 with such library agreement:

5261                   1. Undertake, administer and participate in  
5262 programs or arrangements for securing, lending or servicing of  
5263 books and other publications, any other materials suitable to be  
5264 kept or made available by libraries, library equipment or for the  
5265 dissemination of information about libraries, the value and  
5266 significance of particular items therein, and the use thereof.

5267                   2. Accept for any of its purposes under this  
5268 compact any and all donations, and grants of money, equipment,  
5269 supplies, materials, and services, (conditional or otherwise) from  
5270 any state or the United States or any subdivision or agency  
5271 thereof, or interstate agency, or from any institution, person,  
5272 firm or corporation, and receive, utilize and dispose of the same.



5273                   3. Operate mobile library units or equipment for  
5274 the purpose of rendering bookmobile service within the district.

5275                   4. Employ professional, technical, clerical, and  
5276 other personnel, and fix terms of employment, compensation and  
5277 other appropriate benefits; and where desirable, provide for the  
5278 inservice training of such personnel.

5279                   5. Acquire, hold, and dispose of any real or  
5280 personal property or any interest or interests therein as may be  
5281 appropriate to the rendering of library service.

5282                   6. Construct, maintain and operate a library,  
5283 including any appropriate branches thereof.

5284                   7. Do such other things as may be incidental to or  
5285 appropriate for the carrying out of any of the foregoing powers.

5286           Article IV. Interstate Library Districts, Governing Board

5287                   (a) An interstate library district which establishes,  
5288 maintains or operates any facilities or services in its own right  
5289 shall have a governing board which shall direct the affairs of the  
5290 district and act for it in all matters relating to its business.  
5291 Each participating public library agency in the district shall be  
5292 represented on the governing board which shall be organized and  
5293 conduct its business in accordance with provision therefor in the  
5294 library agreement. But in no event shall a governing board meet  
5295 less often than twice a year.

5296                   (b) Any private library agency or agencies party to a  
5297 library agreement establishing an interstate library district may



5298 be represented on or advise with the governing board of the  
5299 district in such manner as the library agreement may provide.

5300 Article V. State Library Agency Cooperation

5301 Any two or more state library agencies of two or more of the  
5302 party states may undertake and conduct joint or cooperative  
5303 library programs, render joint or cooperative library services,  
5304 and enter into and perform arrangements for the cooperative or  
5305 joint acquisition, use, housing and disposition of items or  
5306 collections of materials which, by reason of expense, rarity,  
5307 specialized nature, or infrequency of demand therefor would be  
5308 appropriate for central collection and shared use. Any such  
5309 programs, services or arrangements may include provision for the  
5310 exercise on a cooperative or joint basis of any power exercisable  
5311 by an interstate library district and an agreement embodying any  
5312 such program, service or arrangement shall contain provisions  
5313 covering the subjects detailed in Article VI of this compact for  
5314 interstate library agreements.

5315 Article VI. Library Agreement

5316 (a) In order to provide for any joint or cooperative  
5317 undertaking pursuant to this compact, public and private library  
5318 agencies may enter into library agreements. Any agreement  
5319 executed pursuant to the provisions of this compact shall, as  
5320 among the parties to the agreement:



5321                   1. Detail the specific nature of the services,  
5322 programs, facilities, arrangements or properties to which it is  
5323 applicable.

5324                   2. Provide for the allocation of costs and other  
5325 financial responsibilities.

5326                   3. Specify the respective rights, duties,  
5327 obligations and liabilities of the parties.

5328                   4. Set forth the terms and conditions for  
5329 duration, renewal, termination, abrogation, disposal of joint or  
5330 common property, if any, and all other matters which may be  
5331 appropriate to the proper effectuation and performance of the  
5332 agreement.

5333                   (b) No public or private library agency shall undertake  
5334 to exercise itself, or jointly with any other library agency, by  
5335 means of a library agreement any power prohibited to such agency  
5336 by the constitution or statutes of its state.

5337                   (c) No library agreement shall become effective until  
5338 filed with the compact administrator of each state involved, and  
5339 approved in accordance with Article VII of this compact.

5340                   Article VII. Approval of Library Agreements

5341                   (a) Every library agreement made pursuant to this  
5342 compact shall, prior to and as a condition precedent to its entry  
5343 into force, be submitted to the Attorney General of each state in  
5344 which a public library agency party thereto is situated, who shall  
5345 determine whether the agreement is in proper form and compatible



5346 with the laws of his state. The attorneys general shall approve  
5347 any agreement submitted to them unless they shall find that it  
5348 does not meet the conditions set forth herein and shall detail in  
5349 writing addressed to the governing bodies of the public library  
5350 agencies concerned the specific respects in which the proposed  
5351 agreement fails to meet the requirements of law. Failure to  
5352 disapprove an agreement submitted hereunder within ninety days of  
5353 its submission shall constitute approval thereof.

5354 (b) In the event that a library agreement made pursuant  
5355 to this compact shall deal in whole or in part with the provision  
5356 of services or facilities with regard to which an officer or  
5357 agency of the state government has constitutional or statutory  
5358 powers of control, the agreement shall, as a condition precedent  
5359 to its entry into force, be submitted to the state officer or  
5360 agency having such power of control and shall be approved or  
5361 disapproved by him or it as to all matters within his or its  
5362 jurisdiction in the same manner and subject to the same  
5363 requirements governing the action of the attorneys general  
5364 pursuant to paragraph (a) of this article. This requirement of  
5365 submission and approval shall be in addition to and not in  
5366 substitution for the requirement of submission to and approval by  
5367 the attorneys general.

5368 Article VIII. Other Laws Applicable

5369 Nothing in this compact or in any library agreement shall be  
5370 construed to supersede, alter or otherwise impair any obligation





5371 imposed on any library by otherwise applicable law, nor to  
5372 authorize the transfer or disposition of any property held in  
5373 trust by a library agency in a manner contrary to the terms of  
5374 such trust.

5375 Article IX. Appropriations and Aid

5376 (a) Any public library agency party to a library  
5377 agreement may appropriate funds to the interstate library district  
5378 established thereby in the same manner and to the same extent as  
5379 to a library wholly maintained by it and, subject to the laws of  
5380 the state in which such public library agency is situated, may  
5381 pledge its credit in support of an interstate library district  
5382 established by the agreement.

5383 (b) Subject to the provisions of the library agreement  
5384 pursuant to which it functions and the laws of the states in which  
5385 such district is situated, an interstate library district may  
5386 claim and receive any state and federal aid which may be available  
5387 to library agencies.

5388 Article X. Compact Administrator

5389 Each state shall designate a compact administrator with whom  
5390 copies of all library agreements to which his state or any public  
5391 library agency thereof is party shall be filed. The administrator  
5392 shall have such other powers as may be conferred upon him by the  
5393 laws of his state and may consult and cooperate with the compact  
5394 administrators of other party states and take such steps as may  
5395 effectuate the purposes of this compact. If the laws of a party



5396 state so provide, such state may designate one or more deputy  
5397 compact administrators in addition to its compact administrator.

5398 Article XI. Entry Into Force and Withdrawal

5399 (a) This compact shall enter into force and effect  
5400 immediately upon its enactment into law by any two states.  
5401 Thereafter, it shall enter into force and effect as to any other  
5402 state upon the enactment thereof by such state.

5403 (b) This compact shall continue in force with respect  
5404 to a party state and remain binding upon such state until six  
5405 months after such state has given notice to each other party state  
5406 of the repeal thereof. Such withdrawal shall not be construed to  
5407 relieve any party to a library agreement entered into pursuant to  
5408 this compact from any obligation of that agreement prior to the  
5409 end of its duration as provided therein.

5410 Article XII. Construction and Severability

5411 This compact shall be liberally construed so as effectuate  
5412 the purposes thereof. The provisions of this compact shall be  
5413 severable and if any phrase, clause, sentence or provision of this  
5414 compact is declared to be contrary to the constitution of any  
5415 party state or of the United States or the applicability thereof  
5416 to any government, agency, person or circumstance is held invalid,  
5417 the validity of the remainder of this compact and the  
5418 applicability thereof to any government, agency, person or  
5419 circumstance shall not be affected thereby. If this compact shall  
5420 be held contrary to the constitution of any state party thereto,



5421 the compact shall remain in full force and effect as to the  
5422 remaining states and in full force and effect as to the state  
5423 affected as to all severable matters.

5424         **SECTION 85.** Section 39-7-37, Mississippi Code of 1972, is  
5425 amended as follows:

5426         39-7-37. In addition to, and without limiting the other  
5427 powers of the Attorney General of the State of Mississippi and  
5428 without altering or waiving any criminal penalty provision of this  
5429 chapter, the Attorney General shall have the power to bring an  
5430 action, subject to the provisions of Sections 1 and 2 of this act,  
5431 in the name of the State of Mississippi in any court of competent  
5432 jurisdiction to enjoin violations or threatened violations of this  
5433 chapter, and for the return of items taken in violation of the  
5434 provisions hereof, and for the restoration of alterations made in  
5435 violation of the provisions hereof. The venue of such actions  
5436 shall lie in the county in which the activity sought to be  
5437 enjoined is alleged to be taking place, or in the county from  
5438 which the items were taken. Any citizen in the State of  
5439 Mississippi shall have the power to bring an action in any court  
5440 of competent jurisdiction to enjoin violations or threatened  
5441 violations of this chapter, and for the return of items taken in  
5442 violation of the provisions hereof. The venue of such actions  
5443 shall lie in the county in which the activity sought to be  
5444 enjoined is alleged to be taking place, or in the county from  
5445 which the items were taken.



5446           **SECTION 86.** Section 41-7-79, Mississippi Code of 1972, is  
5447 amended as follows:

5448           41-7-79. Each state institution shall have the power to  
5449 assess and collect charges from patients, patients' estates and  
5450 from all persons legally liable for the cost of care of such  
5451 patients in such state institution. The maximum charges which may  
5452 be made shall be based on the estimated cost of operating the  
5453 institution, and such costs shall include a reasonable amount for  
5454 depreciation. The director or the governing board of each  
5455 institution, as appropriate, shall investigate or cause to be  
5456 investigated the financial ability of each patient, his or her  
5457 estate, and all other persons legally liable for the cost or care  
5458 of the patient, and the charges assessed shall be in accordance  
5459 with the ability of the person assessed to pay.

5460           The Director of the Mississippi Children's Rehabilitation  
5461 Center or the governing board of the center, as appropriate, upon  
5462 conclusion of the investigation of the financial ability of each  
5463 patient and all other persons legally liable for the cost of care  
5464 of the patient, shall assess a fee against each patient based on  
5465 the financial ability of such patient or others legally liable for  
5466 such patient to pay. The fee shall be adjustable and commensurate  
5467 with the patient's financial ability to pay. In order to receive  
5468 the benefits of the sliding scale fee each patient is required to  
5469 provide for the Children's Rehabilitation Center sufficient  
5470 financial information in order to allow the center to make a



5471 determination as to whether or not a reduced fee is appropriate.  
5472 The center shall not utilize such fee scale for any patient unless  
5473 the patient has a need for additional treatment, and has no  
5474 insurance covering his treatment or such insurance is exhausted.  
5475 The Children's Rehabilitation Center shall make every effort to  
5476 collect the total charges from a patient, the patient's estate and  
5477 from all persons legally liable for the cost of care of the  
5478 patient before it may utilize a sliding fee scale for the patient.

5479         After three (3) good faith attempts have been made to collect  
5480 a remaining balance of such charges, and upon the recommendation  
5481 of the Children's Rehabilitation Center fiscal officer, said  
5482 balance may be declared uncollectible and worthless, and no longer  
5483 listed as an asset.

5484         In the determination of ability to pay, the director or  
5485 governing board shall not work an undue hardship on any patient or  
5486 person legally responsible for such a patient. The value of a  
5487 homestead shall not be considered in determining the ability to  
5488 pay. The number of dependents of a patient or the party legally  
5489 responsible for such patient shall be considered in determining  
5490 ability to pay. The value of real and/or personal property may  
5491 also be considered.

5492         The director or the governing board, as appropriate, shall  
5493 have authority to enter into agreements with the patients or  
5494 others legally liable whereby periodic payments can be made on



5495 said accounts. The director or governing board may accept notes,  
5496 secured or open, or any other evidences of indebtedness.

5497 The director or the governing board, as appropriate, of each  
5498 state institution shall have the right to institute suits where  
5499 necessary or advisable, and it shall be the duty of the Attorney  
5500 General to institute such suits, subject to the provisions of  
5501 Sections 1 and 2 of this act, either in the name of the  
5502 institution or in the name of the State of Mississippi. Except in  
5503 matters involving the administration of estates, the probate of  
5504 wills or the appointment of guardians or conservators, venue for  
5505 such suits shall lie in the county in which the institution is  
5506 located, and the venue shall not be subject to change.

5507 **SECTION 87.** Section 41-9-35, Mississippi Code of 1972, is  
5508 amended as follows:

5509 41-9-35. Notwithstanding the existence or pursuit of any  
5510 other remedy, the licensing agency, may in the manner provided by  
5511 law, upon the advice of the Attorney General who, except as  
5512 otherwise authorized in Section 7-5-39, shall represent the  
5513 licensing agency in the proceedings, maintain an action in the  
5514 name of the state for an injunction or other process against any  
5515 person or governmental unit to restrain or prevent the  
5516 establishment, conduct, management or operation of a hospital  
5517 without a license as provided for in Section 41-9-11, subject to  
5518 the provisions of Sections 1 and 2 of this act.



5519           **SECTION 88.** Section 41-51-33, Mississippi Code of 1972, is  
5520 amended as follows:

5521           41-51-33. The Attorney General of the State of Mississippi  
5522 may bring an action in the name of the people of the State of  
5523 Mississippi to enjoin the continued operation of any disposal or  
5524 rendering plant found to be operating within this state for which  
5525 no license has been obtained under this chapter or for which such  
5526 license has been suspended or revoked, subject to the provisions  
5527 of Sections 1 and 2 of this act.

5528           **SECTION 89.** Section 41-71-21, Mississippi Code of 1972, is  
5529 amended as follows:

5530           41-71-21. Any person or persons or other entity or entities  
5531 establishing, managing or operating a home health agency or  
5532 conducting the business of a home health agency without the  
5533 required license, or which otherwise violate any of the provisions  
5534 of this chapter or the rules, regulations or standards promulgated  
5535 and established in furtherance of this chapter, shall be guilty of  
5536 a misdemeanor and, upon conviction thereof, shall be fined not  
5537 more than Five Hundred Dollars (\$500.00) for each offense. Each  
5538 day of a continuing violation shall be considered a separate  
5539 offense. The licensing agency may seek injunctive relief in the  
5540 event it deems such action necessary after consulting with the  
5541 State Attorney General, subject to the provisions of Sections 1  
5542 and 2 of this act.



5543           **SECTION 90.** Section 43-11-27, Mississippi Code of 1972, is  
5544 amended as follows:

5545           43-11-27. Notwithstanding the existence or pursuit of any  
5546 other remedy, the licensing agency may, in the manner provided by  
5547 law, upon the advice of the Attorney General who, except as  
5548 otherwise authorized in Section 7-5-39, shall represent the  
5549 licensing agency in the proceedings, maintain an action in the  
5550 name of the state for injunction or other process against any  
5551 person to restrain or prevent the establishment, conduct,  
5552 management or operation of an institution for the aged or infirm  
5553 without a license under this chapter, subject to the provisions of  
5554 Sections 1 and 2 of this act.

5555           **SECTION 91.** Section 43-13-145, Mississippi Code of 1972, is  
5556 amended as follows:

5557           43-13-145. (1) (a) Upon each nursing facility licensed by  
5558 the State of Mississippi, there is levied an assessment in an  
5559 amount set by the division, equal to the maximum rate allowed by  
5560 federal law or regulation, for each licensed and occupied bed of  
5561 the facility.

5562           (b) A nursing facility is exempt from the assessment  
5563 levied under this subsection if the facility is operated under the  
5564 direction and control of:

5565                   (i) The United States Veterans Administration or  
5566 other agency or department of the United States government;

5567                   (ii) The State Veterans Affairs Board; or





5568 (iii) The University of Mississippi Medical  
5569 Center.

5570 (2) (a) Upon each intermediate care facility for  
5571 individuals with intellectual disabilities licensed by the State  
5572 of Mississippi, there is levied an assessment in an amount set by  
5573 the division, equal to the maximum rate allowed by federal law or  
5574 regulation, for each licensed and occupied bed of the facility.

5575 (b) An intermediate care facility for individuals with  
5576 intellectual disabilities is exempt from the assessment levied  
5577 under this subsection if the facility is operated under the  
5578 direction and control of:

5579 (i) The United States Veterans Administration or  
5580 other agency or department of the United States government;

5581 (ii) The State Veterans Affairs Board; or

5582 (iii) The University of Mississippi Medical  
5583 Center.

5584 (3) (a) Upon each psychiatric residential treatment  
5585 facility licensed by the State of Mississippi, there is levied an  
5586 assessment in an amount set by the division, equal to the maximum  
5587 rate allowed by federal law or regulation, for each licensed and  
5588 occupied bed of the facility.

5589 (b) A psychiatric residential treatment facility is  
5590 exempt from the assessment levied under this subsection if the  
5591 facility is operated under the direction and control of:



5592 (i) The United States Veterans Administration or  
5593 other agency or department of the United States government;  
5594 (ii) The University of Mississippi Medical Center;  
5595 or  
5596 (iii) A state agency or a state facility that  
5597 either provides its own state match through intergovernmental  
5598 transfer or certification of funds to the division.

5599 (4) Hospital assessment.

5600 (a) (i) Subject to and upon fulfillment of the  
5601 requirements and conditions of paragraph (f) below, and  
5602 notwithstanding any other provisions of this section, effective  
5603 for state fiscal year 2016, fiscal year 2017 and fiscal year 2018,  
5604 an annual assessment on each hospital licensed in the state is  
5605 imposed on each non-Medicare hospital inpatient day as defined  
5606 below at a rate that is determined by dividing the sum prescribed  
5607 in this subparagraph (i), plus the nonfederal share necessary to  
5608 maximize the Disproportionate Share Hospital (DSH) and inpatient  
5609 Medicare Upper Payment Limits (UPL) Program payments and inpatient  
5610 hospital access payments, by the total number of non-Medicare  
5611 hospital inpatient days as defined below for all licensed  
5612 Mississippi hospitals, except as provided in paragraph (d) below.  
5613 If the state matching funds percentage for the Mississippi  
5614 Medicaid program is sixteen percent (16%) or less, the sum used in  
5615 the formula under this subparagraph (i) shall be Seventy-four  
5616 Million Dollars (\$74,000,000.00). If the state matching funds



5617 percentage for the Mississippi Medicaid program is twenty-four  
5618 percent (24%) or higher, the sum used in the formula under this  
5619 subparagraph (i) shall be One Hundred Four Million Dollars  
5620 (\$104,000,000.00). If the state matching funds percentage for the  
5621 Mississippi Medicaid program is between sixteen percent (16%) and  
5622 twenty-four percent (24%), the sum used in the formula under this  
5623 subparagraph (i) shall be a pro rata amount determined as follows:  
5624 the current state matching funds percentage rate minus sixteen  
5625 percent (16%) divided by eight percent (8%) multiplied by Thirty  
5626 Million Dollars (\$30,000,000.00) and add that amount to  
5627 Seventy-four Million Dollars (\$74,000,000.00). However, no  
5628 assessment in a quarter under this subparagraph (i) may exceed the  
5629 assessment in the previous quarter by more than Three Million  
5630 Seven Hundred Fifty Thousand Dollars (\$3,750,000.00) (which would  
5631 be Fifteen Million Dollars (\$15,000,000.00) on an annualized  
5632 basis). The division shall publish the state matching funds  
5633 percentage rate applicable to the Mississippi Medicaid program on  
5634 the tenth day of the first month of each quarter and the  
5635 assessment determined under the formula prescribed above shall be  
5636 applicable in the quarter following any adjustment in that state  
5637 matching funds percentage rate. The division shall notify each  
5638 hospital licensed in the state as to any projected increases or  
5639 decreases in the assessment determined under this subparagraph  
5640 (i). However, if the Centers for Medicare and Medicaid Services  
5641 (CMS) does not approve the provision in Section 43-13-117(39)



5642 requiring the division to reimburse crossover claims for inpatient  
5643 hospital services and crossover claims covered under Medicare Part  
5644 B for dually eligible beneficiaries in the same manner that was in  
5645 effect on January 1, 2008, the sum that otherwise would have been  
5646 used in the formula under this subparagraph (i) shall be reduced  
5647 by Seven Million Dollars (\$7,000,000.00).

5648                   (ii) In addition to the assessment provided under  
5649 subparagraph (i), effective for state fiscal year 2016, fiscal  
5650 year 2017 and fiscal year 2018, an additional annual assessment on  
5651 each hospital licensed in the state is imposed on each  
5652 non-Medicare hospital inpatient day as defined below at a rate  
5653 that is determined by dividing twenty-five percent (25%) of any  
5654 provider reductions in the Medicaid program as authorized in  
5655 Section 43-13-117(F) for that fiscal year up to the following  
5656 maximum amount, plus the nonfederal share necessary to maximize  
5657 the Disproportionate Share Hospital (DSH) and inpatient Medicare  
5658 Upper Payment Limits (UPL) Program payments and inpatient hospital  
5659 access payments, by the total number of non-Medicare hospital  
5660 inpatient days as defined below for all licensed Mississippi  
5661 hospitals: in fiscal year 2010, the maximum amount shall be  
5662 Twenty-four Million Dollars (\$24,000,000.00); in fiscal year 2011,  
5663 the maximum amount shall be Thirty-two Million Dollars  
5664 (\$32,000,000.00); and in fiscal year 2012 and thereafter, the  
5665 maximum amount shall be Forty Million Dollars (\$40,000,000.00).



5666 Any such deficit in the Medicaid program shall be reviewed by the  
5667 PEER Committee as provided in Section 43-13-117(F).

5668 (iii) In addition to the assessments provided in  
5669 subparagraphs (i) and (ii), effective for state fiscal year 2016,  
5670 fiscal year 2017 and fiscal year 2018, an additional annual  
5671 assessment on each hospital licensed in the state is imposed  
5672 pursuant to the provisions of Section 43-13-117(F) if the cost  
5673 containment measures described therein have been implemented and  
5674 there are insufficient funds in the Health Care Trust Fund to  
5675 reconcile any remaining deficit in any fiscal year. If the  
5676 Governor institutes any other additional cost containment measures  
5677 on any program or programs authorized under the Medicaid program  
5678 pursuant to Section 43-13-117(F), hospitals shall be responsible  
5679 for twenty-five percent (25%) of any such additional imposed  
5680 provider cuts, which shall be in the form of an additional  
5681 assessment not to exceed the twenty-five percent (25%) of provider  
5682 expenditure reductions. Such additional assessment shall be  
5683 imposed on each non-Medicare hospital inpatient day in the same  
5684 manner as assessments are imposed under subparagraphs (i) and  
5685 (ii).

5686 (b) Payment and definitions.

5687 (i) The hospital assessment as described in this  
5688 subsection (4) \* \* \* shall be assessed and collected monthly no  
5689 later than the fifteenth calendar day of each month; provided,  
5690 however, that the first three (3) monthly payments shall be



5691 assessed but not be collected until collection is satisfied for  
5692 the third monthly (September) payment and the second three (3)  
5693 monthly payments shall be assessed but not be collected until  
5694 collection is satisfied for the sixth monthly (December) payment  
5695 and provided that the portion of the assessment related to the DSH  
5696 payments shall be paid in three (3) one-third (1/3) installments  
5697 due no later than the fifteenth calendar day of the payment month  
5698 of the DSH payments required by Section 43-13-117(A)(18), which  
5699 shall be paid during the second, third and fourth quarters of the  
5700 state fiscal year, and provided that the assessment related to any  
5701 inpatient UPL payment(s) shall be paid no later than the fifteenth  
5702 calendar day of the payment month of the UPL payment(s) and  
5703 provided assessments related to inpatient hospital access payments  
5704 will be collected beginning the initial month that the division  
5705 funds MHAP.

5706 (ii) Definitions. For purposes of this subsection  
5707 (4):

5708 1. "Non-Medicare hospital inpatient day"  
5709 means total hospital inpatient days including subcomponent days  
5710 less Medicare inpatient days including subcomponent days from the  
5711 hospital's 2013 Medicare cost report on file with CMS.

5712 a. Total hospital inpatient days shall  
5713 be the sum of Worksheet S-3, Part 1, column 8 row 14, column 8 row  
5714 16, and column 8 row 17, excluding column 8 rows 5 and 6.



5715                                   b. Hospital Medicare inpatient days  
5716 shall be the sum of Worksheet S-3, Part 1, column 6 row 14, column  
5717 6 row 16.00, and column 6 row 17, excluding column 6 rows 5 and 6.

5718                                   c. Inpatient days shall not include  
5719 residential treatment or long-term care days.

5720                                   2. "Subcomponent inpatient day" means the  
5721 number of days of care charged to a beneficiary for inpatient  
5722 hospital rehabilitation and psychiatric care services in units of  
5723 full days. A day begins at midnight and ends twenty-four (24)  
5724 hours later. A part of a day, including the day of admission and  
5725 day on which a patient returns from leave of absence, counts as a  
5726 full day. However, the day of discharge, death, or a day on which  
5727 a patient begins a leave of absence is not counted as a day unless  
5728 discharge or death occur on the day of admission. If admission  
5729 and discharge or death occur on the same day, the day is  
5730 considered a day of admission and counts as one (1) subcomponent  
5731 inpatient day.

5732                                   (c) The assessment provided in this subsection is  
5733 intended to satisfy and not be in addition to the assessment and  
5734 intergovernmental transfers provided in Section 43-13-117(A)(18).  
5735 Nothing in this section shall be construed to authorize any state  
5736 agency, division or department, or county, municipality or other  
5737 local governmental unit to license for revenue, levy or impose any  
5738 other tax, fee or assessment upon hospitals in this state not  
5739 authorized by a specific statute.



5740 (d) Hospitals operated by the United States Department  
5741 of Veterans Affairs and state-operated facilities that provide  
5742 only inpatient and outpatient psychiatric services shall not be  
5743 subject to the hospital assessment provided in this subsection.

5744 (e) Multihospital systems, closure, merger and new  
5745 hospitals.

5746 (i) If a hospital conducts, operates or maintains  
5747 more than one (1) hospital licensed by the State Department of  
5748 Health, the provider shall pay the hospital assessment for each  
5749 hospital separately.

5750 (ii) Notwithstanding any other provision in this  
5751 section, if a hospital subject to this assessment operates or  
5752 conducts business only for a portion of a fiscal year, the  
5753 assessment for the state fiscal year shall be adjusted by  
5754 multiplying the assessment by a fraction, the numerator of which  
5755 is the number of days in the year during which the hospital  
5756 operates, and the denominator of which is three hundred sixty-five  
5757 (365). Immediately upon ceasing to operate, the hospital shall  
5758 pay the assessment for the year as so adjusted (to the extent not  
5759 previously paid).

5760 (f) Applicability.

5761 The hospital assessment imposed by this subsection shall not  
5762 take effect and/or shall cease to be imposed if:

5763 (i) The assessment is determined to be an  
5764 impermissible tax under Title XIX of the Social Security Act; or





5765 (ii) CMS revokes its approval of the division's  
5766 2009 Medicaid State Plan Amendment for the methodology for DSH  
5767 payments to hospitals under Section 43-13-117(A)(18).

5768 This subsection (4) is repealed on July 1, 2018.

5769 (5) Each health care facility that is subject to the  
5770 provisions of this section shall keep and preserve such suitable  
5771 books and records as may be necessary to determine the amount of  
5772 assessment for which it is liable under this section. The books  
5773 and records shall be kept and preserved for a period of not less  
5774 than five (5) years, during which time those books and records  
5775 shall be open for examination during business hours by the  
5776 division, the Department of Revenue, the Office of the Attorney  
5777 General and the State Department of Health.

5778 (6) Except as provided in subsection (4) of this section,  
5779 the assessment levied under this section shall be collected by the  
5780 division each month beginning on March 31, 2005.

5781 (7) All assessments collected under this section shall be  
5782 deposited in the Medical Care Fund created by Section 43-13-143.

5783 (8) The assessment levied under this section shall be in  
5784 addition to any other assessments, taxes or fees levied by law,  
5785 and the assessment shall constitute a debt due the State of  
5786 Mississippi from the time the assessment is due until it is paid.

5787 (9) (a) If a health care facility that is liable for  
5788 payment of an assessment levied by the division does not pay the  
5789 assessment when it is due, the division shall give written notice



5790 to the health care facility by certified or registered mail  
5791 demanding payment of the assessment within ten (10) days from the  
5792 date of delivery of the notice. If the health care facility fails  
5793 or refuses to pay the assessment after receiving the notice and  
5794 demand from the division, the division shall withhold from any  
5795 Medicaid reimbursement payments that are due to the health care  
5796 facility the amount of the unpaid assessment and a penalty of ten  
5797 percent (10%) of the amount of the assessment, plus the legal rate  
5798 of interest until the assessment is paid in full. If the health  
5799 care facility does not participate in the Medicaid program, the  
5800 division shall turn over to the Office of the Attorney General,  
5801 subject to the provisions of Sections 1 and 2 of this act, the  
5802 collection of the unpaid assessment by civil action. In any such  
5803 civil action, the Office of the Attorney General shall collect the  
5804 amount of the unpaid assessment and a penalty of ten percent (10%)  
5805 of the amount of the assessment, plus the legal rate of interest  
5806 until the assessment is paid in full.

5807 (b) As an additional or alternative method for  
5808 collecting unpaid assessments levied by the division, if a health  
5809 care facility fails or refuses to pay the assessment after  
5810 receiving notice and demand from the division, the division may  
5811 file a notice of a tax lien with the chancery clerk of the county  
5812 in which the health care facility is located, for the amount of  
5813 the unpaid assessment and a penalty of ten percent (10%) of the  
5814 amount of the assessment, plus the legal rate of interest until



5815 the assessment is paid in full. Immediately upon receipt of  
5816 notice of the tax lien for the assessment, the chancery clerk  
5817 shall forward the notice to the circuit clerk who shall enter the  
5818 notice of the tax lien as a judgment upon the judgment roll and  
5819 show in the appropriate columns the name of the health care  
5820 facility as judgment debtor, the name of the division as judgment  
5821 creditor, the amount of the unpaid assessment, and the date and  
5822 time of enrollment. The judgment shall be valid as against  
5823 mortgagees, pledgees, entrusters, purchasers, judgment creditors  
5824 and other persons from the time of filing with the clerk. The  
5825 amount of the judgment shall be a debt due the State of  
5826 Mississippi and remain a lien upon the tangible property of the  
5827 health care facility until the judgment is satisfied. The  
5828 judgment shall be the equivalent of any enrolled judgment of a  
5829 court of record and shall serve as authority for the issuance of  
5830 writs of execution, writs of attachment or other remedial writs.

5831 (10) As soon as possible after July 1, 2009, the Division of  
5832 Medicaid shall submit to the Centers for Medicare and Medicaid  
5833 Services (CMS) a state plan amendment or amendments (SPA)  
5834 regarding the hospital assessment established under subsection (4)  
5835 of this section. In addition to defining the assessment  
5836 established in subsection (4) of this section, the state plan  
5837 amendment or amendments shall include any amendments necessary to  
5838 provide for the following additional annual Medicare Upper Payment  
5839 Limits (UPL) Program and Disproportionate Share Hospital (DSH)



5840 payments to hospitals located in Mississippi that participate in  
5841 the Medicaid program:

5842 (a) Privately operated and nonstate government operated  
5843 hospitals, within the meaning of 42 CFR Section 447.272, that have  
5844 fifty (50) or fewer licensed beds as of January 1, 2009, shall  
5845 receive an additional inpatient UPL payment equal to sixty-five  
5846 percent (65%) of their fiscal year 2013 hospital specific  
5847 inpatient UPL gap, before any payments under this subsection.

5848 (b) General acute care hospitals licensed within the  
5849 class of state hospitals shall receive an additional inpatient UPL  
5850 payment equal to twenty-eight percent (28%) of their fiscal year  
5851 2013 inpatient payments, excluding DSH and UPL payments.

5852 (c) General acute care hospitals licensed within the  
5853 class of nonstate government hospitals shall receive an additional  
5854 inpatient UPL payment determined by multiplying inpatient  
5855 payments, excluding DSH and UPL, by the uniform percentage  
5856 necessary to exhaust the maximum amount of inpatient UPL payments  
5857 permissible under federal regulations. (For state fiscal year  
5858 2015 and fiscal year 2016, the state shall use 2013 inpatient  
5859 payment data).

5860 (d) In addition to other payments provided above, all  
5861 hospitals licensed within the class of private hospitals shall  
5862 receive an additional inpatient UPL payment determined by  
5863 multiplying inpatient payments, excluding DSH and UPL, by the  
5864 uniform percentage necessary to exhaust the maximum amount of UPL



5865 inpatient payments permissible under federal regulations. For  
5866 state fiscal year 2015 and fiscal year 2016, the state shall use  
5867 2013 data.

5868 (e) All hospitals satisfying the minimum federal DSH  
5869 eligibility requirements (Section 1923(d) of the Social Security  
5870 Act) shall, subject to OBRA 1993 payment limitations, receive an  
5871 additional DSH payment. This additional DSH payment shall expend  
5872 the balance of the federal DSH allotment and associated state  
5873 share not utilized in DSH payments to state-owned institutions for  
5874 treatment of mental diseases. The payment to each hospital shall  
5875 be calculated by applying a uniform percentage to the uninsured  
5876 costs of each eligible hospital, excluding state-owned  
5877 institutions for treatment of mental diseases; however, that  
5878 percentage for a state-owned teaching hospital located in Hinds  
5879 County shall be multiplied by a factor of two (2).

5880 (11) The portion of the hospital assessment provided in  
5881 subsection (4) of this section associated with the MHAP shall not  
5882 be in effect or implemented until the approval by CMS for the MHAP  
5883 is obtained.

5884 (12) The division shall implement DSH and UPL calculation  
5885 methodologies that result in the maximization of available federal  
5886 funds.

5887 (13) The DSH and inpatient UPL payments shall be paid on or  
5888 before December 31, March 31, and June 30 of each fiscal year, in



5889 increments of one-third (1/3) of the total calculated DSH and  
5890 inpatient UPL amounts.

5891           (14) The hospital assessment as described in subsection (4)  
5892 above shall be assessed and collected monthly no later than the  
5893 fifteenth calendar day of each month; provided, however, that the  
5894 first three (3) monthly payments shall be assessed but not be  
5895 collected until collection is satisfied for the third monthly  
5896 (September) payment and the second three (3) monthly payments  
5897 shall be assessed but not be collected until collection is  
5898 satisfied for the sixth monthly (December) payment and provided  
5899 that the portion of the assessment related to the DSH payments  
5900 shall be paid in three (3) one-third (1/3) installments due no  
5901 later than the fifteenth calendar day of the payment month of the  
5902 DSH payments required by Section 43-13-117(A) (18), which shall be  
5903 paid during the second, third and fourth quarters of the state  
5904 fiscal year, and provided that the assessment related to any  
5905 inpatient UPL payment(s) shall be paid no later than the fifteenth  
5906 calendar day of the payment month of the UPL payment(s) and  
5907 provided assessments related to MHAP will be collected beginning  
5908 the initial month that the division funds MHAP.

5909           (15) If for any reason any part of the plan for additional  
5910 annual DSH and inpatient UPL payments to hospitals provided under  
5911 subsection (10) of this section is not approved by CMS, the  
5912 remainder of the plan shall remain in full force and effect.



5913 (16) Nothing in this section shall prevent the Division of  
5914 Medicaid from facilitating participation in Medicaid supplemental  
5915 hospital payment programs by a hospital located in a county  
5916 contiguous to the State of Mississippi that is also authorized by  
5917 federal law to submit intergovernmental transfers (IGTs) to the  
5918 State of Mississippi to fund the state share of the hospital's  
5919 supplemental and/or MHAP payments.

5920 (17) Subsections (10) through (16) of this section shall  
5921 stand repealed on July 1, 2018.

5922 **SECTION 92.** Section 43-13-221, Mississippi Code of 1972, is  
5923 brought forward as follows:

5924 43-13-221. The Attorney General, acting through the Director  
5925 of the Fraud Control Unit, may, in any case involving alleged  
5926 violations of this article, conduct an investigation or  
5927 prosecution. In conducting such actions, the Attorney General,  
5928 acting through the director, shall have all the powers of a  
5929 district attorney, including the powers to issue or cause to be  
5930 issued subpoenas or other process.

5931 Persons employed by the Attorney General as investigators in  
5932 the Medicaid Fraud Control Unit shall serve as law enforcement  
5933 officers as defined in Section 45-6-3, and they shall be empowered  
5934 to make arrests and to serve and execute search warrants and other  
5935 valid legal process anywhere within the State of Mississippi.

5936 **SECTION 93.** Section 43-15-6, Mississippi Code of 1972, is  
5937 amended as follows:



5938           43-15-6. (1) Any person, institution, facility, clinic,  
5939 organization or other entity that provides services to children in  
5940 a residential setting where care, lodging, maintenance, and  
5941 counseling or therapy for alcohol or controlled substance abuse or  
5942 for any other emotional disorder or mental illness is provided for  
5943 children, whether for compensation or not, that holds himself,  
5944 herself, or itself out to the public as providing such services,  
5945 and that is entrusted with the care of the children to whom he,  
5946 she, or it provides services, because of the nature of the  
5947 services and the setting in which the services are provided shall  
5948 be subject to the provisions of this section.

5949           (2) Each entity to which this section applies shall  
5950 complete, through the appropriate governmental authority, a  
5951 national criminal history record information check and a child  
5952 abuse registry check for each owner, operator, employee,  
5953 prospective employee, volunteer or prospective volunteer of the  
5954 entity and/or any other that has or may have unsupervised access  
5955 to a child served by the entity. In order to determine the  
5956 applicant's suitability for employment, the entity shall ensure  
5957 that the applicant be fingerprinted by local law enforcement, and  
5958 the results forwarded to the Department of Public Safety. If no  
5959 disqualifying record is identified at the state level, the  
5960 fingerprints shall be forwarded by the Department of Public Safety  
5961 to the FBI for a national criminal history record check.





5962           (3) An owner, operator, employee, prospective employee,  
5963 volunteer or prospective volunteer of the entity and/or any other  
5964 that has or may have unsupervised access to a child who has a  
5965 criminal history of conviction or pending indictment of a crime,  
5966 whether a misdemeanor or a felony, that bears upon an individual's  
5967 fitness to have responsibility for the safety and well-being of  
5968 children as set forth in this chapter may not provide child care  
5969 or operate, or be licensed as, a residential child care program,  
5970 foster parent, or foster home.

5971           (4) All fees incurred in compliance with this section shall  
5972 be borne by the individual or entity to which subsection (1)  
5973 applies.

5974           (5) The Department of Human Services shall have the  
5975 authority to set fees, to exclude a particular crime or crimes or  
5976 a substantiated finding of child abuse and/or neglect as  
5977 disqualifying individuals or entities from providing foster care  
5978 or residential child care, and adopt such other rules and  
5979 regulations as may be required to carry out the provisions of this  
5980 section.

5981           (6) Any entity that violates the provisions of this section  
5982 by failure to complete sex offense criminal history record  
5983 information and felony conviction record information checks, as  
5984 required under subsection (3) of this section, shall be subject to  
5985 a penalty of up to Ten Thousand Dollars (\$10,000.00) for each such  
5986 violation and may be enjoined from further operation until it



5987 complies with this section in actions maintained by the Attorney  
5988 General, subject to the provisions of Sections 1 and 2 of this  
5989 act.

5990 (7) The Department of Human Services and/or its officers,  
5991 employees, attorneys, agents and representatives shall not be held  
5992 civilly liable for any findings, recommendations or actions taken  
5993 pursuant to this section.

5994 **SECTION 94.** Section 43-15-121, Mississippi Code of 1972, is  
5995 amended as follows:

5996 43-15-121. In addition to, and notwithstanding, any other  
5997 remedy provided by law, the division may, in a manner provided by  
5998 law and upon the advice of the Attorney General who, except as  
5999 otherwise authorized in Section 7-5-39, shall represent the  
6000 division in the proceedings, maintain an action, subject to the  
6001 provisions of Sections 1 and 2 of this act, in the name of the  
6002 state for injunction or other process against any person or entity  
6003 to restrain or prevent the establishment, management or operation  
6004 of a program or facility or performance of services in violation  
6005 of this article or rules of the division.

6006 **SECTION 95.** Section 43-16-21, Mississippi Code of 1972, is  
6007 amended as follows:

6008 43-16-21. Notwithstanding the existence of any other remedy,  
6009 the department may, in the manner provided by law, in termtime or  
6010 in vacation, upon the advice of the Attorney General who, except  
6011 as otherwise authorized in Section 7-5-39, shall represent the



6012 department in the proceedings, maintain an action, subject to the  
6013 provisions of Sections 1 and 2 of this act as applicable, in the  
6014 name of the state for an injunction or restraining order to cease  
6015 the operation of the home, and to provide for the appropriate  
6016 removal of the children from the home and placement in the custody  
6017 of the parents or legal guardians, the Department of Human  
6018 Services, or any other appropriate entity in the discretion of the  
6019 court. Such action shall be brought in the chancery court or the  
6020 youth court, as appropriate, of the county in which such child  
6021 residential home is located, and shall only be initiated for the  
6022 following violations:

6023           (a) Providing supervision, care, lodging or maintenance  
6024 for any children in such home without filing notification in  
6025 accordance with this chapter.

6026           (b) Failure to satisfactorily comply with local health  
6027 department or State Fire Marshal inspections made pursuant to  
6028 Section 43-16-15, regarding the health, nutrition, cleanliness,  
6029 safety, sanitation, written records and discipline policy of such  
6030 home.

6031           (c) Suspected abuse and/or neglect of the children  
6032 served by such home, as defined in Section 43-21-105.

6033           **SECTION 96.** Section 43-20-21, Mississippi Code of 1972, is  
6034 amended as follows:

6035           43-20-21. Notwithstanding the existence of any other remedy,  
6036 the licensing agency may, in the manner provided by law, in



6037 termtime or in vacation, upon the advice of the Attorney General  
6038 who, except as otherwise authorized in Section 7-5-39, shall  
6039 represent the licensing agency in the proceedings, maintain an  
6040 action, subject to the provisions of Sections 1 and 2 of this act,  
6041 in the name of the state for an injunction or other proper remedy  
6042 against any person to restrain or prevent the establishment,  
6043 conduct, management or operation of a child care facility without  
6044 license under this chapter, or otherwise in violation of this  
6045 chapter.

6046       **SECTION 97.** Section 43-25-101, Mississippi Code of 1972, is  
6047 brought forward as follows:

6048       43-25-101. The Governor, on behalf of this state, may  
6049 execute a compact in substantially the following form, and the  
6050 Legislature signifies in advance its approval and ratification of  
6051 the compact:

6052                   **THE INTERSTATE COMPACT FOR JUVENILES**

6053                           **ARTICLE I**

6054                                   **PURPOSE**

6055       The compacting states to this Interstate Compact recognize  
6056 that each state is responsible for the proper supervision or  
6057 return of juveniles, delinquents and status offenders who are on  
6058 probation or parole and who have absconded, escaped or run away  
6059 from supervision and control and in so doing have endangered their  
6060 own safety and the safety of others. The compacting states also  
6061 recognize that each state is responsible for the safe return of



6062 juveniles who have run away from home and in doing so have left  
6063 their state of residence. The compacting states also recognize  
6064 that Congress, by enacting the Crime Control Act, 4 USCS Section  
6065 112 (1965), has authorized and encouraged compacts for cooperative  
6066 efforts and mutual assistance in the prevention of crime.

6067 It is the purpose of this compact, through means of joint and  
6068 cooperative action among the compacting states to:

6069 (a) Ensure that the adjudicated juveniles and status  
6070 offenders subject to this compact are provided adequate  
6071 supervision and services in the receiving state as ordered by the  
6072 adjudicating judge or parole authority in the sending state;

6073 (b) Ensure that the public safety interests of the  
6074 citizens, including the victims of juvenile offenders, in both the  
6075 sending and receiving states are adequately protected.

6076 (c) Return juveniles who have run away, absconded or  
6077 escaped from supervision or control or have been accused of an  
6078 offense to the state requesting their return;

6079 (d) Make contracts for the cooperative  
6080 institutionalization in public facilities in member states for  
6081 delinquent youth needing special services;

6082 (e) Provide for the effective tracking and supervision  
6083 of juveniles;

6084 (f) Equitably allocate the costs, benefits and  
6085 obligations of the compacting states;



6086 (g) Establish procedures to manage the movement between  
6087 states of juvenile offenders released to the community under the  
6088 jurisdiction of courts, juvenile departments, or any other  
6089 criminal or juvenile justice agency that has jurisdiction over  
6090 juvenile offenders;

6091 (h) Ensure immediate notice to jurisdictions where  
6092 defined offenders are authorized to travel or to relocate across  
6093 state lines;

6094 (i) Establish procedures to resolve pending charges  
6095 (detainers) against juvenile offenders before transfer or release  
6096 to the community under the terms of this compact.

6097 (j) Establish a system of uniform data collection on  
6098 information pertaining to juveniles subject to this compact that  
6099 allows access by authorized juvenile justice and criminal justice  
6100 officials, and regular reporting of compact activities to heads of  
6101 state, executive, judicial, and legislative branches and juvenile  
6102 and criminal justice administrators;

6103 (k) Monitor compliance with rules governing interstate  
6104 movement of juveniles and initiate interventions to address and  
6105 correct noncompliance;

6106 (l) Coordinate training and education regarding the  
6107 regulation of interstate movement of juveniles for officials  
6108 involved in that activity; and

6109 (m) Coordinate the implementation and operation of the  
6110 compact with the Interstate Compact for the Placement of Children,



6111 the Interstate Compact for Adult Offender Supervision and other  
6112 compacts affecting juveniles particularly in those cases where  
6113 concurrent or overlapping supervision issues arise.

6114 It is the policy of the compacting states that the activities  
6115 conducted by the Interstate Commission created by this compact are  
6116 the formation of public policies and therefore are public  
6117 business. Furthermore, the compacting states shall cooperate and  
6118 observe their individual and collective duties and  
6119 responsibilities for the prompt return and acceptance of juveniles  
6120 subject to the provisions of this compact. The provisions of this  
6121 compact shall be reasonably and liberally construed to accomplish  
6122 the purposes and policies of the compact.

6123 **ARTICLE II**

6124 **DEFINITIONS**

6125 As used in this Compact, unless the context clearly requires  
6126 a different construction:

6127 (a) "Bylaws" means those bylaws established by the  
6128 Interstate Commission for its governance, or for directing or  
6129 controlling its actions or conduct.

6130 (b) "Compact administrator" means the individual in  
6131 each compacting state appointed under the terms of this compact,  
6132 responsible for the administration and management of the state's  
6133 supervision and transfer of juveniles subject to the terms of this  
6134 compact, the rules adopted by the Interstate Commission and  
6135 policies adopted by the State Council under this compact.



6136 (c) "Compacting state" means any state that has enacted  
6137 the enabling legislation for this compact.

6138 (d) "Commissioner" means the voting representative of  
6139 each compacting state appointed pursuant to Article III of this  
6140 compact.

6141 (e) "Court" means any court having jurisdiction over  
6142 delinquent, neglected or dependent children.

6143 (f) "Deputy compact administrator" means the  
6144 individual, if any, in each compacting state appointed to act on  
6145 behalf of a compact administrator under the terms of this compact  
6146 responsible for the administration and management of the state's  
6147 supervision and transfer of juveniles subject to the terms of this  
6148 compact, the rules adopted by the Interstate Commission and  
6149 policies adopted by the State Council under this compact.

6150 (g) "Interstate Commission" means the Interstate  
6151 Commission for Juveniles created by Article III of this compact.

6152 (h) "Juvenile" means any person defined as a juvenile  
6153 in any member state or by the rules of the Interstate Commission,  
6154 including:

6155 (i) Accused delinquent, which is a person charged  
6156 with an offense that, if committed by an adult, would be a  
6157 criminal offense;

6158 (ii) Adjudicated delinquent, which is a person  
6159 found to have committed an offense that, if committed by an adult,  
6160 would be a criminal offense;





6161 (iii) Accused status offender, which is a person  
6162 charged with an offense that would not be a criminal offense if  
6163 committed by an adult;

6164 (iv) Adjudicated status offender, which is a  
6165 person found to have committed an offense that would not be a  
6166 criminal offense if committed by an adult; and

6167 (v) Nonoffender, which is a person in need of  
6168 supervision who has not been accused or adjudicated a status  
6169 offender or delinquent.

6170 (i) "Noncompacting state" means any state that has not  
6171 enacted the enabling legislation for this compact.

6172 (j) "Probation or parole" means any kind of supervision  
6173 or conditional release of juveniles authorized under the laws of  
6174 the compacting states.

6175 (k) "Rules" means a written statement by the Interstate  
6176 Commission promulgated under Article VI of this compact that is of  
6177 general applicability, implements, interprets or prescribes a  
6178 policy or provision of the compact, or an organizational,  
6179 procedural, or practice requirement of the commission, and has the  
6180 force and effect of statutory law in a compacting state, and  
6181 includes the amendment, repeal or suspension of an existing rule.

6182 (l) "State" means a state of the United States, the  
6183 District of Columbia (or its designee), the Commonwealth of Puerto  
6184 Rico, the United States Virgin Islands, Guam, American Samoa and  
6185 the Northern Marianas Islands.



6186 **ARTICLE III**

6187 **INTERSTATE COMMISSION FOR JUVENILES**

6188 (1) The compacting states create the "Interstate Commission  
6189 for Juveniles." The commission shall be a body corporate and  
6190 joint agency of the compacting states. The commission shall have  
6191 all the responsibilities, powers and duties set forth in this  
6192 compact, and such additional powers as may be conferred upon it by  
6193 subsequent action of the respective legislatures of the compacting  
6194 states in accordance with the terms of this compact.

6195 (2) The Interstate Commission shall consist of commissioners  
6196 appointed by the appropriate appointing authority in each state  
6197 pursuant to the rules and requirements of each compacting state  
6198 and in consultation with the State Council for Interstate Juvenile  
6199 Supervision created under this compact. The commissioner shall be  
6200 the compact administrator, deputy compact administrator or  
6201 designee from that state who shall serve on the Interstate  
6202 Commission in such capacity under the applicable law of the  
6203 compacting state.

6204 (3) In addition to the commissioners who are the voting  
6205 representatives of each state, the Interstate Commission shall  
6206 include individuals who are not commissioners, but who are members  
6207 of interested organizations. Those noncommissioner members must  
6208 include a member of the national organizations of governors,  
6209 legislators, state chief justices, attorneys general, Interstate  
6210 Compact for Adult Offender for Adult Offender Supervision,



6211 Interstate Compact for the Placement of Children, juvenile justice  
6212 and juvenile corrections officials and crime victims. All  
6213 noncommissioner members of the Interstate Commission shall be ex  
6214 officio nonvoting members. The Interstate Commission may provide  
6215 in its bylaws for additional ex officio nonvoting members,  
6216 including members of other national organizations, in such numbers  
6217 as determined by the commission.

6218 (4) Each compacting state represented at any meeting of the  
6219 commission is entitled to one (1) vote. A majority of the  
6220 compacting states shall constitute a quorum for the transaction of  
6221 business, unless a larger quorum is required by the bylaws of the  
6222 Interstate Commission.

6223 (5) The commission shall meet at least once each calendar  
6224 year. The chairperson may call additional meetings and, upon the  
6225 request of a simple majority of the compacting states, shall call  
6226 additional meetings. Public notice shall be given of all meetings  
6227 and meetings shall be open to the public.

6228 (6) The Interstate Commission shall establish an executive  
6229 committee, which shall include commission officers, members and  
6230 others as determined by the bylaws. The executive committee shall  
6231 have the power to act on behalf of the Interstate Commission  
6232 during periods when the Interstate Commission is not in session,  
6233 with the exception of rule making and/or amendment to the compact.  
6234 The executive committee shall oversee the day-to-day activities of  
6235 the administration of the compact managed by an executive director



6236 and Interstate Commission staff; administers enforcement and  
6237 compliance with the provisions of the compact, its bylaws and  
6238 rules and performs such other duties as directed by the Interstate  
6239 Commission or set forth in the bylaws.

6240 (7) Each member of the Interstate Commission shall have the  
6241 right and power to cast a vote to which that compacting state is  
6242 entitled and to participate in the business and affairs of the  
6243 Interstate Commission. A member shall vote in person and shall  
6244 not delegate a vote to another compacting state. However, a  
6245 commissioner, in consultation with the State Council, shall  
6246 appoint another authorized representative, in the absence of the  
6247 commissioner from that state, to cast a vote on behalf of the  
6248 compacting state at a specified meeting. The bylaws may provide  
6249 for members' participation in meetings by telephone or other means  
6250 of telecommunication or electronic communication.

6251 (8) The Interstate Commission's bylaws shall establish  
6252 conditions and procedures under which the Interstate Commission  
6253 shall make its information and official records available to the  
6254 public for inspection or copying. The Interstate Commission may  
6255 exempt from disclosure any information or official records to the  
6256 extent they would adversely affect personal privacy rights or  
6257 proprietary interests.

6258 (9) Public notice shall be given of all meetings and all  
6259 meetings shall be open to the public, except as set forth in the  
6260 rules or as otherwise provided in the compact. The Interstate



6261 Commission and any of its committees may close a meeting to the  
6262 public where it determines by two-thirds (2/3) vote that an open  
6263 meeting would be likely to:

6264 (a) Relate solely to the Interstate Commission's  
6265 internal personnel practice and procedures;

6266 (b) Disclose matters specifically exempted from  
6267 disclosure by statute;

6268 (c) Disclose trade secrets or commercial or financial  
6269 information that is privileged or confidential;

6270 (d) Involve accusing any person of a crime, or formally  
6271 censuring any person;

6272 (e) Disclose information of a personal nature where  
6273 disclosure would constitute a clearly unwarranted invasion of  
6274 personal privacy;

6275 (f) Disclose investigative records compiled for law  
6276 enforcement purposes;

6277 (g) Disclose information contained in or related to  
6278 examination, operating or condition reports prepared by, or on  
6279 behalf of or for the use of, the Interstate Commission with  
6280 respect to a regulated person or entity for the purpose of  
6281 regulation or supervision of the person or entity;

6282 (h) Disclose information, the premature disclosure of  
6283 which would significantly endanger the stability of a regulated  
6284 person or entity; or



6285 (i) Specifically relate to the Interstate Commission's  
6286 issuance of a subpoena, or its participation in a civil action or  
6287 other legal proceeding.

6288 (10) For every meeting closed under this provision, the  
6289 Interstate Commission's legal counsel shall publicly certify that,  
6290 in the legal counsel's opinion, the meeting may be closed to the  
6291 public, and shall reference each relevant exemptive provision.  
6292 The Interstate Commission shall keep minutes that shall fully and  
6293 clearly describe all matters discussed in any meeting and shall  
6294 provide a full and accurate summary of any actions taken, and the  
6295 reasons therefor, including a description of each of the views  
6296 expressed on any item and the record of any roll call vote  
6297 (reflected in the vote of each member on the question). All  
6298 documents considered in connection with any action shall be  
6299 identified in the minutes.

6300 (11) The Interstate Commission shall collect standardized  
6301 data concerning the interstate movement of juveniles as directed  
6302 through its rules, which shall specify the data to be collected,  
6303 the means of collection, data exchange and reporting requirements.  
6304 Those methods of data collection, exchange and reporting shall,  
6305 insofar as is reasonably possible, conform to up-to-date  
6306 technology and coordinate its information functions with the  
6307 appropriate repository of records.

6308 **ARTICLE IV**

6309 **POWERS AND DUTIES OF THE INTERSTATE COMMISSION**



6310           The commission shall have the following powers and duties:

6311           (a) To provide for dispute resolution among compacting  
6312 states.

6313           (b) To promulgate rules to effect the purposes and  
6314 obligations as enumerated in this compact, which shall have the  
6315 force and effect of statutory law and shall be binding in the  
6316 compacting states to the extent and in the manner provided in this  
6317 compact.

6318           (c) To oversee, supervise and coordinate the interstate  
6319 movement of juveniles subject to the terms of this compact and any  
6320 bylaws adopted and rules promulgated by the Interstate Commission.

6321           (d) To enforce compliance with the compact provisions,  
6322 the rules promulgated by the Interstate Commission, and the  
6323 bylaws, using all necessary and proper means, including, but not  
6324 limited to, the use of judicial process.

6325           (e) To establish and maintain offices, which shall be  
6326 located within one or more of the compacting states.

6327           (f) To purchase and maintain insurance and bonds.

6328           (g) To borrow, accept, hire or contract for services of  
6329 personnel.

6330           (h) To establish and appoint committees and hire staff  
6331 that it deems necessary for the carrying out of its functions  
6332 including, but not limited to, an executive committee as required  
6333 by Article III, which shall have the power to act on behalf of the



6334 Interstate Commission in carrying out its powers and duties under  
6335 this compact.

6336 (i) To elect or appoint officers, attorneys, employees,  
6337 agents or consultants, and to fix their compensation, define their  
6338 duties and determine their qualifications; and to establish  
6339 the Interstate Commission's personnel policies and programs  
6340 relating to, inter alia, conflicts of interest, rates of  
6341 compensation and qualifications of personnel.

6342 (j) To accept any and all donations and grants of  
6343 money, equipment, supplies, materials and services, and to  
6344 receive, utilize and dispose of it.

6345 (k) To lease, purchase, accept contributions or  
6346 donations of or otherwise to own, hold, improve or use any  
6347 property, real, personal or mixed.

6348 (l) To sell, convey, mortgage, pledge, lease, exchange,  
6349 abandon or otherwise dispose of any property, real, personal or  
6350 mixed.

6351 (m) To establish a budget and make expenditures and  
6352 levy dues as provided in Article VIII of this compact.

6353 (n) To sue and be sued.

6354 (o) To adopt a seal and bylaws governing the management  
6355 and operation of the Interstate Commission.

6356 (p) To perform such functions as may be necessary or  
6357 appropriate to achieve the purposes of this compact.





6358 (q) To report annually to the legislatures, governors,  
6359 judiciary, and State Councils of the compacting states concerning  
6360 the activities of the Interstate Commission during the preceding  
6361 year. Those reports also shall include any recommendations that  
6362 may have been adopted by the Interstate Commission.

6363 (r) To coordinate education, training and public  
6364 awareness regarding the interstate movement of juveniles for  
6365 officials involved in that activity.

6366 (s) To establish uniform standards of the reporting,  
6367 collecting and exchanging of data.

6368 (t) To maintain its corporate books and records in  
6369 accordance with the bylaws.

6370 **ARTICLE V**

6371 **ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION**

6372 (1) **Bylaws.** The Interstate Commission shall, by a majority  
6373 of the members present and voting, within twelve (12) months after  
6374 the first Interstate Commission meeting, adopt bylaws to govern  
6375 its conduct as may be necessary or appropriate to carry out the  
6376 purposes of the compact, including, but not limited to:

6377 (a) Establishing the fiscal year of the Interstate  
6378 Commission;

6379 (b) Establishing an executive committee and such other  
6380 committees as may be necessary;



6381 (c) Providing for the establishment of committees  
6382 governing any general or specific delegation of any authority or  
6383 function of the Interstate Commission;

6384 (d) Providing reasonable procedures for calling and  
6385 conducting meetings of the Interstate Commission, and ensuring  
6386 reasonable notice of each such meeting;

6387 (e) Establishing the titles and responsibilities of the  
6388 officers of the Interstate Commission;

6389 (f) Providing a mechanism for concluding the operations  
6390 of the Interstate Commission and the return of any surplus funds  
6391 that may exist upon the termination of the compact after the  
6392 payment and/or reserving of all of its debts and obligations;

6393 (g) Providing "start-up" rules for initial  
6394 administration of the compact; and

6395 (h) Establishing standards and procedures for  
6396 compliance and technical assistance in carrying out the compact.

6397 (2) **Officers and Staff.** (a) The Interstate Commission  
6398 shall, by a majority of the members, elect annually from among its  
6399 members a chairperson and a vice chairperson each of whom shall  
6400 have such authority and duties as may be specified in the bylaws.  
6401 The chairperson or, in the chairperson's absence or disability,  
6402 the vice chairperson shall preside at all meetings of the  
6403 Interstate Commission. The officers so elected shall serve  
6404 without compensation or remuneration from the Interstate  
6405 Commission; however, subject to the availability of budgeted



6406 funds, the officers shall be reimbursed for any ordinary and  
6407 necessary costs and expenses incurred by them in the performance  
6408 of their duties and responsibilities as officers of the Interstate  
6409 Commission.

6410 (b) The Interstate Commission shall, through its  
6411 executive committee, appoint or retain an executive director for  
6412 such period, upon such terms and conditions and for such  
6413 compensation as the Interstate Commission may deem appropriate.  
6414 The executive director shall serve as secretary to the Interstate  
6415 Commission, but shall not be a member and shall hire and supervise  
6416 such other staff as may be authorized by the Interstate  
6417 Commission.

6418 (3) **Qualified Immunity, Defense and Indemnification.** (a)  
6419 The commission's executive director and employees shall be immune  
6420 from suit and liability, either personally or in their official  
6421 capacity, for any claim for damage to or loss of property,  
6422 personal injury or other civil liability caused or arising out of  
6423 or relating to any actual or alleged act, error, or omission that  
6424 occurred, or that the person had a reasonable basis for believing  
6425 occurred within the scope of commission employment, duties or  
6426 responsibilities; however, any such person shall not be protected  
6427 from suit or liability for any damage, loss, injury or liability  
6428 caused by the intentional or willful and wanton misconduct of any  
6429 such person.



6430           (b) The liability of any commissioner, or the employee  
6431 of an agent of a commissioner, acting within the scope of the  
6432 person's employment or duties for acts, errors or omissions  
6433 occurring within the person's state, may not exceed the limits of  
6434 liability set forth under the Constitution and laws of that state  
6435 for state officials, employees and agents. Nothing in this  
6436 subsection shall be construed to protect any such person from suit  
6437 or liability for any damage, loss, injury or liability caused by  
6438 the intentional or willful and wanton misconduct of any such  
6439 person.

6440           (c) The Interstate Commission shall defend the  
6441 executive director or the employees or representatives of the  
6442 Interstate Commission and, subject to the approval of the Attorney  
6443 General of the state represented by any commissioner of a  
6444 compacting state, shall defend the commissioner or the  
6445 commissioner's representatives or employees in any civil action  
6446 seeking to impose liability arising out of any actual or alleged  
6447 act, error or omission that occurred within the scope of  
6448 interstate commission employment, duties or responsibilities, or  
6449 that the defendant has a reasonable basis for believing occurred  
6450 within the scope of interstate commission employment, duties or  
6451 responsibilities, provided that the actual or alleged act, error  
6452 or omission did not result from intentional or willful and wanton  
6453 misconduct on the part of the person.



6454 (d) The Interstate Commission shall indemnify and hold  
6455 the commissioner of a compacting state, or the commissioner's  
6456 representatives or employees or the Interstate Commission's  
6457 representatives or employees, harmless in the amount of any  
6458 settlement or judgment obtained against those persons arising out  
6459 of any actual or alleged act, error or omission that occurred  
6460 within the scope of interstate commission employment, duties or  
6461 responsibilities, or that those persons had a reasonable basis for  
6462 believing occurred within the scope of interstate commission  
6463 employment, duties or responsibilities, provided that the actual  
6464 or alleged act, error or omission did not result from intentional  
6465 or willful and wanton misconduct on the part of such persons.

6466 **ARTICLE VI**

6467 **RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

6468 (1) The Interstate Commission shall promulgate and publish  
6469 rules in order to effectively and efficiently achieve the purposes  
6470 of the compact.

6471 (2) Rule making shall occur using the criteria set forth in  
6472 this article and the bylaws and rules adopted under this article.  
6473 That rule making shall substantially conform to the principles of  
6474 the "Model State Administrative Procedures Act," 1981 Act, Uniform  
6475 Laws Annotated, Volume 15, page 1 (2000), or such other  
6476 administrative procedures act, as the Interstate Commission deems  
6477 appropriate consistent with due process requirements under the  
6478 United States Constitution as now or hereafter interpreted by the



6479 United States Supreme Court. All rules and amendments shall  
6480 become binding as of the date specified, as published with the  
6481 final version of the rule as approved by the commission.

6482 (3) When promulgating a rule, the Interstate Commission  
6483 shall, at a minimum:

6484 (a) Publish the proposed rule's entire text stating the  
6485 reason(s) for that proposed rule;

6486 (b) Allow and invite any and all persons to submit  
6487 written data, facts, opinions, and arguments, which information  
6488 shall be added to the record, and be made publicly available;

6489 (c) Provide an opportunity for an informal hearing if  
6490 petitioned by ten (10) or more persons; and

6491 (d) Promulgate a final rule and its effective date, if  
6492 appropriate, based on input from state or local officials, or  
6493 interested parties.

6494 (4) Allow not later than sixty (60) days after a rule is  
6495 promulgated, any interested person to file a petition in the  
6496 United States District Court for the District of Columbia or in  
6497 the Federal District Court where the Interstate Commission's  
6498 principal office is located for judicial review of the rule. If  
6499 the court finds that the Interstate Commission's action is not  
6500 supported by substantial evidence in the rule-making record, the  
6501 court shall hold the rule unlawful and set it aside. For purposes  
6502 of this subsection, evidence is substantial if it would be



6503 considered substantial evidence under the Model State  
6504 Administrative Procedures Act.

6505 (5) If a majority of the legislatures of the compacting  
6506 states rejects a rule, those states may, by enactment of a statute  
6507 or resolution in the same manner used to adopt the compact, cause  
6508 that the rule shall have no further force and effect in any  
6509 compacting state.

6510 (6) The existing rules governing the operation of the  
6511 Interstate Compact on Juveniles superceded by this act shall be  
6512 null and void twelve (12) months after the first meeting of the  
6513 Interstate Commission created under this compact.

6514 (7) Upon determination by the Interstate Commission that a  
6515 state of emergency exists, it may promulgate an emergency rule  
6516 that shall become effective immediately upon adoption, provided  
6517 that the usual rule-making procedures provided under this article  
6518 retroactively applied to the rule as soon as reasonably possible,  
6519 but no later than ninety (90) days after the effective date of the  
6520 emergency rule.

6521 **ARTICLE VII**

6522 **OVERSIGHT, ENFORCEMENT AND DISPUTES RESOLUTION**

6523 **BY THE INTERSTATE COMMISSION**

6524 (1) **Oversight.** (a) The Interstate Commission shall oversee  
6525 the administration and operations of the interstate movement of  
6526 juveniles subject to this compact in the compacting states and



6527 shall monitor those activities being administered in noncompacting  
6528 states that may significantly affect compacting states.

6529 (b) The courts and executive agencies in each  
6530 compacting state shall enforce this compact and shall take all  
6531 actions necessary and appropriate to effectuate the compact's  
6532 purposes and intent. The provisions of this compact and the rules  
6533 promulgated under this compact shall be received by all the  
6534 judges, public officers, commissions and departments of the state  
6535 government as evidence of the authorized statute and  
6536 administrative rules. All courts shall take judicial notice of  
6537 the compact and the rules. In any judicial or administrative  
6538 proceeding in a compacting state pertaining to the subject matter  
6539 of this compact that may affect the powers, responsibilities or  
6540 actions of the Interstate Commission, it shall be entitled to  
6541 receive all service of process in any such proceeding, and shall  
6542 have standing to intervene in the proceeding for all purposes.

6543 (2) **Dispute Resolution.** (a) The compacting states shall  
6544 report to the Interstate Commission on all issues and activities  
6545 necessary for the administration of the compact, as well as issues  
6546 and activities pertaining to compliance with the provisions of the  
6547 compact and its bylaws and rules.

6548 (b) The Interstate Commission shall attempt, upon the  
6549 request of a compacting state, to resolve any disputes or other  
6550 issues that are subject to the compact and that may arise among  
6551 compacting states and between compacting and noncompacting states.





6552 The commission shall promulgate a rule providing for both  
6553 mediation and binding dispute resolution for disputes among the  
6554 compacting states.

6555 (c) The Interstate Commission, in the reasonable  
6556 exercise of its discretion, shall enforce the provisions and rules  
6557 of this compact using any or all means set forth in Article XI of  
6558 this compact.

6559 **ARTICLE VIII**

6560 **FINANCE**

6561 (1) The Interstate Commission shall pay or provide for the  
6562 payment of the reasonable expenses of its establishment,  
6563 organization and ongoing activities.

6564 (2) The Interstate Commission shall levy on and collect an  
6565 annual assessment from each compacting state to cover the cost of  
6566 the internal operations and activities of the Interstate  
6567 Commission and its staff, which must be in a total amount  
6568 sufficient to cover the Interstate Commission's annual budget as  
6569 approved each year. The aggregate annual assessment amount shall  
6570 be allocated based upon a formula to be determined by the  
6571 Interstate Commission, taking into consideration the population of  
6572 each compacting state and the volume of interstate movement of  
6573 juveniles in each compacting state, and shall promulgate a rule  
6574 binding upon all compacting states which governs the assessment.

6575 (3) The Interstate Commission shall not incur any  
6576 obligations of any kind before securing the funds adequate to meet



6577 the same; nor shall the Interstate Commission pledge the credit of  
6578 any of the compacting states, except by and with the authority of  
6579 the compacting state.

6580 (4) The Interstate Commission shall keep accurate accounts  
6581 of all receipts and disbursements. The receipts and disbursements  
6582 of the Interstate Commission shall be subject to the audit and  
6583 accounting procedures established under its bylaws. However, all  
6584 receipts and disbursements of funds handled by the Interstate  
6585 Commission shall be audited yearly by a certified or licensed  
6586 public accountant and the report of the audit shall be included in  
6587 and become part of the annual report of the Interstate Commission.

6588 **ARTICLE IX**

6589 **THE STATE COUNCIL**

6590 Each member state shall create a State Council for Interstate  
6591 Juvenile Supervision. While each state may determine the  
6592 membership of its own State Council, its membership must include  
6593 at least one (1) representative from the legislative, judicial,  
6594 and executive branches of government, victims groups, and the  
6595 compact administrator or designee. Each compacting state retains  
6596 the right to determine the qualifications of the compact  
6597 administrator or deputy compact administrator. Each State Council  
6598 will advise and may exercise oversight and advocacy concerning the  
6599 state's participation in Interstate Commission activities and  
6600 other duties as may be determined by that state, including, but



6601 not limited to, development of policy concerning operations and  
6602 procedures of the compact within that state.

6603 **ARTICLE X**

6604 **COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT**

6605 (1) Any state, the District of Columbia (or its designee),  
6606 the Commonwealth of Puerto Rico, the United States Virgin Islands,  
6607 Guam, American Samoa and the Northern Marianas Islands as defined  
6608 in Article II of this compact is eligible to become a compacting  
6609 state.

6610 (2) The compact shall become effective and binding upon  
6611 legislative enactment of the compact into law by no less  
6612 thirty-five (35) of the states. The initial effective date shall  
6613 be the later of July 1, 2004, or upon enactment into law by the  
6614 thirty-fifth jurisdiction. Thereafter, it shall become effective  
6615 and binding as to any other compacting state upon enactment of the  
6616 compact into law by that state. The governors of nonmember states  
6617 or their designees shall be invited to participate in the  
6618 activities of the Interstate Commission on a nonvoting basis  
6619 before adoption of the compact by all states and territories of  
6620 the United States.

6621 (3) The Interstate Commission may propose amendments to the  
6622 compact for enactment by the compacting states. No amendment  
6623 shall become effective and binding upon the Interstate Commission  
6624 and the compacting states unless and until it is enacted into law  
6625 by unanimous consent of the compacting states.



6626 **ARTICLE XI**

6627 **WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT**

6628 (1) **Withdrawal.** (a) Once effective, the compact shall  
6629 continue in force and remain binding upon each and every  
6630 compacting state; however, a compacting state may withdraw from  
6631 the compact by specifically repealing the statute that enacted the  
6632 compact into law.

6633 (b) The effective date of withdrawal is the effective  
6634 date of the repeal.

6635 (c) The withdrawing state shall immediately notify the  
6636 Chairperson of the Interstate Commission in writing upon the  
6637 introduction of legislation repealing this compact in the  
6638 withdrawing state. The Interstate Commission shall notify the  
6639 other compacting states of the withdrawing state's intent to  
6640 withdraw within sixty (60) days of its receipt thereof.

6641 (d) The withdrawing state is responsible for all  
6642 assessments, obligations and liabilities incurred through the  
6643 effective date of withdrawal, including any obligations, the  
6644 performance of which extend beyond the effective date of  
6645 withdrawal.

6646 (e) Reinstatement following withdrawal of any  
6647 compacting state shall occur upon the withdrawing state reenacting  
6648 the compact or upon such later date as determined by the  
6649 Interstate Commission.



6650           (2) **Technical Assistance, Fines, Suspension, Termination and**  
6651 **Default.** (a) If the Interstate Commission determines that any  
6652 compacting state has at any time defaulted in the performance of  
6653 any of its obligations or responsibilities under this compact, or  
6654 the bylaws or duly promulgated rules, the Interstate Commission  
6655 may impose any or all of the following penalties:

6656                   (i) Remedial training and technical assistance as  
6657 directed by the Interstate Commission;

6658                   (ii) Alternative dispute resolution;

6659                   (iii) Fines, fees and costs in such amounts as are  
6660 deemed to be reasonable as fixed by the Interstate Commission; and

6661                   (iv) Suspension or termination of membership in  
6662 the compact, which shall be imposed only after all other  
6663 reasonable means of securing compliance under the bylaws and rules  
6664 have been exhausted and the Interstate Commission has therefore  
6665 determined that the offending state is in default. Immediate  
6666 notice of suspension shall be given by the Interstate Commission  
6667 to the governor, the chief justice or the chief judicial officer  
6668 of the state, the majority and minority leaders of the defaulting  
6669 state's legislature and the State Council. The grounds for  
6670 default include, but are not limited to, failure of a compacting  
6671 state to perform the obligations or responsibilities imposed upon  
6672 it by this compact, the bylaws or duly promulgated rules and any  
6673 other grounds designated in commission bylaws and rules. The  
6674 Interstate Commission shall immediately notify the defaulting



6675 state in writing of the penalty imposed by the Interstate  
6676 Commission and of the default pending a cure of the default. The  
6677 commission shall stipulate the conditions and the time period  
6678 within which the defaulting state must cure its default. If the  
6679 defaulting state fails to cure the default within the time period  
6680 specified by the commission, the defaulting state shall be  
6681 terminated from the compact upon an affirmative vote of a majority  
6682 of the compacting states and all rights, privileges and benefits  
6683 conferred by this compact shall be terminated from the effective  
6684 date of termination.

6685 (b) Within sixty (60) days of the effective date of  
6686 termination of a defaulting state, the commission shall notify the  
6687 governor, the chief justice or the chief judicial officer, the  
6688 majority and minority leaders of the defaulting state's  
6689 legislature, and the State Council of that termination.

6690 (c) The defaulting state is responsible for all  
6691 assessments, obligations and liabilities incurred through the  
6692 effective date of termination including any obligations, the  
6693 performance of which extends beyond the effective date of  
6694 termination.

6695 (d) The Interstate Commission shall not bear any costs  
6696 relating to the defaulting state unless otherwise mutually agreed  
6697 upon in writing between the Interstate Commission and the  
6698 defaulting state.



6699 (e) Reinstatement following termination of any  
6700 compacting state requires both a reenactment of the compact by the  
6701 defaulting state and the approval of the Interstate Commission  
6702 pursuant to the rules.

6703 (3) **Judicial Enforcement.** The Interstate Commission may, by  
6704 majority vote of the members, initiate legal action in the United  
6705 States District Court for the District of Columbia or, at the  
6706 discretion of the Interstate Commission, in the federal district  
6707 court where the Interstate Commission has its offices, to enforce  
6708 compliance with the provisions of the compact, its duly  
6709 promulgated rules and bylaws, against any compacting state in  
6710 default. If judicial enforcement is necessary, the prevailing  
6711 party shall be awarded all costs of the litigation, including  
6712 reasonable attorney's fees.

6713 (4) **Dissolution of Compact.** (a) The compact dissolves  
6714 effective upon the date of the withdrawal or default of the  
6715 compacting state, which reduces membership in the compact to one  
6716 (1) compacting state.

6717 (b) Upon the dissolution of the compact, the compact  
6718 becomes null and void and shall be of no further force or effect,  
6719 and the business and affairs of the Interstate Commission shall be  
6720 concluded and any surplus funds shall be distributed in accordance  
6721 with the bylaws.

6722 **ARTICLE XII**

6723 **SEVERABILITY AND CONSTRUCTION**



6724 (1) The provisions of this compact shall be severable, and  
6725 if any phrase, clause, sentence or provision is deemed  
6726 unenforceable, the remaining provisions of the compact shall be  
6727 enforceable.

6728 (2) The provisions of this compact shall be liberally  
6729 construed to effectuate its purposes.

6730 **ARTICLE XIII**

6731 **BINDING EFFECT OF COMPACT AND OTHER LAWS**

6732 (1) **Other Laws.** (a) Nothing in this compact prevents the  
6733 enforcement of any other law of a compacting state that is not  
6734 inconsistent with this compact.

6735 (b) All compacting states' laws other than state  
6736 constitutions and other interstate compacts conflicting with this  
6737 compact are superseded to the extent of the conflict.

6738 (2) **Binding Effect of the Compact.** (a) All lawful actions  
6739 of the Interstate Commission, including all rules and bylaws  
6740 promulgated by the Interstate Commission, are binding upon the  
6741 compacting states.

6742 (b) All agreements between the Interstate Commission  
6743 and the compacting states are binding in accordance with their  
6744 terms.

6745 (c) Upon the request of a party to a conflict over  
6746 meaning or interpretation of Interstate Commission actions, and  
6747 upon a majority vote of the compacting states, the Interstate





6748 Commission may issue advisory opinions regarding that meaning or  
6749 interpretation.

6750 (d) If any provision of this compact exceeds the  
6751 constitutional limits imposed on the legislature of any compacting  
6752 state, the obligations, duties, powers or jurisdiction sought to  
6753 be conferred by that provision upon the Interstate Commission  
6754 shall be ineffective and those obligations, duties, powers or  
6755 jurisdiction shall remain in the compacting state and shall be  
6756 exercised by the agency thereof to which those obligations,  
6757 duties, powers or jurisdiction are delegated by law in effect at  
6758 the time this compact becomes effective.

6759 **SECTION 98.** Section 45-9-53, Mississippi Code of 1972, is  
6760 amended as follows:

6761 45-9-53. (1) This section and Section 45-9-51 do not affect  
6762 the authority that a county or municipality may have under another  
6763 law:

6764 (a) To require citizens or public employees to be armed  
6765 for personal or national defense, law enforcement, or another  
6766 lawful purpose;

6767 (b) To regulate the discharge of firearms within the  
6768 limits of the county or municipality. A county or municipality  
6769 may not apply a regulation relating to the discharge of firearms  
6770 or other weapons in the extraterritorial jurisdiction of the  
6771 county or municipality or in an area annexed by the county or



6772 municipality after September 1, 1981, if the firearm or other  
6773 weapon is:

6774 (i) A shotgun, air rifle or air pistol, BB gun or  
6775 bow and arrow discharged:

6776 1. On a tract of land of ten (10) acres or  
6777 more and more than one hundred fifty (150) feet from a residence  
6778 or occupied building located on another property; and

6779 2. In a manner not reasonably expected to  
6780 cause a projectile to cross the boundary of the tract; or

6781 (ii) A center fire or rimfire rifle or pistol or a  
6782 muzzle-loading rifle or pistol of any caliber discharged:

6783 1. On a tract of land of fifty (50) acres or  
6784 more and more than three hundred (300) feet from a residence or  
6785 occupied building located on another property; and

6786 2. In a manner not reasonably expected to  
6787 cause a projectile to cross the boundary of the tract;

6788 (c) To regulate the use of property or location of  
6789 businesses for uses therein pursuant to fire code, zoning  
6790 ordinances, or land-use regulations, so long as such codes,  
6791 ordinances and regulations are not used to circumvent the intent  
6792 of Section 45-9-51 or paragraph (e) of this subsection;

6793 (d) To regulate the use of firearms in cases of  
6794 insurrection, riots and natural disasters in which the city finds  
6795 such regulation necessary to protect the health and safety of the  
6796 public. However, the provisions of this section shall not apply



6797 to the lawful possession of firearms, ammunition or components of  
6798 firearms or ammunition;

6799 (e) To regulate the storage or transportation of  
6800 explosives in order to protect the health and safety of the  
6801 public, with the exception of black powder which is exempt up to  
6802 twenty-five (25) pounds per private residence and fifty (50)  
6803 pounds per retail dealer;

6804 (f) To regulate the carrying of a firearm at: (i) a  
6805 public park or at a public meeting of a county, municipality or  
6806 other governmental body; (ii) a political rally, parade or  
6807 official political meeting; or (iii) a nonfirearm-related school,  
6808 college or professional athletic event; or

6809 (g) To regulate the receipt of firearms by pawnshops.

6810 (2) The exception provided by subsection (1)(f) of this  
6811 section does not apply if the firearm was in or carried to and  
6812 from an area designated for use in a lawful hunting, fishing or  
6813 other sporting event and the firearm is of the type commonly used  
6814 in the activity.

6815 (3) This section and Section 45-9-51 do not authorize a  
6816 county or municipality or their officers or employees to act in  
6817 contravention of Section 33-7-303.

6818 (4) No county or a municipality may use the written notice  
6819 provisions of Section 45-9-101(13) to prohibit concealed firearms  
6820 on property under their control except:



6821           (a) At a location listed in Section 45-9-101(13)  
6822 indicating that a license issued under Section 45-9-101 does not  
6823 authorize the holder to carry a firearm into that location, as  
6824 long as the sign also indicates that carrying a firearm is  
6825 unauthorized only for license holders without a training  
6826 endorsement or that it is a location included in Section  
6827 97-37-7(2) where carrying a firearm is unauthorized for all  
6828 license holders; and

6829           (b) At any location under the control of the county or  
6830 municipality aside from a location listed in subsection (1)(f) of  
6831 this section or Section 45-9-101(13) indicating that the  
6832 possession of a firearm is prohibited on the premises, as long as  
6833 the sign also indicates that it does not apply to a person  
6834 properly licensed under Section 45-9-101 or Section 97-37-7(2) to  
6835 carry a concealed firearm or to a person lawfully carrying a  
6836 firearm that is not concealed.

6837           (5) (a) A citizen of this state, or a person licensed to  
6838 carry a concealed pistol or revolver under Section 45-9-101, or a  
6839 person licensed to carry a concealed pistol or revolver with the  
6840 endorsement under Section 97-37-7, who is adversely affected by an  
6841 ordinance or posted written notice adopted by a county or  
6842 municipality in violation of this section may file suit for  
6843 declarative and injunctive relief against a county or municipality  
6844 in the circuit court which shall have jurisdiction over the county  
6845 or municipality where the violation of this section occurs.



6846 (b) Before instituting suit under this subsection, the  
6847 party adversely impacted by the ordinance or posted written notice  
6848 shall notify the Attorney General in writing of the violation and  
6849 include evidence of the violation. The Attorney General shall,  
6850 within thirty (30) days, investigate whether the county or  
6851 municipality adopted an ordinance or posted written notice in  
6852 violation of this section and provide the chief administrative  
6853 officer of the county or municipality notice of his findings,  
6854 including, if applicable, a description of the violation and  
6855 specific language of the ordinance or posted written notice found  
6856 to be in violation. The county or municipality shall have thirty  
6857 (30) days from receipt of that notice to cure the violation. If  
6858 the county or municipality fails to cure the violation within that  
6859 thirty-day time period, a suit under paragraph (a) of this  
6860 subsection may proceed, subject to the provisions of Sections 1  
6861 and 2 of this act when the suit is filed by the Attorney General.  
6862 The findings of the Attorney General shall constitute a "Public  
6863 Record" as defined by the Mississippi Public Records Act of 1983,  
6864 Section 25-61-1 et seq.

6865 (c) If the circuit court finds that a county or  
6866 municipality adopted an ordinance or posted written notice in  
6867 violation of this section and failed to cure that violation in  
6868 accordance with paragraph (b) of this subsection, the circuit  
6869 court shall issue a permanent injunction against a county or  
6870 municipality prohibiting it from enforcing the ordinance or posted



6871 written notice. Any elected county or municipal official under  
6872 whose jurisdiction the violation occurred may be civilly liable in  
6873 a sum not to exceed One Thousand Dollars (\$1,000.00), plus all  
6874 reasonable attorney's fees and costs incurred by the party  
6875 bringing the suit. Public funds may not be used to defend or  
6876 reimburse officials who are found by the court to have violated  
6877 this section.

6878 (d) It shall be an affirmative defense to any claim  
6879 brought against an elected county or municipal official under this  
6880 subsection (5) that the elected official:

6881 (i) Did not vote in the affirmative for the  
6882 adopted ordinance or posted written notice deemed by the court to  
6883 be in violation of this section;

6884 (ii) Did attempt to take recorded action to cure  
6885 the violation as noticed by the Attorney General in paragraph (b)  
6886 of this subsection; or

6887 (iii) Did attempt to take recorded action to  
6888 rescind the ordinance or remove the posted written notice deemed  
6889 by the court to be in violation of this section.

6890 (6) No county or municipality or their officers or employees  
6891 may participate in any program in which individuals are given a  
6892 thing of value provided by another individual or other entity in  
6893 exchange for surrendering a firearm to the county, municipality or  
6894 other governmental body unless:



6895 (a) The county or municipality has adopted an ordinance  
6896 authorizing the participation of the county or municipality, or  
6897 participation by an officer or employee of the county or  
6898 municipality in such a program; and

6899 (b) Any ordinance enacted pursuant to this section must  
6900 require that any firearm received shall be offered for sale at  
6901 auction as provided by Sections 19-3-85 and 21-39-21 to federally  
6902 licensed firearms dealers, with the proceeds from such sale at  
6903 auction reverting to the general operating fund of the county,  
6904 municipality or other governmental body. Any firearm remaining in  
6905 possession of the county, municipality or other governmental body  
6906 after attempts to sell at auction may be disposed of in a manner  
6907 that the body deems appropriate.

6908 **SECTION 99.** Section 45-12-11, Mississippi Code of 1972, is  
6909 amended as follows:

6910 45-12-11. (1) A manufacturer, wholesale dealer, agent or  
6911 any other person or entity who knowingly sells or offers to sell  
6912 cigarettes, other than through retail sale, in violation of  
6913 Section 45-12-5, shall be subject to a civil penalty not to exceed  
6914 One Hundred Dollars (\$100.00) for each pack of such cigarettes  
6915 sold or offered for sale, provided that in no case shall the  
6916 penalty against any such person or entity exceed One Hundred  
6917 Thousand Dollars (\$100,000.00) during any thirty-day period.

6918 (2) A retail dealer who knowingly sells or offers to sell  
6919 cigarettes in violation of Section 45-12-5 shall be subject to a



6920 civil penalty not to exceed One Hundred Dollars (\$100.00) for each  
6921 pack of such cigarettes sold or offered for sale, provided that in  
6922 no case shall the penalty against any retail dealer exceed  
6923 Twenty-five Thousand Dollars (\$25,000.00) for sales or offers to  
6924 sale during any thirty-day period.

6925 (3) In addition to any penalty prescribed by law, any  
6926 corporation, partnership, sole proprietor, limited partnership or  
6927 association engaged in the manufacture of cigarettes that  
6928 knowingly makes a false certification pursuant to Section 45-12-7  
6929 shall be subject to a civil penalty of at least Seventy-five  
6930 Thousand Dollars (\$75,000.00) and not to exceed Two Hundred Fifty  
6931 Thousand Dollars (\$250,000.00) for each such false certification.

6932 (4) Any person violating any other provision in this section  
6933 shall be liable for a civil penalty for a first offense not to  
6934 exceed One Thousand Dollars (\$1,000.00), and for a subsequent  
6935 offense shall be liable for a civil penalty not to exceed Five  
6936 Thousand Dollars (\$5,000.00), for each such violation.

6937 (5) Whenever any law enforcement personnel or duly  
6938 authorized representative of the State Fire Marshal shall discover  
6939 any cigarettes (a) for which no certification has been filed as  
6940 required by Section 45-12-7, or (b) that have not been marked as  
6941 required by Section 45-12-9, such personnel is hereby authorized  
6942 and empowered to seize and take possession of such cigarettes.  
6943 Cigarettes seized pursuant to this section shall be destroyed;  
6944 provided, however, that prior to the destruction of any cigarette





6945 seized pursuant to these provisions, the true holder of the  
6946 trademark rights in the cigarette brand shall be permitted to  
6947 inspect the cigarette.

6948 (6) In addition to any other remedy provided by law, the  
6949 Attorney General may file an action, subject to the provisions of  
6950 Sections 1 and 2 of this act, in the circuit court of the county  
6951 in which such alleged violation of this chapter occurred,  
6952 including petitioning (a) for preliminary or permanent injunctive  
6953 relief against any manufacturer, importer, wholesale dealer,  
6954 retail dealer, agent or any other person or entity to enjoin such  
6955 entity from selling, offering to sell, or affixing tax stamps to  
6956 any cigarette that does not comply with the requirements of this  
6957 chapter, or (b) to recover any costs or damages suffered by the  
6958 state because of a violation of this chapter, including  
6959 enforcement costs relating to the specific violation and  
6960 attorney's fees. Each violation of this chapter or of rules or  
6961 regulations adopted under this chapter constitutes a separate  
6962 civil violation for which the State Fire Marshal or Attorney  
6963 General may obtain relief. Upon obtaining judgment for injunctive  
6964 relief under this section, the State Fire Marshal or Attorney  
6965 General shall provide a copy of the judgment to all wholesale  
6966 dealers and agents to which the cigarette has been sold.

6967 **SECTION 100.** Section 45-14-27, Mississippi Code of 1972, is  
6968 amended as follows:



6969           45-14-27. (1) Upon completion of any project or activity  
6970 regarding emergency response to and coordination of  
6971 decontamination of radiation accidents or perpetual maintenance  
6972 and custody of radioactive materials, each agency of the state  
6973 that has participated by furnishing personnel, equipment or  
6974 material shall deliver to the agency record of the expenses  
6975 incurred by that agency. The amount of incurred expenses shall be  
6976 disbursed by the Secretary and Executive Officer of the State  
6977 Board of Health to each agency from funds available therefor.  
6978 Upon completion of such project or activity, the agency shall  
6979 prepare a statement of all expenses and costs for the project or  
6980 activity expended by the state and shall make demand for payment  
6981 upon the person having control over the radioactive materials or  
6982 the release thereof which necessitated said project or activity.  
6983 Any person having control over the radioactive materials or the  
6984 release thereof and any other person causing or contributing to an  
6985 incident necessitating such project or activity stated in this  
6986 subsection shall be directly liable to the state for the necessary  
6987 expenses incurred thereby and the state shall have a cause of  
6988 action to recover from any or all such persons. If the person  
6989 having control over the radioactive materials or the release  
6990 thereof shall fail or refuse to pay the sum expended by the state,  
6991 the agency shall refer the matter to the Attorney General of  
6992 Mississippi who shall institute an action, subject to the  
6993 provisions of Sections 1 and 2 of this act, in the name of the



6994 state in the chancery court of the county in which the project or  
6995 activity was undertaken by the state to recover such cost and  
6996 expenses.

6997 (2) In any action instituted by the Attorney General under  
6998 this chapter, a verified and itemized statement of the expenses  
6999 incurred by the state in any project or activity stated in  
7000 subsection (1) of this section, shall be filed with the complaint  
7001 and shall constitute a prima facie case, and the state shall be  
7002 entitled to a judgment thereon in the absence of allegation and  
7003 proof on the part of the defendant or defendants that:

7004 (a) The statement of expenses incurred by the state is  
7005 not correct because of an error in the calculation of the amount  
7006 due; or

7007 (b) The statement of the amount due is not correct  
7008 because of an error in not properly crediting the account with any  
7009 cash payment, or payments, or other satisfaction, which may have  
7010 been made thereon.

7011 **SECTION 101.** Section 47-5-75, Mississippi Code of 1972, is  
7012 amended as follows:

7013 47-5-75. The department is authorized to bring and maintain  
7014 suits for the collection and enforcement of all demands and debts  
7015 owing to the correctional system. No bond for costs, appeal bond,  
7016 supersedeas bond or other security shall at any time be required  
7017 of the department in any civil suit of any kind brought by or  
7018 against it or its employees in their official capacity, except



7019 such suits as may be brought against it or them by the State of  
7020 Mississippi. The Attorney General, subject to the provisions of  
7021 Sections 1 and 2 of this act, of the State of Mississippi is  
7022 hereby directed to assist the department in the filing and  
7023 prosecution of any suits filed herein.

7024 The department shall have the further power and authority, in  
7025 its discretion, to take adequate liability insurance on the  
7026 operation of said correctional system, including liability  
7027 insurance to protect the commissioner and other regular employees  
7028 of the correctional system from tort actions in any state or  
7029 federal court.

7030 **SECTION 102.** Section 47-5-901, Mississippi Code of 1972, is  
7031 brought forward as follows:

7032 47-5-901. (1) Any person committed, sentenced or otherwise  
7033 placed under the custody of the Department of Corrections, on  
7034 order of the sentencing court and subject to the other conditions  
7035 of this subsection, may serve all or any part of his sentence in  
7036 the county jail of the county wherein such person was convicted if  
7037 the Commissioner of Corrections determines that physical space is  
7038 not available for confinement of such person in the state  
7039 correctional institutions. Such determination shall be promptly  
7040 made by the Department of Corrections upon receipt of notice of  
7041 the conviction of such person. The commissioner shall certify in  
7042 writing that space is not available to the sheriff or other  
7043 officer having custody of the person. Any person serving his



7044 sentence in a county jail shall be classified in accordance with  
7045 Section 47-5-905.

7046 (2) If state prisoners are housed in county jails due to a  
7047 lack of capacity at state correctional institutions, the  
7048 Department of Corrections shall determine the cost for food and  
7049 medical attention for such prisoners. The cost of feeding and  
7050 housing offenders confined in such county jails shall be based on  
7051 actual costs or contract price per prisoner. In order to maximize  
7052 the potential use of county jail space, the Department of  
7053 Corrections is encouraged to negotiate a reasonable per day cost  
7054 per prisoner, which in no event may exceed Twenty Dollars (\$20.00)  
7055 per day per offender.

7056 (3) (a) Upon vouchers submitted by the board of supervisors  
7057 of any county housing persons due to lack of space at state  
7058 institutions, the Department of Corrections shall pay to such  
7059 county, out of any available funds, the actual cost of food, or  
7060 contract price per prisoner, not to exceed Twenty Dollars (\$20.00)  
7061 per day per offender, as determined under subsection (2) of this  
7062 section for each day an offender is so confined beginning the day  
7063 that the Department of Corrections receives a certified copy of  
7064 the sentencing order and will terminate on the date on which the  
7065 offender is released or otherwise removed from the custody of the  
7066 county jail. The department, or its contracted medical provider,  
7067 will pay to a provider of a medical service for any and all  
7068 incarcerated persons from a correctional or detention facility an



7069 amount based upon negotiated fees as agreed to by the medical care  
7070 service providers and the department and/or its contracted medical  
7071 provider. In the absence of negotiated discounted fee schedule,  
7072 medical care service providers will be paid by the department, or  
7073 its contracted medical service provider, an amount no greater than  
7074 the reimbursement rate applicable based on the Mississippi  
7075 Medicaid reimbursement rate. The board of supervisors of any  
7076 county shall not be liable for any cost associated with medical  
7077 attention for prisoners who are pretrial detainees or for  
7078 prisoners who have been convicted that exceeds the Mississippi  
7079 Medicaid reimbursement rate or the reimbursement provided by the  
7080 Department of Corrections, whichever is greater. This limitation  
7081 applies to all medical care services, durable and nondurable  
7082 goods, prescription drugs and medications. Such payment shall be  
7083 placed in the county general fund and shall be expended only for  
7084 food and medical attention for such persons.

7085           (b) Upon vouchers submitted by the board of supervisors  
7086 of any county housing offenders in county jails pending a  
7087 probation or parole revocation hearing, the department shall pay  
7088 the reimbursement costs provided in paragraph (a).

7089           (c) If the probation or parole of an offender is  
7090 revoked, the additional cost of housing the offender pending the  
7091 revocation hearing shall be assessed as part of the offender's  
7092 court cost and shall be remitted to the department.



7093           (4) A person, on order of the sentencing court, may serve  
7094 not more than twenty-four (24) months of his sentence in a county  
7095 jail if the person is classified in accordance with Section  
7096 47-5-905 and the county jail is an approved county jail for  
7097 housing state inmates under federal court order. The sheriff of  
7098 the county shall have the right to petition the Commissioner of  
7099 Corrections to remove the inmate from the county jail. The county  
7100 shall be reimbursed in accordance with subsection (2) of this  
7101 section.

7102           (5) The Attorney General of the State of Mississippi shall  
7103 defend the employees of the Department of Corrections and  
7104 officials and employees of political subdivisions against any  
7105 action brought by any person who was committed to a county jail  
7106 under the provisions of this section.

7107           (6) This section does not create in the Department of  
7108 Corrections, or its employees or agents, any new liability,  
7109 express or implied, nor shall it create in the Department of  
7110 Corrections any administrative authority or responsibility for the  
7111 construction, funding, administration or operation of county or  
7112 other local jails or other places of confinement which are not  
7113 staffed and operated on a full-time basis by the Department of  
7114 Corrections. The correctional system under the jurisdiction of  
7115 the Department of Corrections shall include only those facilities  
7116 fully staffed by the Department of Corrections and operated by it  
7117 on a full-time basis.



7118 (7) An offender returned to a county for post-conviction  
7119 proceedings shall be subject to the provisions of Section 99-19-42  
7120 and the county shall not receive the per-day allotment for such  
7121 offender after the time prescribed for returning the offender to  
7122 the Department of Corrections as provided in Section 99-19-42.

7123 **SECTION 103.** Section 47-5-903, Mississippi Code of 1972, is  
7124 brought forward as follows:

7125 47-5-903. (1) A person committed, sentenced or otherwise  
7126 placed under the custody of the Department of Corrections, on  
7127 order of the sentencing court, may serve his sentence in the  
7128 county jail of the county where convicted if all of the following  
7129 conditions are complied with:

7130 (a) The person must be classified in accordance with  
7131 Section 47-5-905;

7132 (b) The person must not be classified as in need of  
7133 close supervision;

7134 (c) The sheriff of the county where the person will  
7135 serve his sentence must request in writing that the person be  
7136 allowed to serve his sentence in that county jail;

7137 (d) After the person is classified and returned to the  
7138 county, the county shall assume the full and complete  
7139 responsibility for the care and expenses of housing such person;  
7140 and

7141 (e) The county jail must be an approved county jail for  
7142 housing state inmates under federal court order.





7143           (2) This section does not apply to inmates housed in county  
7144 jails due to lack of space at state correctional facilities. The  
7145 department shall not reimburse the county for the expense of  
7146 housing an inmate under this section.

7147           (3) The Attorney General of the State of Mississippi shall  
7148 defend the employees of the Department of Corrections and  
7149 officials and employees of political subdivisions against any  
7150 action brought by any person who was committed to a county jail  
7151 under the provisions of this section.

7152           (4) The state, the Department of Corrections, and its  
7153 employees or agents, shall not be liable to any person or entity  
7154 for an inmate held in a county jail under this section.

7155           **SECTION 104.** Section 47-5-1219, Mississippi Code of 1972, is  
7156 brought forward as follows:

7157           47-5-1219. A contract for correctional services shall not be  
7158 entered into unless the following requirements are met:

7159           (a) In addition to fire and casualty insurance, the  
7160 contractor provides at least Ten Million Dollars (\$10,000,000.00)  
7161 of liability insurance, specifically including insurance for civil  
7162 rights claims. The liability insurance shall be issued by an  
7163 insurance company with a rating of at least an A- according to  
7164 A.M. Best standards. In determining the adequacy of such  
7165 insurance, the Department of Finance and Administration shall  
7166 determine whether:



7167 (i) The insurance is adequate to protect the state  
7168 from any and all actions by a third party against the contractor  
7169 or the state as a result of the contract;

7170 (ii) The insurance is adequate to protect the  
7171 state against any and all claims arising as a result of any  
7172 occurrence during the term of the contract;

7173 (iii) The insurance is adequate to assure the  
7174 contractor's ability to fulfill its contract with the state in all  
7175 respects, and to assure that the contractor is not limited in this  
7176 ability because of financial liability which results from  
7177 judgments; and

7178 (iv) The insurance is adequate to satisfy such  
7179 other requirements specified by the independent risk  
7180 management/actuarial firm.

7181 (b) The sovereign immunity of the state shall not apply  
7182 to the contractor. Neither the contractor nor the insurer of the  
7183 contractor may plead the defense of sovereign immunity in any  
7184 action arising out of the performance of the contract.

7185 (c) The contractor shall post a performance bond to  
7186 assure the contractor's faithful performance of the specifications  
7187 and conditions of the contract. The bond is required throughout  
7188 the term of the contract. The terms and conditions must be  
7189 approved by the Department of Corrections and the Department of  
7190 Finance and Administration and such approval is a condition  
7191 precedent to the contract taking effect.



7192 (d) The contractor shall defend any suit or claim  
7193 brought against the State of Mississippi arising out of any act or  
7194 omission in the operation of a private facility, and shall hold  
7195 the State of Mississippi harmless from such claim or suit. The  
7196 contractor shall be solely responsible for the payment of any  
7197 legal or other costs relative to any such claim or suit. The  
7198 contractor shall reimburse the State of Mississippi for any costs  
7199 that it may incur as a result of such claim or suit immediately  
7200 upon being submitted a statement therefor by the Attorney General.

7201 The duties and obligations of the contractor pursuant to this  
7202 subsection shall include, but not be limited to, any claim or suit  
7203 brought under any federal or state civil rights or prisoners  
7204 rights statutes or pursuant to any such rights recognized by  
7205 common law or case law, or federal or state constitutions.

7206 Any suit brought or claim made arising out of any act or  
7207 omission in the operation of a private facility shall be made or  
7208 brought against the contractor and not the State of Mississippi.

7209 The Attorney General retains all rights and emoluments of his  
7210 office which include direction and control over any litigation or  
7211 claim involving the State of Mississippi.

7212 **SECTION 105.** Section 49-4-21, Mississippi Code of 1972, is  
7213 amended as follows:

7214 49-4-21. The Attorney General shall be counsel and attorney  
7215 for the commission and Department of Wildlife, Fisheries and  
7216 Parks, subject to the provisions of Sections 1 and 2 of this act.



7217 The Attorney General shall designate one (1) of his deputies or  
7218 assistants to be counsel and attorney for the commission and the  
7219 department in all actions, proceedings and hearings. The deputy  
7220 or assistant so designated shall be legal advisor of the  
7221 commission and the department in all matters relating to the  
7222 commission and the department and to the powers and duties of its  
7223 officers.

7224 **SECTION 106.** Section 49-17-71, Mississippi Code of 1972, is  
7225 amended as follows:

7226 49-17-71. The Governor, on behalf of this state, is hereby  
7227 authorized to execute a compact, in substantially the following  
7228 form, with any one or more of the States of Alabama, Georgia,  
7229 Kentucky, North Carolina, Tennessee and Virginia, and the  
7230 Legislature hereby signifies in advance its approval and  
7231 ratification of such compact:

7232 Article I

7233 The purpose of this compact is to promote effective control  
7234 and reduction of pollution in the waters of the Tennessee River  
7235 Basin through increased co-operation of the states of the basin,  
7236 co-ordination of pollution control activities and programs in the  
7237 basin, and the establishment of a joint interstate commission to  
7238 assist in these efforts.

7239 Article II

7240 The party states hereby create the "Tennessee River Basin  
7241 Water Pollution Control Commission," hereinafter referred to as



7242 the "commission," which shall be an agency of each party state  
7243 with the powers and duties set forth herein, and such others as  
7244 shall be conferred upon it by the party states or by the Congress  
7245 of the United States concurred in by the party states.

7246 Article III

7247 A. The party states hereby create the "Tennessee River  
7248 Basin Water Pollution Control District," hereinafter called the  
7249 "district," which consists of the area drained by the Tennessee  
7250 River and its tributaries.

7251 B. From time to time the commission may conduct surveys  
7252 of the basin, study the pollution problems of the basin, and make  
7253 comprehensive reports concerning the prevention or reduction of  
7254 water pollution therein. The commission may draft and recommend  
7255 to the parties hereto suggested legislation dealing with the  
7256 pollution of waters within the basin or any portion thereof. Upon  
7257 request of a state water pollution control agency, and in a manner  
7258 agreed upon by such agency and the commission, the commission  
7259 shall render advice concerning the various governments,  
7260 communities, municipalities, persons, corporations or other  
7261 entities with regard to particular problems connected with the  
7262 pollution of waters. The commission shall present to the  
7263 appropriate officials of any government or agency thereof its  
7264 recommendations relating to enactments to be made by any  
7265 legislature in furthering the intents and purposes of this  
7266 article. The commission, upon request of a member state or upon



7267 its own instance may, after proper study, and after conducting  
7268 public hearings, recommend minimum standards of water quality to  
7269 be followed in the several areas of the district.

7270 Article IV

7271 The commission shall consist of three (3) commissioners from  
7272 each state, each of whom shall be a resident voter of such state.  
7273 The commissioners shall be chosen in the manner and for the terms  
7274 provided by the laws of the state from which they are appointed,  
7275 and each commissioner may be removed or suspended from office as  
7276 provided by the law of the state from which he is appointed.

7277 Article V

7278 A. The commission shall elect annually from its members  
7279 a chairman and a vice-chairman to serve at its pleasure. It shall  
7280 adopt a seal and suitable by-laws for its management and control.  
7281 The commission is hereby authorized to adopt, prescribe and  
7282 promulgate rules and regulations for administering and enforcing  
7283 all provisions of this compact. It may maintain one or more  
7284 offices for the transaction of its business. Meetings shall be  
7285 held at least once each year. It may determine duties,  
7286 qualifications and compensation for and appoint such employees and  
7287 consultants as may be necessary and remove or replace them.

7288 B. The commission shall not compensate the  
7289 commissioners for their services but shall pay their actual  
7290 expenses incurred in and incidental to the performance of their  
7291 duties.



7292           C. The commission may acquire, by gift or otherwise,  
7293 and may hold and dispose of such real and personal property as may  
7294 be appropriate to the performance of its functions. In the event  
7295 of sale of real property, proceeds may be distributed among the  
7296 several party states, each state's share being computed in a ratio  
7297 to its contributions; and in the event of dissolution of the  
7298 commission, the property and assets shall be disposed of and  
7299 proceeds distributed in a like manner.

7300           D. Each commissioner shall have one vote. One or more  
7301 commissioners from a majority of the party states shall constitute  
7302 a quorum for the transaction of business, but no action of the  
7303 commission imposing any obligation on any party state or any  
7304 municipality, person, corporation or other entity therein shall be  
7305 binding unless a majority of all of the members from such party  
7306 state shall have voted in favor thereof. The commission shall  
7307 keep accurate accounts of all receipts and disbursements, and  
7308 shall submit to the governor and the legislature of each party  
7309 state an annual report concerning its activities, and shall make  
7310 recommendations for any legislative, executive or administrative  
7311 action deemed advisable.

7312           E. The commission shall at the proper time submit to  
7313 the governor of each party state for his approval an estimate of  
7314 its proposed expenditures. The commission shall subsequently  
7315 adopt a budget and submit appropriation requests to the party  
7316 states in accordance with the laws and procedures of such states.



7317 F. The commission shall not pledge the credit of any of  
7318 the party states. The commission may meet any of its obligations  
7319 in whole or in part with funds available to it, from gifts,  
7320 grants, appropriations or otherwise, provided that the commission  
7321 takes specific action setting aside such funds prior to the  
7322 incurring of any obligation to be met in whole or in part in this  
7323 manner. Except where the commission makes use of funds already  
7324 available to it, the commission shall not incur any obligations  
7325 prior to the making of appropriations adequate to meet the same.

7326 G. The accounts of the commission shall be open at any  
7327 reasonable time to the inspection of such representatives of the  
7328 respective party states as may be duly constituted for that  
7329 purpose. All receipts and disbursements of funds handled by the  
7330 commission shall be audited yearly by a qualified public  
7331 accountant, and the report of the audit shall be included in and  
7332 become a part of the annual report of the commission. The  
7333 commission shall appoint an executive director. The commission  
7334 shall also appoint a treasurer who may be a member of the  
7335 commission. The executive director shall be custodian of the  
7336 records of the commission with authority to attest to and certify  
7337 such records and copies thereof under the seal of the commission.  
7338 The commission shall require bonds of its executive director and  
7339 treasurer in the amount of at least twenty-five per cent (25%) of  
7340 the annual budget of the commission.

7341 Article VI







7367 district in entirety or by portions according to present and  
7368 proposed highest use, and for this purpose technical experts  
7369 employed by appropriate state water pollution control agencies are  
7370 authorized to confer on questions relating to classification of  
7371 interstate waters affecting two or more states. Each signatory  
7372 state agrees to submit its classification of its interstate waters  
7373 to the commission for approval. It is agreed that after such  
7374 approval, all signatory states through their appropriate state  
7375 water pollution control agencies will work to establish programs  
7376 of treatment of sewage and industrial wastes which will meet  
7377 standards established by the commission for classified waters.  
7378 The commission may from time to time make such changes in  
7379 definitions of classifications and in standards as may be required  
7380 by changed conditions or as may be necessary for uniformity and in  
7381 a manner similar to that in which these standards and  
7382 classifications were originally established.

7383 Article VIII

7384 A. A state pollution control agency of any party state  
7385 may certify to the commission an alleged violation of the  
7386 commission's standards of quality of water entering said state.  
7387 Upon such certification the commission may call a hearing at which  
7388 the appropriate state pollution agencies shall be represented. If  
7389 the commission finds a violation has occurred, is occurring or is  
7390 likely to recur, it shall make recommendations as to the manner of  
7391 abatement of the pollution to the appropriate water pollution



7392 control agency of the party state within which the violation has  
7393 occurred, is occurring or is likely to recur. In the event that  
7394 commission recommendations made pursuant to the preceding  
7395 provisions of this article do not result in compliance within a  
7396 reasonable time, the commission may, after such further  
7397 investigation if any as is deemed necessary and proper and after a  
7398 hearing held in the state where a violation occurs or has  
7399 occurred, issue an order or orders upon any municipality, person,  
7400 corporation or other entity within said party state violating  
7401 provisions of this compact by discharging sewage or industrial  
7402 wastes into the waters of the district which flow through, into or  
7403 border upon any party state. Such order or orders may prescribe  
7404 the date on or before which such discharge shall be wholly or  
7405 partially discontinued, modified or treated or otherwise disposed  
7406 of. The commission shall give reasonable and proper notice in  
7407 writing of the time and place of the hearing to the municipality,  
7408 person, corporation or other entity against which such order is  
7409 proposed except that when the commission shall find that a public  
7410 health emergency exists, it may issue such an order pending  
7411 hearing. In all such instances, the hearing shall be promptly  
7412 held and the order shall be withdrawn, modified or made permanent  
7413 within thirty (30) days after hearing. No order prescribing the  
7414 date on or before which such discharge shall be wholly or  
7415 partially discontinued, modified or treated or otherwise disposed  
7416 of shall go into effect upon a municipality, person, corporation



7417 or other entity in any state unless and until it receives the  
7418 approval of a majority of the commissioners from each of not less  
7419 than a majority of the party states, provided that such order  
7420 receives the assent of not less than a majority of the  
7421 commissioners from such state.

7422           B. It shall be the duty of the municipality, person,  
7423 corporation or other entity within a party state to comply with  
7424 any such order against it or him by the commission, and any court  
7425 of competent jurisdiction in any of the party states shall have  
7426 jurisdiction, by mandamus, injunction, specific performance or  
7427 other form of remedy, to enforce any such order against any  
7428 municipality, person, corporation or other entity domiciled,  
7429 located or doing business within such state; provided, however,  
7430 such court may review the order and affirm, reverse or modify the  
7431 same in any appropriate proceeding brought and upon any of the  
7432 grounds customarily applicable in proceedings for court review of  
7433 administrative decisions. The commission or, at its request, the  
7434 Attorney General, subject to the provisions of Sections 1 and 2 of  
7435 this act, or other law enforcing official of the appropriate state  
7436 shall have power to institute in such court any action for the  
7437 enforcement of such order.

7438   Article IX

7439           Nothing in this compact shall be construed to limit the  
7440 powers of any party state, or to repeal or prevent the enactment  
7441 of any legislation, or the enforcement of any requirement by any



7442 party state, imposing any additional conditions and restrictions  
7443 to further reduce or prevent the pollution of waters within its  
7444 jurisdiction.

7445 Article X

7446 A. Nothing contained in this compact shall be construed  
7447 so as to conflict with any provision of the Ohio River Valley  
7448 Water Sanitation Compact or to impose obligations on any party  
7449 state inconsistent with those which it has undertaken or may  
7450 undertake by virtue of its membership in said compact; provided  
7451 that nothing contained in this article shall be deemed to limit  
7452 the commission's power to set higher standards for the waters of  
7453 the Tennessee River Basin Water Pollution Control District or any  
7454 portion thereof than those required for the Ohio River Valley  
7455 Water Sanitation District.

7456 B. Nothing contained in this compact shall be deemed to  
7457 give the commission any power or jurisdiction over any aspect of  
7458 pollution abatement or control within the district unless existing  
7459 or future pollution of such waters does or is likely to affect  
7460 adversely the quality of water flowing among, between, into or  
7461 through the territory of more than one party state.

7462 Article XI

7463 Any two (2) or more of the party states by legislative action  
7464 may enter into supplementary agreements for further regulation and  
7465 abatement of water pollution in other areas within the party  
7466 states and for the establishment of common or joint services or



7467 facilities for such purpose and designate the commission to act as  
7468 their joint agency in regard thereto. Except in those cases where  
7469 all member states join in such supplementary agreement and  
7470 designation, the representatives in the commission of any group of  
7471 such designating states shall constitute a separate section of the  
7472 commission for the performance of the function or functions so  
7473 designated and with such voting rights for these purposes as may  
7474 be stipulated in such agreement; provided that, if any additional  
7475 expense is involved, the member states so acting shall appropriate  
7476 the necessary funds for this purpose. No supplementary agreement  
7477 shall be valid to the extent that it conflicts with the purposes  
7478 of this compact and the creation of such a section as a joint  
7479 agency shall not affect the privileges, powers, responsibilities  
7480 or duties of the member states participating therein as embodied  
7481 in the other articles of this compact.

7482 Article XII

7483 This compact shall enter into force and become effective and  
7484 binding when it has been enacted by the legislature of Tennessee  
7485 and by the legislatures of any one or more of the states of  
7486 Alabama, Georgia, Kentucky, Mississippi, North Carolina and  
7487 Virginia and upon approval by the Congress of the United States  
7488 and thereafter shall enter into force and become effective and  
7489 binding as to any other of said states when enacted by the  
7490 legislature thereof.

7491 Article XIII



7492           This compact shall continue in force and remain binding upon  
7493 each party state until renounced by act of the legislature of such  
7494 state, in such form and manner as it may choose; provided that  
7495 such renunciation shall not become effective until six (6) months  
7496 after the effective date of the action taken by the legislature.  
7497 Notice of such renunciation shall be given to the other party  
7498 states by the secretary of state of the party state so renouncing  
7499 upon passage of the act.

7500   Article XIV

7501           The provisions of this compact or of agreements thereunder  
7502 shall be severable and if any phrase, clause, sentence or  
7503 provision of this compact, or such agreement, is declared to be  
7504 contrary to the constitution of any participating state or of the  
7505 United States or the applicability thereof to any state, agency,  
7506 person or circumstances is held invalid, the constitutionality of  
7507 the remainder of this compact or of any agreement thereunder and  
7508 the applicability thereof to any state, agency, person or  
7509 circumstance shall not be affected thereby, provided further that  
7510 if this compact or any agreement thereunder shall be held contrary  
7511 to the Constitution of the United States or of any state  
7512 participating therein, the compact or any agreement thereunder  
7513 shall remain in full force and effect as to the remaining states  
7514 and in full force and effect as to the state affected as to all  
7515 severable matters. It is the legislative intent that the



7516 provisions of this compact shall be reasonably and liberally  
7517 construed.

7518           **SECTION 107.** Section 49-27-51, Mississippi Code of 1972, is  
7519 amended as follows:

7520           49-27-51. (1) (a) If a person in violation of this chapter  
7521 submits a proper application for any unauthorized work and the  
7522 commission determines that the work has been conducted in  
7523 accordance with the public policy as set forth in Section 49-27-3,  
7524 the commission shall issue after-the-fact authorization for the  
7525 work.

7526           (b) For conducting the work without first obtaining a  
7527 current and valid permit and other violations of this chapter, the  
7528 commission may order and levy a penalty of not less than Fifty  
7529 Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) per  
7530 day for each day the violation has existed for residential type  
7531 regulated activity and a penalty of not less than One Thousand  
7532 Dollars (\$1,000.00) nor more than Ten Thousand Dollars  
7533 (\$10,000.00) per day for each day the violation has existed for  
7534 commercial and industrial type regulated activity.

7535           (2) If the person continues the violation, the Attorney  
7536 General of the State of Mississippi at the request of the  
7537 commission subject to the provisions of Sections 1 and 2 of this  
7538 act, a district attorney having jurisdiction, or a county attorney  
7539 having jurisdiction may initiate the civil or criminal actions, or





7540 both civil and criminal actions, as described in this chapter  
7541 against the person.

7542 (3) The Attorney General subject to the provisions of  
7543 Sections 1 and 2 of this act, commission, district attorney or  
7544 county attorney may initiate action to enjoin any person in  
7545 violation of this chapter.

7546 **SECTION 108.** Section 53-3-19, Mississippi Code of 1972, is  
7547 amended as follows:

7548 53-3-19. Apart from, and in addition to, any other remedy or  
7549 procedure which may be available to the State Oil and Gas Board,  
7550 or any penalty which may be sought against or imposed upon any  
7551 person with respect to violations relating to illegal oil, illegal  
7552 gas, or illegal product, all illegal oil, illegal gas and illegal  
7553 product shall, except under such circumstances as are stated  
7554 herein, be contraband and shall be seized and sold, and the  
7555 proceeds applied as herein provided. Such sale shall not take  
7556 place unless the court shall find, in the proceeding provided for  
7557 in this paragraph, that the commodity involved is contraband.  
7558 Whenever the board believes that illegal oil, illegal gas or  
7559 illegal product is subject to seizure and sale, as provided  
7560 herein, it shall, through the Attorney General subject to the  
7561 provisions of Sections 1 and 2 of this act, bring a civil action  
7562 in rem for that purpose in the circuit court of the county where  
7563 the commodity is found, or the action may be maintained in  
7564 connection with any suit or cross-action for injunction or for



7565 penalty relating to any prohibited transaction involving such  
7566 illegal oil, illegal gas or illegal product. Any interested  
7567 person who may show himself to be adversely affected by any such  
7568 seizure and sale shall have the right to intervene in such suit to  
7569 protect his rights.

7570 The action referred to above shall be strictly in rem and  
7571 shall proceed in the name of the state as plaintiff against the  
7572 illegal oil, illegal gas or illegal product mentioned in the  
7573 complaint, as defendant, and no bond or bonds shall be required of  
7574 the plaintiff in connection therewith. Upon the filing of the  
7575 complaint, the clerk of the court shall issue a summons directed  
7576 to the sheriff of the county, or to such officer or person as the  
7577 court may authorize to serve process, requiring him to summon any  
7578 and all persons (without undertaking to name them) who may be  
7579 interested in the illegal oil, illegal gas, or illegal product  
7580 mentioned in the complaint to appear and answer within thirty (30)  
7581 days after the issuance and service of such summons. The summons  
7582 shall contain the style and number of the suit and a very brief  
7583 statement of the nature of the cause of action. It shall be  
7584 served by posting one (1) copy thereof at the courthouse door of  
7585 the county where the commodity involved in the suit is alleged to  
7586 be located and by posting another copy thereof near the place  
7587 where the commodity is alleged to be located. Copy of such  
7588 summons shall be posted at least five (5) days before the return  
7589 day stated therein, and the posting of such copy shall constitute



7590 constructive possession of such commodity by the state. A copy of  
7591 the summons shall also be published once each week for three (3)  
7592 weeks in some newspaper published in the county where the suit is  
7593 pending or having a bona fide circulation therein. No judgment  
7594 shall be pronounced by any court condemning such commodity as  
7595 contraband until after the lapse of five (5) days from the last  
7596 publication of said summons. Proof of service of said summons,  
7597 and the manner thereof, shall be as provided by general law.

7598         Where it appears by a verified pleading on the part of the  
7599 plaintiff, or by affidavit, or affidavits, that grounds for the  
7600 seizure and sale exist, the clerk, in addition to the summons,  
7601 shall issue an order of seizure, which shall be signed by the  
7602 clerk and bear the seal of the court. Such order of seizure shall  
7603 specifically describe the illegal oil, illegal gas, or illegal  
7604 product, so that the same may be identified with reasonable  
7605 certainty. It shall direct the sheriff to whom it is addressed to  
7606 take into his custody, actual or constructive, the illegal oil,  
7607 illegal gas or illegal product, described therein, and to hold the  
7608 same subject to the orders of the court. Said order of seizure  
7609 shall be executed as a writ of attachment is executed. No bond  
7610 shall be required before the issuance of such order of seizure,  
7611 and the sheriff shall be responsible upon his official bond for  
7612 the proper execution thereof. For his service hereunder, the  
7613 sheriff shall receive a fee as in like cases of seizure of  
7614 personal property and to be assessed as other cost in the cause.



7615 Sales of illegal oil, illegal gas or illegal product, seized  
7616 under the authority of this section, and notice of such sales,  
7617 shall be in accordance with the laws of this state relating to the  
7618 sale of personal property under execution. For his services  
7619 hereunder the sheriff shall receive a fee and expenses in like  
7620 sales of personal property to be paid out of the proceeds of the  
7621 sale or sales to be fixed by the court ordering such sale.

7622 The court may order that the commodity be sold in specified  
7623 lots or portions, and at specified intervals, instead of being  
7624 sold at one time. Title to the amount sold shall pass as of the  
7625 date of the act which is found by the court to make the commodity  
7626 contraband. The judgment shall provide for payment of the  
7627 proceeds of the sale into the State Oil and Gas Fund, after first  
7628 deducting the costs in connection with the proceedings and sale,  
7629 and after paying to any royalty owner intervening as an interested  
7630 party in the suit, the value of his interest in the said oil or  
7631 gas, provided he has established his title to the said oil or gas  
7632 royalty interest. The amount sold shall be treated as legal oil,  
7633 legal gas or legal product, as the case may be, in the hands of  
7634 the purchaser, but the purchaser and the commodity shall be  
7635 subject to all applicable laws, and rules, regulations and orders  
7636 with respect to further sale or purchase or acquisition, and with  
7637 respect to the transportation, refining, processing, or handling  
7638 in any other way, of the commodity purchased.



7639           The producer, owner, or any other party contesting the  
7640 validity of any such seizure and having an interest in securing  
7641 the release of the seized oil, gas or other product, may obtain  
7642 the release thereof upon furnishing a bond issued by a corporate  
7643 surety company, duly qualified to do business in the state in an  
7644 amount double the current market value of the oil, gas or other  
7645 product held under seizure, which bond shall be conditioned and  
7646 approved in the same manner as a replevin bond.

7647           Nothing in this section shall deny or abridge any cause of  
7648 action a royalty owner, or a lien holder, or any other claimant,  
7649 may have, because of the forfeiture of the illegal oil, illegal  
7650 gas, or illegal product, against the person whose act resulted in  
7651 such forfeiture. All oil, gas or other illegal product sold as  
7652 provided in this section shall be sold in like cases of personal  
7653 property sold under execution.

7654           **SECTION 109.** Section 53-9-67, Mississippi Code of 1972, is  
7655 amended as follows:

7656           53-9-67. (1) Except as provided in subsection (2) of this  
7657 section, any interested party may commence a civil action to  
7658 compel compliance with this chapter:

7659           (a) Against the state or a state instrumentality or  
7660 agency which is alleged to be in violation of this chapter or any  
7661 rule, regulation, order or permit issued under this chapter, or  
7662 against any other person who is alleged to be in violation of this



7663 chapter or any rule, regulation, order or permit issued under this  
7664 chapter; or

7665 (b) Against the department, commission or permit board  
7666 if there is alleged a failure of any one or more of them to  
7667 perform any nondiscretionary act or duty under this chapter.

7668 (2) No action may be commenced:

7669 (a) Under subsection (1)(a) of this section, (i) before  
7670 sixty (60) days after the plaintiff has given notice in writing of  
7671 the violation to the executive director, chief legal counsel of  
7672 the department, the Attorney General subject to the provisions of  
7673 Sections 1 and 2 of this act of the state and to any alleged  
7674 violator, or (ii) if the commission has commenced and is  
7675 diligently prosecuting a civil action in a court of the state or  
7676 the United States to require compliance with this chapter, or any  
7677 rule, regulation, order or permit issued under this chapter, but  
7678 in any action any interested party may intervene as a matter of  
7679 right;

7680 (b) Under subsection (1)(b) of this section before  
7681 sixty (60) days after the plaintiff has given notice in writing of  
7682 the action to the executive director, chief legal counsel of the  
7683 department and commission, in the manner as the commission shall  
7684 by regulation prescribe. That action may be brought immediately  
7685 after the notification if the violation or order complained of  
7686 constitutes an imminent threat to the health or safety of the



7687 plaintiff or would immediately affect a legal interest of the  
7688 plaintiff.

7689 (3) (a) Any action under this section alleging a violation  
7690 of this chapter or any rule or regulation promulgated under this  
7691 chapter may be brought only in the chancery court of the judicial  
7692 district in which the surface coal mining operation complained of  
7693 is located, except any action brought under subsection (1)(b) of  
7694 this section shall be brought in the chancery court of the First  
7695 Judicial District of Hinds County.

7696 (b) In any action under this section the permit board  
7697 or commission, if not a party, may intervene as a matter of right.

7698 (4) The court, in issuing a final order in any action  
7699 brought under subsection (1) of this section, may award costs of  
7700 litigation, including attorney and expert witness fees, to any  
7701 party, whenever the court determines that award is appropriate,  
7702 but the permittee shall not be entitled to an award of attorney's  
7703 fees unless the court determines that the action of the person  
7704 opposing the permittee was frivolous, unreasonable or without  
7705 foundation. No award of attorney's fees or expert witness fees  
7706 shall be made against a person having an interest in real property  
7707 that is or may be adversely affected by the surface coal mining  
7708 operations. The court may, if a preliminary injunction is sought,  
7709 require the filing of a bond or equivalent security in accordance  
7710 with state law.



7711 (5) Nothing in this section shall restrict any right which  
7712 any person or class of persons may have under any statute or the  
7713 common law, to seek enforcement of this chapter and the rules and  
7714 regulations promulgated under this chapter, or to seek any other  
7715 relief, including relief against the department, commission or the  
7716 permit board.

7717 (6) Any provisions of this section and chapter regarding  
7718 liability for the costs of clean-up, removal, remediation or  
7719 abatement of any pollution, hazardous waste or solid waste shall  
7720 be limited as provided in Section 49-17-42 and rules under that  
7721 section.

7722 **SECTION 110.** Section 55-13-21, Mississippi Code of 1972, is  
7723 amended as follows:

7724 55-13-21. The Highway Commission is hereby authorized to  
7725 call upon the Attorney General, subject to the provisions of  
7726 Sections 1 and 2 of this act, or any district attorney in his  
7727 district, or any county attorney in his county, to assist in the  
7728 preparation and trial of any condemnation suit for right-of-way  
7729 for the Natchez Trace, and it is further authorized to pay the  
7730 actual and necessary traveling expenses of any such officer  
7731 assisting in any such suit.

7732 **SECTION 111.** Section 57-1-29, Mississippi Code of 1972, is  
7733 amended as follows:

7734 57-1-29. A municipality, having been authorized by the  
7735 executive director, as herein provided, may expend, for acquiring





7736 and operating such municipal enterprise under rules and  
7737 regulations adopted by the executive director, any funds of the  
7738 municipality then on hand or available and not already  
7739 appropriated or necessary for other municipal purposes. A  
7740 municipality, after the terms and conditions have been fixed by  
7741 the executive director and with his approval, is hereby authorized  
7742 from and after July 1, 1944, to issue bonds of such municipality  
7743 for the purpose of effectuating the provisions of Sections 57-1-1  
7744 through 57-1-51 and promoting thereby the public policy of this  
7745 state in bringing about the general welfare of its people. When,  
7746 if and to the extent that a bond issue shall be approved by the  
7747 executive director, then the same may be authorized by the  
7748 governing authority of the municipality, and to secure such bond  
7749 issue the municipality may mortgage or pledge property used and  
7750 useful for the industrial enterprise; and the income therefrom,  
7751 and confer upon the holders of such bonds the rights of a first  
7752 mortgage bondholder. Such bond issue shall be first approved by  
7753 the executive director, and thereafter shall be authorized by  
7754 resolution or ordinance of the governing board of the municipality  
7755 in such form and with such provisions, terms and conditions as may  
7756 be fixed in the resolution or ordinance not inconsistent with the  
7757 provisions of Sections 57-1-1 through 57-1-51. Present  
7758 limitations on the amount of other bonds that may be issued by  
7759 such municipality shall not apply to bonds issued hereunder other  
7760 than as herein otherwise provided. All such bonds shall be



7761 lithographed or engraved, and printed in two (2) or more colors to  
7762 prevent counterfeiting, and shall be in sums not less than One  
7763 Thousand Dollars (\$1,000.00) or multiples thereof, and shall be  
7764 numbered in a regular series from one (1) upward, be executed by  
7765 the manual or facsimile signature of the president of the board of  
7766 supervisors and the clerk of such board; or by the mayor and clerk  
7767 of the municipality, and either of such clerks shall impress the  
7768 county or municipal seal, as the case may be, upon each bond as it  
7769 is issued. At least one (1) signature on each bond shall be a  
7770 manual signature, as specified in the issuing resolution. The  
7771 coupons may bear only the facsimile signatures of such president  
7772 and clerk of the board of supervisors or such mayor and clerk, as  
7773 the case may be. Every such bond shall specify on its face the  
7774 purpose for which it was issued, the total amount authorized to be  
7775 issued, and each shall be made payable to bearer, and on request  
7776 of any holder of such bonds the same may be registered as to  
7777 principal by the clerk of the issuing board. The governing  
7778 authorities shall annually levy a tax, or shall otherwise provide  
7779 funds sufficient for paying interest on such bonds, and the bonds  
7780 maturing within one (1) year and shall provide a sinking fund for  
7781 the redemption of the bonds issued. Such bonds shall be issued  
7782 maturing annually with all maturities not longer than twenty (20)  
7783 years with not less than one-fiftieth (1/50) of the total issue to  
7784 mature each year during the first five (5) years of the life of  
7785 the bonds, and not less than one-twenty-fifth (1/25) of the total



7786 issue to mature annually during the succeeding ten-year period of  
7787 the life of the bonds, and the remainder to be amortized, as to  
7788 the principal and interest, into approximately equal payments, one  
7789 (1) payment to mature during each year for the remaining life of  
7790 the bonds. Such bonds shall not bear a greater overall maximum  
7791 rate of interest than that allowed in Section 75-17-101,  
7792 Mississippi Code of 1972. No bond shall bear more than one (1)  
7793 rate of interest; each bond shall bear interest from its date to  
7794 its stated maturity date at the interest rate specified in the  
7795 bid; all bonds of the same maturity shall bear the same rate of  
7796 interest from date to maturity; all interest accruing on such  
7797 bonds so issued shall be payable semiannually or annually, except  
7798 that the first interest coupon attached to any such bond may be  
7799 for any period not exceeding one (1) year.

7800 No interest payment shall be evidenced by more than one (1)  
7801 coupon and neither cancelled nor supplemental coupons shall be  
7802 permitted; the lowest interest rate specified for any bonds issued  
7803 shall not be less than seventy percent (70%) of the highest  
7804 interest rate specified for the same bond issue. The interest  
7805 rate of any one (1) interest coupon shall not exceed the maximum  
7806 interest rate allowed on such bonds.

7807 Each interest rate specified in any bid must be in multiples  
7808 of one-eighth of one percent ( $1/8$  of 1%) or in multiples of  
7809 one-tenth of one percent ( $1/10$  of 1%).



7810           The denomination, form and place of payment shall be fixed in  
7811 the authorization therefor, and for the payment thereof the full  
7812 faith, credit and resources of the municipality shall be pledged  
7813 and a tax levied on all taxable property in the municipality,  
7814 adequate to pay principal and interest on such bonds as the same  
7815 fall due. Proceeds of such bonds shall be placed in the municipal  
7816 treasury as a special fund and shall be used for no other purpose  
7817 than the purpose set forth in the original resolution, and any  
7818 officer diverting or assisting to divert any such fund to any  
7819 other purpose than the purpose originally set forth in the  
7820 resolution of the governing authority of the municipality shall be  
7821 guilty of a misdemeanor, shall be punished accordingly, and shall  
7822 also be liable both personally and on his official bond for such  
7823 diversion, together with the costs of collection and reasonable  
7824 attorney's fees. The Attorney General subject to the provisions  
7825 of Sections 1 and 2 of this act is authorized to proceed by action  
7826 for injunction or mandamus to require compliance with the original  
7827 resolution by any officer or municipal board.

7828           **SECTION 112.** Section 57-64-23, Mississippi Code of 1972, is  
7829 brought forward as follows:

7830           57-64-23. (1) In the event that an agreement made pursuant  
7831 to this chapter shall deal in whole or in part with the provision  
7832 of services or facilities with regard to which an officer, unit or  
7833 agency of the state government has constitutional or statutory  
7834 powers of control, the agreement shall, as a condition precedent



7835 to its being in force, be submitted to the state officer, unit or  
7836 agency having such power of control and shall be approved or  
7837 disapproved by him or it as to all matters within his or its  
7838 jurisdiction in the same manner and subject to the same  
7839 requirements governing action of the Attorney General pursuant to  
7840 subsection (2) of this section.

7841 (2) Every agreement made by a local government unit under  
7842 this chapter shall, prior to and as a condition precedent to its  
7843 entry into force, be submitted to the Attorney General of this  
7844 state who shall determine whether the agreement is in proper form  
7845 and compatible with the laws of this state. The Attorney General  
7846 shall approve any such agreement submitted to him hereunder unless  
7847 he shall find that it does not meet the conditions set forth  
7848 herein and elsewhere in the laws of this state and shall detail in  
7849 writing addressed to the governing bodies of the units concerned  
7850 the specific respects in which the proposed agreement fails to  
7851 meet the requirements of law.

7852 Failure to disapprove an agreement submitted hereunder within  
7853 sixty (60) days of its submission shall constitute approval  
7854 thereof.

7855 (3) Prior to its being in force, an agreement made pursuant  
7856 to this chapter shall be filed with the chancery clerk of each of  
7857 the counties wherein a participating local government unit is  
7858 located and with the Secretary of State. The chancery clerk and  
7859 the Secretary of State shall preserve such agreements as public



7860 records and index and docket the same separate and apart from all  
7861 other records in his office.

7862           **SECTION 113.** Section 63-17-85, Mississippi Code of 1972, is  
7863 amended as follows:

7864           63-17-85. The commission may deny an application for a  
7865 license, or revoke or suspend a license after it has been granted,  
7866 for any of the following reasons:

7867           (a) On satisfactory proof of unfitness of the applicant  
7868 or the licensee, as the case may be, under the standards  
7869 established and set out in the Mississippi Motor Vehicle  
7870 Commission Law.

7871           (b) For fraud practiced or any material misstatement  
7872 made by an applicant in any application for license under the  
7873 provisions of Section 63-17-75.

7874           (c) For any willful failure to comply with any  
7875 provision of said law or with any rule or regulation promulgated  
7876 by the commission under authority vested in it by said law.

7877           (d) Change of condition after license is granted or  
7878 failure to maintain the qualifications for license.

7879           (e) Continued or flagrant violation of any of the  
7880 provisions of said law or of any of the rules or regulations of  
7881 the commission.

7882           (f) For any willful violation of any law relating to  
7883 the sale, distribution or financing of motor vehicles.



7884 (g) Willfully defrauding any retail buyer to the  
7885 buyer's damage.

7886 (h) Willful failure to perform any written agreement  
7887 with any retail buyer.

7888 (i) Being a manufacturer who, for the protection of the  
7889 buying public, fails to specify the delivery and preparation  
7890 obligations of its motor vehicle dealers prior to delivery of new  
7891 motor vehicles to retail buyers. A copy of the delivery and  
7892 preparation obligations of its motor vehicle dealers and a  
7893 schedule of the compensation to be paid to its motor vehicle  
7894 dealers for the work and services they shall be required to  
7895 perform in connection with such delivery and preparation  
7896 obligations shall be filed with the commission by every licensed  
7897 motor vehicle manufacturer and shall constitute any such dealer's  
7898 only responsibility for product liability as between such dealer  
7899 and such manufacturer. The compensation as set forth on said  
7900 schedule shall be reasonable and the reasonableness thereof shall  
7901 be subject to the approval of the commission. Any mechanical,  
7902 body or parts defects arising from any express or implied  
7903 warranties of any such manufacturer shall constitute such  
7904 manufacturer's product or warranty liability.

7905 (j) On satisfactory proof that any manufacturer,  
7906 distributor, wholesaler, distributor branch or division, factory  
7907 branch or division, or wholesaler branch or division has unfairly  
7908 and without due regard to the equities of the parties or to the



7909 detriment of the public welfare failed to properly fulfill any  
7910 warranty agreement or to adequately and fairly compensate any of  
7911 its motor vehicle dealers for labor, parts and/or incidental  
7912 expenses incurred by any such dealer with regard to factory  
7913 warranty agreements performed by any such dealer. In no event  
7914 shall any such manufacturer, distributor, wholesaler, distributor  
7915 branch or division, factory branch or division, or wholesaler  
7916 branch or division pay to any of its motor vehicle dealers a labor  
7917 rate per hour for warranty work less than that charged by any such  
7918 dealer to its retail customers. No such dealer shall charge to  
7919 its manufacturer, distributor, wholesaler, distributor branch or  
7920 division, factory branch or division, or wholesaler branch or  
7921 division, a labor rate per hour in excess of the rate charged to  
7922 its retail customers. All claims made by motor vehicle dealers  
7923 hereunder for such labor, parts and/or incidental expenses shall  
7924 be paid within thirty (30) days following their approval. All  
7925 such claims shall be either approved or disapproved within thirty  
7926 (30) days after their receipt, and when any such claim is  
7927 disapproved the motor vehicle dealer who submits it shall be  
7928 notified in writing of its disapproval within said period, and  
7929 each such notice shall state the specific grounds upon which the  
7930 disapproval is based.

7931           (k) For the commission of any act prohibited by  
7932 Sections 63-17-73 through 63-17-83 or the failure to perform any  
7933 of the requirements of said sections.





7934           If the commission finds, after notice and hearing in the  
7935 manner provided for under the Mississippi Motor Vehicle Commission  
7936 Law, that there is sufficient cause upon which to base the  
7937 revocation of the license of any licensee involved in the hearing,  
7938 the commission may in lieu of revoking such license assess a civil  
7939 penalty against the guilty licensee not to exceed Ten Thousand  
7940 Dollars (\$10,000.00). If the commission finds, after such notice  
7941 and hearing, that sufficient cause exists for the suspension only  
7942 of the license of any licensee, the commission may in lieu of  
7943 suspending such license assess a civil penalty against the guilty  
7944 licensee of not less than Fifty Dollars (\$50.00) nor more than  
7945 Five Hundred Dollars (\$500.00) per day for each day such license  
7946 would otherwise be suspended. However, the amount of such penalty  
7947 shall not exceed an aggregate of Seven Thousand Five Hundred  
7948 Dollars (\$7,500.00). Failure of the licensee to pay all penalties  
7949 so assessed within the time allowed by the commission for the  
7950 payment thereof, which time shall in no case exceed ninety (90)  
7951 days from the date of the commission's order making such  
7952 assessment, shall, unless an appeal is taken and perfected within  
7953 the time and in the manner provided by the Mississippi Motor  
7954 Vehicle Commission Law, result in an automatic revocation of such  
7955 licensee's license. Any such penalties assessed by the commission  
7956 remaining unpaid at the expiration of the time for payment may be  
7957 recovered by an action in the name of the commission. All such  
7958 actions shall be brought by the Attorney General, subject to the



7959 provisions of Sections 1 and 2 of this act, of the State of  
7960 Mississippi upon the written request of the commission to do so,  
7961 and shall be brought in the chancery court of the county or the  
7962 chancery court of the judicial district of the county to which the  
7963 commission's order making such assessment is appealable under the  
7964 provisions of Section 63-17-99. All civil penalties assessed and  
7965 collected by the commission under the authority of this subsection  
7966 shall be deposited in the General Fund of the State Treasury.

7967       **SECTION 114.** Section 63-21-39, Mississippi Code of 1972, is  
7968 amended as follows:

7969       63-21-39. (1) (a) An owner who scraps, dismantles or  
7970 destroys a vehicle and a person who purchases a vehicle as scrap  
7971 or to be dismantled or destroyed shall indicate same on the back  
7972 of the certificate of title and shall immediately cause the  
7973 certificate of title and any other documents required by the  
7974 Department of Revenue to be mailed or delivered to the Department  
7975 of Revenue for cancellation. A certificate of title of the  
7976 vehicle shall not again be issued except upon application  
7977 containing the information the Department of Revenue requires,  
7978 accompanied by a certificate of inspection in the form and content  
7979 specified in Section 63-21-15(5) and proof of payment of a fee as  
7980 provided in subsection (2) of this section.

7981       (b) Notwithstanding any other provision of this chapter  
7982 to the contrary, if the owner or authorized agent of the owner has  
7983 not obtained a title in his or her name for the vehicle to be



7984 transferred, has lost the title for the vehicle to be transferred,  
7985 or has returned the title to the Department of Revenue in  
7986 accordance with Section 63-21-39(1) (a), he or she may sign a  
7987 statement swearing that, in addition to the foregoing conditions,  
7988 the vehicle is at least ten (10) model years old. The statement  
7989 described in this paragraph may be used only to transfer such a  
7990 vehicle to a licensed used motor vehicle parts dealer or scrap  
7991 metal processor. The department shall promulgate a form for the  
7992 statement which shall include, but not be limited to:

7993 (i) A statement that the vehicle shall never be  
7994 titled again; it must be dismantled or scrapped;

7995 (ii) A description of the vehicle including the  
7996 year, make, model and vehicle identification number;

7997 (iii) The name, address, and driver's license  
7998 number of the owner;

7999 (iv) A certification that the owner:

8000 1. Never obtained a title to the vehicle in  
8001 his or her name; or

8002 2. Was issued a title for the vehicle, but  
8003 the title was lost or stolen;

8004 (v) A certification that the vehicle:

8005 1. Is at least ten (10) model years old; and

8006 2. Is not subject to any security interest or  
8007 lien;



8008 (vi) An acknowledgment that the owner and buyer of  
8009 the vehicle realizes this form will be filed with the department  
8010 and that:

8011 1. It is a misdemeanor, punishable by a fine  
8012 of not more than One Thousand Dollars (\$1,000.00) or imprisonment  
8013 for not more than six (6) months, or both, for conviction of a  
8014 first offense of knowingly falsifying any information on this  
8015 statement; and

8016 2. It is a felony, punishable by a fine of  
8017 not less than One Thousand Dollars (\$1,000.00) nor more than Five  
8018 Thousand Dollars (\$5,000.00) or imprisonment for not less than one  
8019 (1) year nor more than five (5) years, or both, for conviction of  
8020 a second or subsequent offense of knowingly falsifying any  
8021 information on this statement;

8022 (vii) The owner's signature and the date of the  
8023 transaction;

8024 (viii) The name and address of the business  
8025 acquiring the vehicle;

8026 (ix) The National Motor Vehicle Title Information  
8027 System identification number; and

8028 (x) The business agent's signature and date along  
8029 with a printed name and title if the agent is signing on behalf of  
8030 a corporation.

8031 (c) Until such time as the department makes available  
8032 an Internet-based system, the used motor vehicle parts dealer or



8033 scrap metal processor shall mail or otherwise deliver the  
8034 statement required under paragraph (b) of this subsection (1) to  
8035 the Department of Revenue within three (3) business days of the  
8036 completion of the transaction, requesting that the department  
8037 cancel the Mississippi certificate of title and registration.  
8038 Once the department develops an Internet-based system, the used  
8039 motor vehicle parts dealer or scrap metal processor shall utilize  
8040 such system and within two (2) business days electronically submit  
8041 the information contained in the statement using that system.

8042 (d) Within two (2) business days of each day's close of  
8043 business, the used motor vehicle parts dealer or scrap metal  
8044 processor who purchases or receives motor vehicles for scrap or  
8045 for parts shall deliver in a format approved by the department, by  
8046 electronic means once developed and made available by the  
8047 department, a list of all such vehicles purchased that day for  
8048 scrap or for parts. That list shall contain the following  
8049 information:

8050 (i) The name, address and contact information for  
8051 the reporting entity;

8052 (ii) The vehicle identification numbers of such  
8053 vehicles;

8054 (iii) The dates such vehicles were obtained;

8055 (iv) The names of the individuals or entities from  
8056 whom the vehicles were obtained, for use by law enforcement  
8057 personnel and appropriate governmental agencies only;



8058 (v) A statement of whether the vehicles were, or  
8059 will be, crushed or disposed of, or offered for sale or other  
8060 purposes;

8061 (vi) A statement of whether the vehicle is  
8062 intended for export out of the United States; and

8063 (vii) The National Motor Vehicle Title Information  
8064 System identification number of the business acquiring the  
8065 vehicle.

8066 (e) (i) For purposes of this subsection, the term  
8067 "motor vehicle" shall not include a vehicle which has been crushed  
8068 or flattened by mechanical means such that it is no longer the  
8069 motor vehicle as described by the certificate of title, or such  
8070 that the vehicle identification number is no longer visible or  
8071 accessible.

8072 (ii) In cases in which crushed or flattened  
8073 vehicles are purchased or received, the purchasing or receiving  
8074 used motor vehicle parts dealer or scrap metal processor shall  
8075 verify that the seller has reported the vehicles in accordance  
8076 with this subsection. Such verification may be in the form of a  
8077 certification from the seller or a contract between the seller and  
8078 the purchasing or receiving used motor vehicle parts dealer or  
8079 scrap metal processor attesting to the seller's compliance with  
8080 the reporting requirements of this subsection. Such verification  
8081 must clearly identify the seller by a government issued photograph  
8082 identification card or employer identification number, and the



8083 verification and copy of the identification card or number shall  
8084 be maintained by the purchasing or receiving used motor vehicle  
8085 parts dealer or scrap metal processor for a period of not less  
8086 than two (2) years.

8087 (f) The information obtained by the department in  
8088 accordance with paragraph (d) of this subsection (1) shall be  
8089 reported to the National Motor Vehicle Title Information System,  
8090 in a format that will satisfy the requirement for reporting this  
8091 information, in accordance with rules adopted by the United States  
8092 Department of Justice in 28 C.F.R. 25.56.

8093 (g) Until such time as the department develops and  
8094 makes available the Internet-based system described in paragraph  
8095 (d) of this subsection, the used motor vehicle parts dealer or  
8096 scrap metal processor who purchases or receives motor vehicles for  
8097 scrap or for parts shall deliver the information required by  
8098 paragraph (d) to the National Motor Vehicle Title Information  
8099 System through any data consolidator approved by such system,  
8100 within forty-eight (48) hours of the day the vehicle was purchased  
8101 or acquired by such used motor vehicle parts dealer or scrap metal  
8102 processor which shall satisfy the requirements of paragraph (d).

8103 (h) The information obtained by the department in  
8104 accordance with paragraph (d) of this subsection (1) shall be made  
8105 available only to law enforcement agencies and for purposes of  
8106 canceling certificates of title. The information shall otherwise



8107 be considered to be confidential business information of the  
8108 respective reporting entities.

8109 (i) All records required under the provisions of this  
8110 subsection shall be maintained for a period of two (2) years by  
8111 the reporting entity and shall include a scanned or photocopied  
8112 copy of the seller's or seller's representative's driver's license  
8113 or state issued identification card.

8114 (j) A person who knowingly and willfully violates this  
8115 subsection (1), or any person who knowingly and willfully  
8116 falsifies or assists another person in falsifying the statement or  
8117 information required under paragraphs (b) or (d) of this  
8118 subsection, or any person who knowingly and willfully sells a  
8119 vehicle upon which there is an unsatisfied lien or security  
8120 interest, or who purchases a vehicle without complying with either  
8121 subsection (1)(a) or (1)(b) of this section and who knowingly and  
8122 willfully destroys or dismantles a vehicle upon which he knows  
8123 that there is an unsatisfied lien or security interest shall:

8124 (i) Be guilty of a misdemeanor, punishable by a  
8125 fine not more than One Thousand Dollars (\$1,000.00) or  
8126 imprisonment for not more than six (6) months, or both, for  
8127 conviction of a first offense; or

8128 (ii) Upon conviction of a second or subsequent  
8129 offense, a felony, punishable by imprisonment for not less than  
8130 one (1) year nor more than five (5) years or a fine of not less





8131 than One Thousand Dollars (\$1,000.00) nor more than Five Thousand  
8132 Dollars (\$5,000.00), or both.

8133 In addition, the court may order each person convicted to pay  
8134 restitution to any party suffering monetary loss in the amount of  
8135 such loss. No part of any sentence imposed by the court shall be  
8136 suspended unless such restitution has been paid in full.

8137 (k) A person who knowingly and willfully fails to  
8138 deliver the title as required under paragraph (a) of this  
8139 subsection, or the statement required under paragraph (b) of this  
8140 subsection to the Department of Revenue within seventy-two (72)  
8141 hours of the completion of the transaction, or who, until such  
8142 time as the department develops and makes available the  
8143 Internet-based system described in paragraph (d), fails to deliver  
8144 the information required by paragraph (d) to the National Motor  
8145 Vehicle Title Information System through any data consolidator  
8146 approved by such system, within two (2) business days of the day  
8147 the vehicle was purchased or acquired by such used motor vehicle  
8148 parts dealer or scrap metal processor shall be in violation of  
8149 this section, and subject to a civil penalty of up to One Thousand  
8150 Dollars (\$1,000.00) per violation. Actions to impose this penalty  
8151 may be brought by any local or state law enforcement agency,  
8152 district attorney, or by the Attorney General, subject to the  
8153 provisions of Sections 1 and 2 of this act, in any court of  
8154 competent jurisdiction. One-half (1/2) of the monies generated  
8155 from such civil penalties shall be deposited in a special fund



8156 created in the State Treasury for use by the Department of  
8157 Revenue's Title Bureau, and one-half (1/2) of the monies generated  
8158 from such civil penalties shall be deposited in the general fund  
8159 of the municipality if the suit was brought in a municipal court,  
8160 or in the general fund of the county if the suit was brought in  
8161 the court of a county.

8162 (2) For the purpose of requesting a clear title or a branded  
8163 title on a vehicle with a salvage certificate of title, every  
8164 owner of a vehicle that has been issued a salvage certificate of  
8165 title in this state or any other state which has been restored in  
8166 this state to its operating condition which existed prior to the  
8167 event which caused the salvage certificate of title to be issued  
8168 shall make application to the Department of Revenue, accompanied  
8169 by a certificate of inspection issued by the Department of Public  
8170 Safety in the form and content specified in Section 63-21-15(5)  
8171 and the payment of a fee of Seventy-five Dollars (\$75.00) for each  
8172 motor vehicle for which a certificate of inspection is issued. In  
8173 addition, the Department of Public Safety may charge such a person  
8174 a fee in the amount of Twenty-five Dollars (\$25.00) for performing  
8175 any vehicle identification number verification required by federal  
8176 law or regulation for the vehicle for which the person is applying  
8177 for a title. All such monies shall be collected by the Department  
8178 of Public Safety and paid to the State Treasurer for deposit in a  
8179 special fund that is hereby created in the State Treasury to be  
8180 known as the "Salvage Certificate of Title Fund." Monies in the



8181 special fund may be expended by the Department of Public Safety,  
8182 upon appropriation by the Legislature. The Department of Revenue  
8183 shall establish by regulation the minimum requirements by which a  
8184 vehicle which has been issued a salvage certificate of title may  
8185 be issued a clear title.

8186 (3) Before a clear title or a branded title may be issued  
8187 for a vehicle for which a salvage certificate of title has been  
8188 issued, the applicant shall submit, by hand delivery or mail, such  
8189 documents and information to the Department of Public Safety as  
8190 the department may require for the purpose of determining if the  
8191 vehicle complies with the requirements of this section and all  
8192 applicable regulations promulgated by the Commissioner of Public  
8193 Safety and the Department of Revenue. The Department of Public  
8194 Safety also may require that an applicant bring a vehicle for  
8195 which application for a clear title or a branded title is being  
8196 made to a Highway Patrol facility for a visual inspection whenever  
8197 the department deems that a visual inspection is necessary or  
8198 advisable. Nothing in this section shall be construed to prohibit  
8199 inspectors of the Mississippi Highway Patrol from conducting  
8200 on-site inspections and investigations of motor vehicle rebuilders  
8201 or motor vehicle repair businesses to determine if such businesses  
8202 are in compliance with all applicable laws relating to the motor  
8203 vehicle title laws of this state and regulations promulgated by  
8204 the Commissioner of Public Safety and the Department of Revenue.



8205           **SECTION 115.** Section 67-1-89, Mississippi Code of 1972, is  
8206 amended as follows:

8207           67-1-89. In addition to any other rights and remedies which  
8208 it may have, the commission, in the name of the chairman thereof,  
8209 shall have the right to resort to and apply for injunctive relief,  
8210 both temporary and permanent, in any court of competent  
8211 jurisdiction to enforce compliance with the provisions of this  
8212 chapter and to restrain and prevent violations and threatened  
8213 violations thereof. The Attorney General, subject to the  
8214 provisions of Sections 1 and 2 of this act, district attorneys and  
8215 county attorneys of this state, shall aid and assist the  
8216 commission in all such actions when requested by the chairman so  
8217 to do.

8218           **SECTION 116.** Section 69-2-15, Mississippi Code of 1972, is  
8219 amended as follows:

8220           69-2-15. (1) Any lender which has made a loan to a farmer  
8221 to finance the nonland capital costs of establishing production of  
8222 an emerging crop on land in Mississippi may make application to  
8223 the department for payment of the interest on the loan during the  
8224 period from beginning of production to harvest or initial sale of  
8225 the product, which payment shall be made from the fund. The  
8226 maximum amount of interest loans from the fund for the benefit of  
8227 any one (1) farmer shall be Fifty Thousand Dollars (\$50,000.00).  
8228 During the period that the department pays the interest on a loan,  
8229 the maximum rate of interest which may be charged on the loan by



8230 the lender shall be four percent (4%) per annum above the New York  
8231 prime rate. By payment of the interest on a loan, neither the  
8232 department nor the State of Mississippi shall be a guarantor of  
8233 the loan, but the state shall have a lien junior to any lien that  
8234 the lender may have on the loan.

8235 (2) If a farmer defaults on the interest loan the Attorney  
8236 General of the State of Mississippi shall take the necessary legal  
8237 action, subject to the provisions of Sections 1 and 2 of this act,  
8238 as soon as practicable, to recover the monies due and owing to the  
8239 State of Mississippi. A suit against a defaulting party under  
8240 this section may be brought in the county in which the lender is  
8241 located, or in any Hinds County court.

8242 **SECTION 117.** Section 69-23-11, Mississippi Code of 1972, is  
8243 amended as follows:

8244 69-23-11. (1) The commissioner or his employees, with  
8245 proper identification and during normal working hours, shall have  
8246 free access to all places of business, factories, buildings,  
8247 carriages, cars, stores, warehouses and other places where  
8248 pesticides are offered for sale or kept for sale or distribution  
8249 or use and application, and shall have authority to inspect or  
8250 open any container of pesticide and to take a sample for the  
8251 purpose of examination and analysis. It shall be the duty of the  
8252 commissioner to take such samples and deliver them to the State  
8253 Chemist for examination and analysis.



8254 (2) It shall be the duty of the State Chemist to cause as  
8255 many analyses to be made of samples delivered to him by the  
8256 commissioner as may be necessary to properly carry into effect the  
8257 intent of this chapter. He shall make reports of such analysis to  
8258 the commissioner and to the manufacturer, firm or person  
8259 responsible for placing on the market the pesticide represented by  
8260 the samples.

8261 (3) If it appears that any pesticide fails to comply with  
8262 the provisions of this chapter, or if provisions of this chapter  
8263 are violated, the commissioner may proceed with appropriate action  
8264 as provided in this chapter or under the administrative hearing  
8265 procedures provided in Section 69-25-51 et seq. If, in the  
8266 opinion of the commissioner, it appears that the provisions of the  
8267 chapter have been violated, the commissioner may refer the facts  
8268 to the county attorney, district attorney or Attorney General,  
8269 subject to the provisions of Sections 1 and 2 of this act.

8270 (4) It shall be the duty of each county attorney, district  
8271 attorney or Attorney General to whom any such violation is  
8272 reported to cause appropriate proceedings to be instituted and  
8273 prosecuted in the appropriate court without delay.

8274 (5) The commissioner shall, by publication in such manner as  
8275 he may prescribe, give notice of all judgments entered in actions  
8276 instituted under the authority of this chapter.

8277 **SECTION 118.** Section 69-35-27, Mississippi Code of 1972, is  
8278 amended as follows:



8279           69-35-27. (1) In the event a majority of the bulk tank  
8280 units eligible for participation in such referendum and voting  
8281 therein shall vote in favor of such assessment, then the said  
8282 assessment shall be collected monthly for the number of years set  
8283 forth in the call for such referendum, and the collection of such  
8284 assessment shall be under such method, rules and regulations as  
8285 may be determined by the state ADA conducting the same; and the  
8286 said assessment so collected shall be paid into the treasury of  
8287 the state ADA to be used together with other funds from other  
8288 sources. Funds to be collected pursuant to a referendum conducted  
8289 under this act shall be withheld and paid by each handler,  
8290 including producer handlers, to the state ADA by the last calendar  
8291 day of the month succeeding the month in which the milk was  
8292 received by the handler.

8293           (2) In the event of a failure to pay part or all of an  
8294 assessment levied pursuant to this act, the Attorney General,  
8295 subject to the provisions of Sections 1 and 2 of this act of the  
8296 state shall, upon the request of the state ADA, enforce the  
8297 provisions of this act and collect such monies for payment to the  
8298 state ADA. In the alternative to requesting the Attorney General  
8299 to enforce the provisions of this act, the state ADA may bring a  
8300 civil action to collect assessment from a handler failing to pay  
8301 such assessments. A handler found to have failed to pay  
8302 assessments pursuant to this act shall also be liable for



8303 reasonable attorney's fees and costs in the collection of such  
8304 assessments.

8305         **SECTION 119.** Section 71-5-17, Mississippi Code of 1972, is  
8306 amended as follows:

8307         71-5-17. (1) In any civil action to enforce the provisions  
8308 of this chapter, the commission, the board of review, and the  
8309 state may be represented by any qualified attorney who is employed  
8310 by the commission and is designated by it for this purpose or, at  
8311 the commission's request, by the Attorney General.

8312         (2) All criminal actions for violation of any provision of  
8313 this chapter, or of any rules and regulations issued pursuant  
8314 thereto, shall be prosecuted by the Attorney General of the state  
8315 subject to the provisions of Sections 1 and 2 of this act or, at  
8316 his request and under his direction, by the prosecuting attorney  
8317 of any county in which the employer has a place of business or the  
8318 violator resides.

8319         **SECTION 120.** Section 71-5-529, Mississippi Code of 1972, is  
8320 brought forward as follows:

8321         71-5-529. Any decision of the Board of Review, in the  
8322 absence of an appeal therefrom as herein provided, shall become  
8323 final ten (10) days after the date of notification; and judicial  
8324 review thereof shall be permitted only after any party claiming to  
8325 be aggrieved thereby has exhausted his administrative remedies as  
8326 provided by this chapter. The department shall be deemed to be a  
8327 party to any judicial action involving any such decision, and may





8328 be represented in any such judicial action by any qualified  
8329 attorney employed by the department and designated by it for that  
8330 purpose or, at the department's request, by the Attorney General.

8331 **SECTION 121.** Section 73-6-29, Mississippi Code of 1972, is  
8332 amended as follows:

8333 73-6-29. Anyone failing to comply with the provisions of  
8334 this chapter shall be guilty of a misdemeanor and upon conviction  
8335 thereof shall be punished by a fine of not less than Five Hundred  
8336 Dollars (\$500.00) nor more than Two Thousand Five Hundred Dollars  
8337 (\$2,500.00), and/or by imprisonment in the county jail for not  
8338 less than thirty (30) days nor more than one (1) year.

8339 All subsequent offenses shall be separate and distinct  
8340 offenses, and punishable in like manner.

8341 The State Board of Chiropractic Examiners or the district  
8342 attorney or county attorney of the county in which the defendant  
8343 may reside or the Attorney General of Mississippi may institute  
8344 legal action subject to the provisions of Sections 1 and 2 of this  
8345 act as provided by law against any person violating the provisions  
8346 of this chapter, and the chancery court of the county in which any  
8347 such violation occurred or in which any such person resides or  
8348 practices shall have jurisdiction to grant injunctive relief  
8349 against the continuation of any such violation.

8350 **SECTION 122.** Section 73-15-35, Mississippi Code of 1972, is  
8351 amended as follows:



8352           73-15-35. The practice of nursing as a registered nurse or  
8353 the practice of nursing as a licensed practical nurse by any  
8354 person who has not been issued a license or who does not hold the  
8355 privilege to practice under the provisions of this article, or  
8356 whose license or privilege to practice has been suspended or  
8357 revoked, or has expired and not been reinstated, or has  
8358 negligently or willfully practiced nursing in a manner that fails  
8359 to meet generally accepted standards of such nursing practice, is  
8360 declared to be a danger to the public health and welfare and shall  
8361 be enjoined through appropriate court action. In addition to and  
8362 not in lieu of any other civil, criminal or disciplinary remedy,  
8363 the Attorney General, subject to the provisions of Sections 1 and  
8364 2 of this act, the Board of Nursing or the prosecuting attorney of  
8365 any county where a person is practicing or purporting to practice  
8366 as a registered nurse or as a licensed practical nurse in  
8367 violation of this article may, in accordance with the laws of this  
8368 state governing injunctions, maintain an action to enjoin that  
8369 person from practicing as a registered nurse or a licensed  
8370 practical nurse until in compliance with this article. The court  
8371 may issue a temporary injunction without notice or without bond  
8372 enjoining a defendant from further practicing as a registered  
8373 nurse or a licensed practical nurse. If it is established to the  
8374 satisfaction of the court that the defendant has been or is  
8375 practicing as a registered nurse or a licensed practical nurse  
8376 without being licensed or privileged to practice and in good



8377 standing as provided herein, the court may enter a decree  
8378 perpetually enjoining the defendant from such further activities,  
8379 and a subsequent violation of which may be considered as contempt  
8380 of court by any court of competent jurisdiction. Such injunction  
8381 and contempt proceedings may be in addition to and not in lieu of  
8382 any other penalties and remedies provided by this article.

8383 **SECTION 123.** Section 73-25-101, Mississippi Code of 1972, is  
8384 amended as follows:

8385 73-25-101. The Interstate Medical Licensure Compact is  
8386 enacted into law and entered into by this state with any and all  
8387 states legally joining in the Compact in accordance with its  
8388 terms, in the form substantially as follows:

8389 **INTERSTATE MEDICAL LICENSURE COMPACT**

8390 **SECTION 1**

8391 **Purpose**

8392 In order to strengthen access to health care, and in  
8393 recognition of the advances in the delivery of health care, the  
8394 member states of the Interstate Medical Licensure Compact have  
8395 allied in common purpose to develop a comprehensive process that  
8396 complements the existing licensing and regulatory authority of  
8397 state medical boards, provides a streamlined process that allows  
8398 physicians to become licensed in multiple states, thereby  
8399 enhancing the portability of a medical license and ensuring the  
8400 safety of patients. The Compact creates another pathway for  
8401 licensure and does not otherwise change a state's existing Medical



8402 Practice Act. The Compact also adopts the prevailing standard for  
8403 licensure and affirms that the practice of medicine occurs where  
8404 the patient is located at the time of the physician-patient  
8405 encounter, and therefore, requires the physician to be under the  
8406 jurisdiction of the state medical board where the patient is  
8407 located. State medical boards that participate in the Compact  
8408 retain the jurisdiction to impose an adverse action against a  
8409 license to practice medicine in that state issued to a physician  
8410 through the procedures in the Compact.

8411 **SECTION 2**

8412 **Definitions**

8413 In this Compact:

8414 (a) "Bylaws" means those bylaws established by the  
8415 Interstate Commission pursuant to Section 11 for its governance,  
8416 or for directing and controlling its actions and conduct.

8417 (b) "Commissioner" means the voting representative  
8418 appointed by each member board pursuant to Section 11.

8419 (c) "Conviction" means a finding by a court that an  
8420 individual is guilty of a criminal offense through adjudication,  
8421 or entry of a plea of guilt or no contest to the charge by the  
8422 offender. Evidence of an entry of a conviction of a criminal  
8423 offense by the court shall be considered final for purposes of  
8424 disciplinary action by a member board.



8425 (d) "Expedited license" means a full and unrestricted  
8426 medical license granted by a member state to an eligible physician  
8427 through the process set forth in the Compact.

8428 (e) "Interstate Commission" means the interstate  
8429 commission created pursuant to Section 11.

8430 (f) "License" means authorization by a state for a  
8431 physician to engage in the practice of medicine, which would be  
8432 unlawful without the authorization.

8433 (g) "Medical Practice Act" means laws and regulations  
8434 governing the practice of allopathic and osteopathic medicine  
8435 within a member state.

8436 (h) "Member board" means a state agency in a member  
8437 state that acts in the sovereign interests of the state by  
8438 protecting the public through licensure, regulation, and education  
8439 of physicians as directed by the state government.

8440 (i) "Member state" means a state that has enacted the  
8441 Compact.

8442 (j) "Practice of medicine" means the clinical  
8443 prevention, diagnosis, or treatment of human disease, injury, or  
8444 condition requiring a physician to obtain and maintain a license  
8445 in compliance with the Medical Practice Act of a member state.

8446 (k) "Physician" means any person who:

8447 (1) Is a graduate of a medical school accredited  
8448 by the Liaison Committee on Medical Education, the Commission on



8449 Osteopathic College Accreditation, or a medical school listed in  
8450 the International Medical Education Directory or its equivalent;

8451 (2) Passed each component of the United States  
8452 Medical Licensing Examination (USMLE) or the Comprehensive  
8453 Osteopathic Medical Licensing Examination (COMLEX-USA) within  
8454 three (3) attempts, or any of its predecessor examinations  
8455 accepted by a state medical board as an equivalent examination for  
8456 licensure purposes;

8457 (3) Successfully completed graduate medical  
8458 education approved by the Accreditation Council for Graduate  
8459 Medical Education or the American Osteopathic Association;

8460 (4) Holds specialty certification or a  
8461 time-unlimited specialty certificate recognized by the American  
8462 Board of Medical Specialties or the American Osteopathic  
8463 Association's Bureau of Osteopathic Specialists;

8464 (5) Possesses a full and unrestricted license to  
8465 engage in the practice of medicine issued by a member board;

8466 (6) Has never been convicted, received  
8467 adjudication, deferred adjudication, community supervision, or  
8468 deferred disposition for any offense by a court of appropriate  
8469 jurisdiction;

8470 (7) Has never held a license authorizing the  
8471 practice of medicine subjected to discipline by a licensing agency  
8472 in any state, federal, or foreign jurisdiction, excluding any  
8473 action related to nonpayment of fees related to a license;



8474 (8) Has never had a controlled substance license  
8475 or permit suspended or revoked by a state or the United States  
8476 Drug Enforcement Administration; and

8477 (9) Is not under active investigation by a  
8478 licensing agency or law enforcement authority in any state,  
8479 federal, or foreign jurisdiction.

8480 (l) "Offense" means a felony, gross misdemeanor, or  
8481 crime of moral turpitude.

8482 (m) "Rule" means a written statement by the Interstate  
8483 Commission promulgated pursuant to Section 12 of the Compact that  
8484 is of general applicability, implements, interprets, or prescribes  
8485 a policy or provision of the Compact, or an organizational,  
8486 procedural, or practice requirement of the Interstate Commission,  
8487 and has the force and effect of statutory law in a member state,  
8488 and includes the amendment, repeal, or suspension of an existing  
8489 rule.

8490 (n) "State" means any state, commonwealth, district, or  
8491 territory of the United States.

8492 (o) "State of principal license" means a member state  
8493 where a physician holds a license to practice medicine and which  
8494 has been designated as such by the physician for purposes of  
8495 registration and participation in the Compact.

8496 **SECTION 3**  
8497 **Eligibility**



8498 (a) A physician must meet the eligibility requirements as  
8499 defined in Section 2(k) to receive an expedited license under the  
8500 terms and provisions of the Compact.

8501 (b) A physician who does not meet the requirements of  
8502 Section 2(k) may obtain a license to practice medicine in a member  
8503 state if the individual complies with all laws and requirements,  
8504 other than the Compact, relating to the issuance of a license to  
8505 practice medicine in that state.

8506 **SECTION 4**

8507 **Designation of State of Principal License**

8508 (a) A physician shall designate a member state as the state  
8509 of principal license for purposes of registration for expedited  
8510 licensure through the Compact if the physician possesses a full  
8511 and unrestricted license to practice medicine in that state, and  
8512 the state is:

8513 (1) The state of primary residence for the physician,  
8514 or

8515 (2) The state where at least twenty-five percent (25%)  
8516 of the practice of medicine occurs, or

8517 (3) The location of the physician's employer, or

8518 (4) If no state qualifies under subsection (1),  
8519 subsection (2), or subsection (3), the state designated as state  
8520 of residence for purpose of federal income tax.





8521 (b) A physician may redesignate a member state as state of  
8522 principal license at any time, as long as the state meets the  
8523 requirements in subsection (a).

8524 (c) The Interstate Commission is authorized to develop rules  
8525 to facilitate redesignation of another member state as the state  
8526 of principal license.

8527 **SECTION 5**

8528 **Application and Issuance of Expedited Licensure**

8529 (a) A physician seeking licensure through the Compact shall  
8530 file an application for an expedited license with the member board  
8531 of the state selected by the physician as the state of principal  
8532 license.

8533 (b) Upon receipt of an application for an expedited license,  
8534 the member board within the state selected as the state of  
8535 principal license shall evaluate whether the physician is eligible  
8536 for expedited licensure and issue a letter of qualification,  
8537 verifying or denying the physician's eligibility, to the  
8538 Interstate Commission.

8539 (i) Static qualifications, which include verification  
8540 of medical education, graduate medical education, results of any  
8541 medical or licensing examination, and other qualifications as  
8542 determined by the Interstate Commission through rule, shall not be  
8543 subject to additional primary source verification where already  
8544 primary source verified by the state of principal license.



8545           (ii) The member board within the state selected as the  
8546 state of principal license shall, in the course of verifying  
8547 eligibility, perform a criminal background check of an applicant,  
8548 including the use of the results of fingerprint or other biometric  
8549 data checks compliant with the requirements of the Federal Bureau  
8550 of Investigation, with the exception of federal employees who have  
8551 suitability determination in accordance with United States Code of  
8552 Federal Regulation Section 731.202.

8553           (iii) Appeal on the determination of eligibility shall  
8554 be made to the member state where the application was filed and  
8555 shall be subject to the law of that state.

8556           (c) Upon verification in subsection (b), physicians eligible  
8557 for an expedited license shall complete the registration process  
8558 established by the Interstate Commission to receive a license in a  
8559 member state selected pursuant to subsection (a), including the  
8560 payment of any applicable fees.

8561           (d) After receiving verification of eligibility under  
8562 subsection (b) and any fees under subsection (c), a member board  
8563 shall issue an expedited license to the physician. This license  
8564 shall authorize the physician to practice medicine in the issuing  
8565 state consistent with the Medical Practice Act and all applicable  
8566 laws and regulations of the issuing member board and member state.

8567           (e) An expedited license shall be valid for a period  
8568 consistent with the licensure period in the member state and in



8569 the same manner as required for other physicians holding a full  
8570 and unrestricted license within the member state.

8571 (f) An expedited license obtained through the Compact shall  
8572 be terminated if a physician fails to maintain a license in the  
8573 state of principal licensure for a nondisciplinary reason, without  
8574 redesignation of a new state of principal licensure.

8575 (g) The Interstate Commission is authorized to develop rules  
8576 regarding the application process, including payment of any  
8577 applicable fees, and the issuance of an expedited license.

8578 **SECTION 6**

8579 **Fees for Expedited Licensure**

8580 (a) A member state issuing an expedited license authorizing  
8581 the practice of medicine in that state may impose a fee for a  
8582 license issued or renewed through the Compact.

8583 (b) The Interstate Commission is authorized to develop rules  
8584 regarding fees for expedited licenses.

8585 **SECTION 7**

8586 **Renewal and Continued Participation**

8587 (a) A physician seeking to renew an expedited license  
8588 granted in a member state shall complete a renewal process with  
8589 the Interstate Commission if the physician:

8590 (1) Maintains a full and unrestricted license in a  
8591 state of principal license;

8592 (2) Has not been convicted, received adjudication,  
8593 deferred adjudication, community supervision, or deferred



8594 disposition for any offense by a court of appropriate  
8595 jurisdiction;

8596 (3) Has not had a license authorizing the practice of  
8597 medicine subject to discipline by a licensing agency in any state,  
8598 federal, or foreign jurisdiction, excluding any action related to  
8599 nonpayment of fees related to a license; and

8600 (4) Has not had a controlled substance license or  
8601 permit suspended or revoked by a state or the United States Drug  
8602 Enforcement Administration.

8603 (b) Physicians shall comply with all continuing professional  
8604 development or continuing medical education requirements for  
8605 renewal of a license issued by a member state.

8606 (c) The Interstate Commission shall collect any renewal fees  
8607 charged for the renewal of a license and distribute the fees to  
8608 the applicable member board.

8609 (d) Upon receipt of any renewal fees collected in subsection  
8610 (c), a member board shall renew the physician's license.

8611 (e) Physician information collected by the Interstate  
8612 Commission during the renewal process will be distributed to all  
8613 member boards.

8614 (f) The Interstate Commission is authorized to develop rules  
8615 to address renewal of licenses obtained through the Compact.

8616 **SECTION 8**

8617 **Coordinated Information System**



8618 (a) The Interstate Commission shall establish a database of  
8619 all physicians licensed, or who have applied for licensure, under  
8620 Section 5.

8621 (b) Notwithstanding any other provision of law, member  
8622 boards shall report to the Interstate Commission any public action  
8623 or complaints against a licensed physician who has applied or  
8624 received an expedited license through the Compact.

8625 (c) Member boards shall report disciplinary or investigatory  
8626 information determined as necessary and proper by rule of the  
8627 Interstate Commission.

8628 (d) Member boards may report any nonpublic complaint,  
8629 disciplinary, or investigatory information not required by  
8630 subsection (c) to the Interstate Commission.

8631 (e) Member boards shall share complaint or disciplinary  
8632 information about a physician upon request of another member  
8633 board.

8634 (f) All information provided to the Interstate Commission or  
8635 distributed by member boards shall be confidential, filed under  
8636 seal, and used only for investigatory or disciplinary matters.

8637 (g) The Interstate Commission is authorized to develop rules  
8638 for mandated or discretionary sharing of information by member  
8639 boards.

8640

## SECTION 9

8641

### Joint Investigations



8642 (a) Licensure and disciplinary records of physicians are  
8643 deemed investigative.

8644 (b) In addition to the authority granted to a member board  
8645 by its respective Medical Practice Act or other applicable state  
8646 law, a member board may participate with other member boards in  
8647 joint investigations of physicians licensed by the member boards.

8648 (c) A subpoena issued by a member state shall be enforceable  
8649 in other member states.

8650 (d) Member boards may share any investigative, litigation,  
8651 or compliance materials in furtherance of any joint or individual  
8652 investigation initiated under the Compact.

8653 (e) Any member state may investigate actual or alleged  
8654 violations of the statutes authorizing the practice of medicine in  
8655 any other member state in which a physician holds a license to  
8656 practice medicine.

8657 **SECTION 10**

8658 **Disciplinary Actions**

8659 (a) Any disciplinary action taken by any member board  
8660 against a physician licensed through the Compact shall be deemed  
8661 unprofessional conduct which may be subject to discipline by other  
8662 member boards, in addition to any violation of the Medical  
8663 Practice Act or regulations in that state.

8664 (b) If a license granted to a physician by the member board  
8665 in the state of principal license is revoked, surrendered or  
8666 relinquished in lieu of discipline, or suspended, then all



8667 licenses issued to the physician by member boards shall  
8668 automatically be placed, without further action necessary by any  
8669 member board, on the same status. If the member board in the  
8670 state of principal license subsequently reinstates the physician's  
8671 license, a license issued to the physician by any other member  
8672 board shall remain encumbered until that respective member board  
8673 takes action to reinstate the license in a manner consistent with  
8674 the Medical Practice Act of that state.

8675 (c) If disciplinary action is taken against a physician by a  
8676 member board not in the state of principal license, any other  
8677 member board may deem the action conclusive as to matter of law  
8678 and fact decided, and:

8679 (i) Impose the same or lesser sanction(s) against the  
8680 physician so long as such sanctions are consistent with the  
8681 Medical Practice Act of that state; or

8682 (ii) Pursue separate disciplinary action against the  
8683 physician under its respective Medical Practice Act, regardless of  
8684 the action taken in other member states.

8685 (d) If a license granted to a physician by a member board is  
8686 revoked, surrendered or relinquished in lieu of discipline, or  
8687 suspended, then any license(s) issued to the physician by any  
8688 other member board(s) shall be suspended, automatically and  
8689 immediately without further action necessary by the other member  
8690 board(s), for ninety (90) days upon entry of the order by the  
8691 disciplining board, to permit the member board(s) to investigate



8692 the basis for the action under the Medical Practice Act of that  
8693 state. A member board may terminate the automatic suspension of  
8694 the license it issued prior to the completion of the ninety (90)  
8695 day suspension period in a manner consistent with the Medical  
8696 Practice Act of that state.

8697 **SECTION 11**

8698 **Interstate Medical Licensure Compact Commission**

8699 (a) The member states create the "Interstate Medical  
8700 Licensure Compact Commission."

8701 (b) The purpose of the Interstate Commission is the  
8702 administration of the Interstate Medical Licensure Compact, which  
8703 is a discretionary state function.

8704 (c) The Interstate Commission shall be a body corporate and  
8705 joint agency of the member states and shall have all the  
8706 responsibilities, powers, and duties set forth in the Compact, and  
8707 such additional powers as may be conferred upon it by a subsequent  
8708 concurrent action of the respective legislatures of the member  
8709 states in accordance with the terms of the Compact.

8710 (d) The Interstate Commission shall consist of two (2)  
8711 voting representatives appointed by each member state who shall  
8712 serve as Commissioners. In states where allopathic and  
8713 osteopathic physicians are regulated by separate member boards, or  
8714 if the licensing and disciplinary authority is split between  
8715 multiple member boards within a member state, the member state





8716 shall appoint one (1) representative from each member board. A  
8717 Commissioner shall be a(n):

8718 (1) Allopathic or osteopathic physician appointed to a  
8719 member board;

8720 (2) Executive director, executive secretary, or similar  
8721 executive of a member board; or

8722 (3) Member of the public appointed to a member board.

8723 (e) The Interstate Commission shall meet at least once each  
8724 calendar year. A portion of this meeting shall be a business  
8725 meeting to address such matters as may properly come before the  
8726 Commission, including the election of officers. The chairperson  
8727 may call additional meetings and shall call for a meeting upon the  
8728 request of a majority of the member states.

8729 (f) The bylaws may provide for meetings of the Interstate  
8730 Commission to be conducted by telecommunication or electronic  
8731 communication.

8732 (g) Each Commissioner participating at a meeting of the  
8733 Interstate Commission is entitled to one (1) vote. A majority of  
8734 Commissioners shall constitute a quorum for the transaction of  
8735 business, unless a larger quorum is required by the bylaws of the  
8736 Interstate Commission. A Commissioner shall not delegate a vote  
8737 to another Commissioner. In the absence of its Commissioner, a  
8738 member state may delegate voting authority for a specified meeting  
8739 to another person from that state who shall meet the requirements  
8740 of subsection (d).



8741 (h) The Interstate Commission shall provide public notice of  
8742 all meetings and all meetings shall be open to the public. The  
8743 Interstate Commission may close a meeting, in full or in portion,  
8744 where it determines by a two-thirds (2/3) vote of the  
8745 Commissioners present that an open meeting would be likely to:

8746 (1) Relate solely to the internal personnel practices  
8747 and procedures of the Interstate Commission;

8748 (2) Discuss matters specifically exempted from  
8749 disclosure by federal statute;

8750 (3) Discuss trade secrets, commercial, or financial  
8751 information that is privileged or confidential;

8752 (4) Involve accusing a person of a crime, or formally  
8753 censuring a person;

8754 (5) Discuss information of a personal nature where  
8755 disclosure would constitute a clearly unwarranted invasion of  
8756 personal privacy;

8757 (6) Discuss investigative records compiled for law  
8758 enforcement purposes; or

8759 (7) Specifically relate to the participation in a civil  
8760 action or other legal proceeding.

8761 (i) The Interstate Commission shall keep minutes which shall  
8762 fully describe all matters discussed in a meeting and shall  
8763 provide a full and accurate summary of actions taken, including  
8764 record of any roll call votes.



8765 (j) The Interstate Commission shall make its information and  
8766 official records, to the extent not otherwise designated in the  
8767 Compact or by its rules, available to the public for inspection.

8768 (k) The Interstate Commission shall establish an executive  
8769 committee, which shall include officers, members, and others as  
8770 determined by the bylaws. The executive committee shall have the  
8771 power to act on behalf of the Interstate Commission, with the  
8772 exception of rulemaking, during periods when the Interstate  
8773 Commission is not in session. When acting on behalf of the  
8774 Interstate Commission, the executive committee shall oversee the  
8775 administration of the Compact including enforcement and compliance  
8776 with the provisions of the Compact, its bylaws and rules, and  
8777 other such duties as necessary.

8778 (l) The Interstate Commission may establish other committees  
8779 for governance and administration of the Compact.

8780 **SECTION 12**

8781 **Powers and Duties of the Interstate Commission**

8782 The Interstate Commission shall have the duty and power to:

8783 (a) Oversee and maintain the administration of the Compact;

8784 (b) Promulgate rules which shall be binding to the extent

8785 and in the manner provided for in the Compact;

8786 (c) Issue, upon the request of a member state or member  
8787 board, advisory opinions concerning the meaning or interpretation  
8788 of the Compact, its bylaws, rules, and actions;



8789 (d) Enforce compliance with Compact provisions, the rules  
8790 promulgated by the Interstate Commission, and the bylaws, using  
8791 all necessary and proper means, including but not limited to the  
8792 use of judicial process;

8793 (e) Establish and appoint committees, including but not  
8794 limited to an executive committee as required by Section 11, which  
8795 shall have the power to act on behalf of the Interstate Commission  
8796 in carrying out its powers and duties;

8797 (f) Pay, or provide for the payment of the expenses related  
8798 to the establishment, organization, and ongoing activities of the  
8799 Interstate Commission;

8800 (g) Establish and maintain one or more offices;

8801 (h) Borrow, accept, hire, or contract for services of  
8802 personnel;

8803 (i) Purchase and maintain insurance and bonds;

8804 (j) Employ an executive director who shall have such powers  
8805 to employ, select or appoint employees, agents, or consultants,  
8806 and to determine their qualifications, define their duties, and  
8807 fix their compensation;

8808 (k) Establish personnel policies and programs relating to  
8809 conflicts of interest, rates of compensation, and qualifications  
8810 of personnel;

8811 (l) Accept donations and grants of money, equipment,  
8812 supplies, materials and services, and to receive, utilize, and



8813 dispose of it in a manner consistent with the conflict of interest  
8814 policies established by the Interstate Commission;

8815 (m) Lease, purchase, accept contributions or donations of,  
8816 or otherwise to own, hold, improve or use, any property, real,  
8817 personal, or mixed;

8818 (n) Sell, convey, mortgage, pledge, lease, exchange,  
8819 abandon, or otherwise dispose of any property, real, personal, or  
8820 mixed;

8821 (o) Establish a budget and make expenditures;

8822 (p) Adopt a seal and bylaws governing the management and  
8823 operation of the Interstate Commission;

8824 (q) Report annually to the legislatures and governors of the  
8825 member states concerning the activities of the Interstate  
8826 Commission during the preceding year. Such reports shall also  
8827 include reports of financial audits and any recommendations that  
8828 may have been adopted by the Interstate Commission;

8829 (r) Coordinate education, training, and public awareness  
8830 regarding the Compact, its implementation, and its operation;

8831 (s) Maintain records in accordance with the bylaws;

8832 (t) Seek and obtain trademarks, copyrights, and patents; and

8833 (u) Perform such functions as may be necessary or  
8834 appropriate to achieve the purposes of the Compact.

8835 **SECTION 13**

8836 **Finance Powers**



8837 (a) The Interstate Commission may levy on and collect an  
8838 annual assessment from each member state to cover the cost of the  
8839 operations and activities of the Interstate Commission and its  
8840 staff. The total assessment must be sufficient to cover the  
8841 annual budget approved each year for which revenue is not provided  
8842 by other sources. The aggregate annual assessment amount shall be  
8843 allocated upon a formula to be determined by the Interstate  
8844 Commission, which shall promulgate a rule binding upon all member  
8845 states.

8846 (b) The Interstate Commission shall not incur obligations of  
8847 any kind prior to securing the funds adequate to meet the same.

8848 (c) The Interstate Commission shall not pledge the credit of  
8849 any of the member states, except by, and with the authority of,  
8850 the member state.

8851 (d) The Interstate Commission shall be subject to a yearly  
8852 financial audit conducted by a certified or licensed public  
8853 accountant and the report of the audit shall be included in the  
8854 annual report of the Interstate Commission.

8855 **SECTION 14**

8856 **Organization and Operation of the Interstate Commission**

8857 (a) The Interstate Commission shall, by a majority of  
8858 Commissioners present and voting, adopt bylaws to govern its  
8859 conduct as may be necessary or appropriate to carry out the  
8860 purposes of the Compact within twelve (12) months of the first  
8861 Interstate Commission meeting.



8862 (b) The Interstate Commission shall elect or appoint  
8863 annually from among its Commissioners a chairperson, a vice  
8864 chairperson, and a treasurer, each of whom shall have such  
8865 authority and duties as may be specified in the bylaws. The  
8866 chairperson, or in the chairperson's absence or disability, the  
8867 vice chairperson, shall preside at all meetings of the Interstate  
8868 Commission.

8869 (c) Officers selected in subsection (b) shall serve without  
8870 remuneration from the Interstate Commission.

8871 (d) The officers and employees of the Interstate Commission  
8872 shall be immune from suit and liability, either personally or in  
8873 their official capacity, for a claim for damage to or loss of  
8874 property or personal injury or other civil liability caused or  
8875 arising out of, or relating to, an actual or alleged act, error,  
8876 or omission that occurred, or that such person had a reasonable  
8877 basis for believing occurred, within the scope of Interstate  
8878 Commission employment, duties, or responsibilities; provided that  
8879 such person shall not be protected from suit or liability for  
8880 damage, loss, injury, or liability caused by the intentional or  
8881 willful and wanton misconduct of such person.

8882 (1) The liability of the executive director and  
8883 employees of the Interstate Commission or representatives of the  
8884 Interstate Commission, acting within the scope of such person's  
8885 employment or duties for acts, errors, or omissions occurring  
8886 within such person's state, may not exceed the limits of liability



8887 set forth under the constitution and laws of that state for state  
8888 officials, employees, and agents. The Interstate Commission is  
8889 considered to be an instrumentality of the states for the purposes  
8890 of any such action. Nothing in this subsection shall be construed  
8891 to protect such person from suit or liability for damage, loss,  
8892 injury, or liability caused by the intentional or willful and  
8893 wanton misconduct of such person.

8894 (2) The Interstate Commission shall defend the  
8895 executive director, its employees, and subject to the approval of  
8896 the Attorney General or other appropriate legal counsel of the  
8897 member state represented by an Interstate Commission  
8898 representative, shall defend such Interstate Commission  
8899 representative in any civil action, except that any civil action  
8900 initiated by the Attorney General shall be governed by Sections 1  
8901 and 2 of this act, seeking to impose liability arising out of an  
8902 actual or alleged act, error or omission that occurred within the  
8903 scope of Interstate Commission employment, duties or  
8904 responsibilities, or that the defendant had a reasonable basis for  
8905 believing occurred within the scope of Interstate Commission  
8906 employment, duties, or responsibilities, provided that the actual  
8907 or alleged act, error, or omission did not result from intentional  
8908 or willful and wanton misconduct on the part of such person.

8909 (3) To the extent not covered by the state involved,  
8910 member state, or the Interstate Commission, the representatives or  
8911 employees of the Interstate Commission shall be held harmless in





8912 the amount of a settlement or judgment, including attorney's fees  
8913 and costs, obtained against such persons arising out of an actual  
8914 or alleged act, error, or omission that occurred within the scope  
8915 of Interstate Commission employment, duties, or responsibilities,  
8916 or that such persons had a reasonable basis for believing occurred  
8917 within the scope of Interstate Commission employment, duties, or  
8918 responsibilities, provided that the actual or alleged act, error,  
8919 or omission did not result from intentional or willful and wanton  
8920 misconduct on the part of such persons.

8921 **SECTION 15**

8922 **Rulemaking Functions of the Interstate Commission**

8923 (a) The Interstate Commission shall promulgate reasonable  
8924 rules in order to effectively and efficiently achieve the purposes  
8925 of the Compact. Notwithstanding the foregoing, in the event the  
8926 Interstate Commission exercises its rulemaking authority in a  
8927 manner that is beyond the scope of the purposes of the Compact, or  
8928 the powers granted hereunder, then such an action by the  
8929 Interstate Commission shall be invalid and have no force or  
8930 effect.

8931 (b) Rules deemed appropriate for the operations of the  
8932 Interstate Commission shall be made pursuant to a rulemaking  
8933 process that substantially conforms to the "Model State  
8934 Administrative Procedure Act" of 2010, and subsequent amendments  
8935 thereto.



8936 (c) Not later than thirty (30) days after a rule is  
8937 promulgated, any person may file a petition for judicial review of  
8938 the rule in the United States District Court for the District of  
8939 Columbia or the federal district where the Interstate Commission  
8940 has its principal offices, provided that the filing of such a  
8941 petition shall not stay or otherwise prevent the rule from  
8942 becoming effective unless the court finds that the petitioner has  
8943 a substantial likelihood of success. The court shall give  
8944 deference to the actions of the Interstate Commission consistent  
8945 with applicable law and shall not find the rule to be unlawful if  
8946 the rule represents a reasonable exercise of the authority granted  
8947 to the Interstate Commission.

8948 **SECTION 16**

8949 **Oversight of Interstate Compact**

8950 (a) The executive, legislative, and judicial branches of  
8951 state government in each member state shall enforce the Compact  
8952 and shall take all actions necessary and appropriate to effectuate  
8953 the Compact's purposes and intent. The provisions of the Compact  
8954 and the rules promulgated hereunder shall have standing as  
8955 statutory law but shall not override existing state authority to  
8956 regulate the practice of medicine.

8957 (b) All courts shall take judicial notice of the Compact and  
8958 the rules in any judicial or administrative proceeding in a member  
8959 state pertaining to the subject matter of the Compact which may



8960 affect the powers, responsibilities or actions of the Interstate  
8961 Commission.

8962 (c) The Interstate Commission shall be entitled to receive  
8963 all service of process in any such proceeding, and shall have  
8964 standing to intervene in the proceeding for all purposes. Failure  
8965 to provide service of process to the Interstate Commission shall  
8966 render a judgment or order void as to the Interstate Commission,  
8967 the Compact, or promulgated rules.

8968 **SECTION 17**

8969 **Enforcement of Interstate Compact**

8970 (a) The Interstate Commission, in the reasonable exercise of  
8971 its discretion, shall enforce the provisions and rules of the  
8972 Compact.

8973 (b) The Interstate Commission may, by majority vote of the  
8974 Commissioners, initiate legal action in the United States District  
8975 Court for the District of Columbia, or, at the discretion of the  
8976 Interstate Commission, in the federal district where the  
8977 Interstate Commission has its principal offices, to enforce  
8978 compliance with the provisions of the Compact, and its promulgated  
8979 rules and bylaws, against a member state in default. The relief  
8980 sought may include both injunctive relief and damages. In the  
8981 event judicial enforcement is necessary, the prevailing party  
8982 shall be awarded all costs of such litigation including reasonable  
8983 attorney's fees.



8984 (c) The remedies herein shall not be the exclusive remedies  
8985 of the Interstate Commission. The Interstate Commission may avail  
8986 itself of any other remedies available under state law or the  
8987 regulation of a profession.

8988 **SECTION 18**

8989 **Default Procedures**

8990 (a) The grounds for default include, but are not limited to,  
8991 failure of a member state to perform such obligations or  
8992 responsibilities imposed upon it by the Compact, or the rules and  
8993 bylaws of the Interstate Commission promulgated under the Compact.

8994 (b) If the Interstate Commission determines that a member  
8995 state has defaulted in the performance of its obligations or  
8996 responsibilities under the Compact, or the bylaws or promulgated  
8997 rules, the Interstate Commission shall:

8998 (1) Provide written notice to the defaulting state and  
8999 other member states, of the nature of the default, the means of  
9000 curing the default, and any action taken by the Interstate  
9001 Commission. The Interstate Commission shall specify the  
9002 conditions by which the defaulting state must cure its default;  
9003 and

9004 (2) Provide remedial training and specific technical  
9005 assistance regarding the default.

9006 (c) If the defaulting state fails to cure the default, the  
9007 defaulting state shall be terminated from the Compact upon an  
9008 affirmative vote of a majority of the Commissioners and all



9009 rights, privileges, and benefits conferred by the Compact shall  
9010 terminate on the effective date of termination. A cure of the  
9011 default does not relieve the offending state of obligations or  
9012 liabilities incurred during the period of the default.

9013 (d) Termination of membership in the Compact shall be  
9014 imposed only after all other means of securing compliance have  
9015 been exhausted. Notice of intent to terminate shall be given by  
9016 the Interstate Commission to the Governor, the majority and  
9017 minority leaders of the defaulting state's legislature, and each  
9018 of the member states.

9019 (e) The Interstate Commission shall establish rules and  
9020 procedures to address licenses and physicians that are materially  
9021 impacted by the termination of a member state, or the withdrawal  
9022 of a member state.

9023 (f) The member state which has been terminated is  
9024 responsible for all dues, obligations, and liabilities incurred  
9025 through the effective date of termination including obligations,  
9026 the performance of which extends beyond the effective date of  
9027 termination.

9028 (g) The Interstate Commission shall not bear any costs  
9029 relating to any state that has been found to be in default or  
9030 which has been terminated from the Compact, unless otherwise  
9031 mutually agreed upon in writing between the Interstate Commission  
9032 and the defaulting state.



9033 (h) The defaulting state may appeal the action of the  
9034 Interstate Commission by petitioning the United States District  
9035 Court for the District of Columbia or the federal district where  
9036 the Interstate Commission has its principal offices. The  
9037 prevailing party shall be awarded all costs of such litigation  
9038 including reasonable attorney's fees.

9039 **SECTION 19**

9040 **Dispute Resolution**

9041 (a) The Interstate Commission shall attempt, upon the  
9042 request of a member state, to resolve disputes which are subject  
9043 to the Compact and which may arise among member states or member  
9044 boards.

9045 (b) The Interstate Commission shall promulgate rules  
9046 providing for both mediation and binding dispute resolution as  
9047 appropriate.

9048 **SECTION 20**

9049 **Member States, Effective Date and Amendment**

9050 (a) Any state is eligible to become a member state of the  
9051 Compact.

9052 (b) The Compact shall become effective and binding upon  
9053 legislative enactment of the Compact into law by no less than  
9054 seven (7) states. Thereafter, it shall become effective and  
9055 binding on a state upon enactment of the Compact into law by that  
9056 state.



9057 (c) The governors of nonmember states, or their designees,  
9058 shall be invited to participate in the activities of the  
9059 Interstate Commission on a nonvoting basis prior to adoption of  
9060 the Compact by all states.

9061 (d) The Interstate Commission may propose amendments to the  
9062 Compact for enactment by the member states. No amendment shall  
9063 become effective and binding upon the Interstate Commission and  
9064 the member states unless and until it is enacted into law by  
9065 unanimous consent of the member states.

9066 **SECTION 21**

9067 **Withdrawal**

9068 (a) Once effective, the Compact shall continue in force and  
9069 remain binding upon each and every member state; provided that a  
9070 member state may withdraw from the Compact by specifically  
9071 repealing the statute which enacted the Compact into law.

9072 (b) Withdrawal from the Compact shall be by the enactment of  
9073 a statute repealing the same, but shall not take effect until one  
9074 (1) year after the effective date of such statute and until  
9075 written notice of the withdrawal has been given by the withdrawing  
9076 state to the Governor of each other member state.

9077 (c) The withdrawing state shall immediately notify the  
9078 chairperson of the Interstate Commission in writing upon the  
9079 introduction of legislation repealing the Compact in the  
9080 withdrawing state.



9081 (d) The Interstate Commission shall notify the other member  
9082 states of the withdrawing state's intent to withdraw within sixty  
9083 (60) days of its receipt of notice provided under subsection (c).

9084 (e) The withdrawing state is responsible for all dues,  
9085 obligations and liabilities incurred through the effective date of  
9086 withdrawal, including obligations, the performance of which extend  
9087 beyond the effective date of withdrawal.

9088 (f) Reinstatement following withdrawal of a member state  
9089 shall occur upon the withdrawing state reenacting the Compact or  
9090 upon such later date as determined by the Interstate Commission.

9091 (g) The Interstate Commission is authorized to develop rules  
9092 to address the impact of the withdrawal of a member state on  
9093 licenses granted in other member states to physicians who  
9094 designated the withdrawing member state as the state of principal  
9095 license.

9096 **SECTION 22**

9097 **Dissolution**

9098 (a) The Compact shall dissolve effective upon the date of  
9099 the withdrawal or default of the member state which reduces the  
9100 membership in the Compact to one (1) member state.

9101 (b) Upon the dissolution of the Compact, the Compact becomes  
9102 null and void and shall be of no further force or effect, and the  
9103 business and affairs of the Interstate Commission shall be  
9104 concluded and surplus funds shall be distributed in accordance  
9105 with the bylaws.





9106 **SECTION 23**

9107 **Severability and Construction**

9108 (a) The provisions of the Compact shall be severable, and if  
9109 any phrase, clause, sentence, or provision is deemed  
9110 unenforceable, the remaining provisions of the Compact shall be  
9111 enforceable.

9112 (b) The provisions of the Compact shall be liberally  
9113 construed to effectuate its purposes.

9114 (c) Nothing in the Compact shall be construed to prohibit  
9115 the applicability of other interstate compacts to which the states  
9116 are members.

9117 **SECTION 24**

9118 **Binding Effect of Compact and Other Laws**

9119 (a) Nothing herein prevents the enforcement of any other law  
9120 of a member state that is not inconsistent with the Compact.

9121 (b) All laws in a member state in conflict with the Compact  
9122 are superseded to the extent of the conflict.

9123 (c) All lawful actions of the Interstate Commission,  
9124 including all rules and bylaws promulgated by the Commission, are  
9125 binding upon the member states.

9126 (d) All agreements between the Interstate Commission and the  
9127 member states are binding in accordance with their terms.

9128 (e) In the event any provision of the Compact exceeds the  
9129 constitutional limits imposed on the legislature of any member  
9130 state, such provision shall be ineffective to the extent of the



9131 conflict with the constitutional provision in question in that  
9132 member state.

9133           **SECTION 124.** Section 75-15-11, Mississippi Code of 1972, is  
9134 amended as follows:

9135           75-15-11. Each application for a license shall be  
9136 accompanied by:

9137           (a) Certified financial statements, reasonably  
9138 satisfactory to the commissioner, showing that the applicant has a  
9139 net worth of at least Twenty-five Thousand Dollars (\$25,000.00)  
9140 plus Fifteen Thousand Dollars (\$15,000.00) for each location in  
9141 excess of one (1) at which the applicant proposes to conduct money  
9142 transmissions in this state, computed according to generally  
9143 accepted accounting principles, but in no event shall the net  
9144 worth be required to be in excess of Two Hundred Fifty Thousand  
9145 Dollars (\$250,000.00).

9146           (b) A surety bond issued by a bonding company or  
9147 insurance company authorized to do business in this state, in the  
9148 principal sum of Twenty-five Thousand Dollars (\$25,000.00) or in  
9149 an amount equal to outstanding money transmissions in Mississippi,  
9150 whichever is greater, but in no event shall the bond be required  
9151 to be in excess of Five Hundred Thousand Dollars (\$500,000.00).  
9152 However, the commissioner may increase the required amount of the  
9153 bond upon the basis of the impaired financial condition of a  
9154 licensee as evidenced by a reduction in net worth, financial  
9155 losses or other relevant criteria. The bond shall be in form



9156 satisfactory to the commissioner and shall run to the state for  
9157 the use and benefit of the Department of Banking and Consumer  
9158 Finance and any claimants against the applicant or his agents to  
9159 secure the faithful performance of the obligations of the  
9160 applicant and his agents with respect to the receipt, handling,  
9161 transmission and payment of money in connection with money  
9162 transmissions in Mississippi. The aggregate liability of the  
9163 surety in no event shall exceed the principal sum of the bond.  
9164 The surety on the bond shall have the right to cancel the bond  
9165 upon giving sixty (60) days' notice in writing to the commissioner  
9166 and thereafter shall be relieved of liability for any breach of  
9167 condition occurring after the effective date of the cancellation.  
9168 Any claimants against the applicant or his agents may themselves  
9169 bring suit directly on the bond, or the Attorney General may bring  
9170 suit thereon, subject to the provisions of Sections 1 and 2 of  
9171 this act, in behalf of those claimants, either in one (1) action  
9172 or successive actions.

9173 (c) In lieu of the corporate surety bond, the applicant  
9174 may deposit with the State Treasurer bonds or other obligations of  
9175 the United States or guaranteed by the United States or bonds or  
9176 other obligations of this state or of any municipal corporation,  
9177 county, or other political subdivision or agency of this state, or  
9178 certificates of deposit of national or state banks doing business  
9179 in Mississippi, having an aggregate market value at least equal to  
9180 that of the corporate surety bond otherwise required. Those bonds



9181 or obligations or certificates of deposit shall be deposited with  
9182 the State Treasurer to secure the same obligations as would a  
9183 corporate surety bond, but the depositor shall be entitled to  
9184 receive all interest and dividends thereon and shall have the  
9185 right to substitute other bonds or obligations or certificates of  
9186 deposit for those deposited, with the approval of the  
9187 commissioner, and shall be required so to do on order of the  
9188 commissioner made for good cause shown. The State Treasurer shall  
9189 provide for custody of the bonds or obligations or certificates of  
9190 deposits by a qualified trust company or bank located in the State  
9191 of Mississippi or by any Federal Reserve Bank. The compensation,  
9192 if any, of the custodian for acting as such under this section  
9193 shall be paid by the depositing licensee.

9194 (d) Proof of registration as a money service business  
9195 per 31 CFR Section 103.41, if applicable.

9196 (e) A set of fingerprints from any local law  
9197 enforcement agency for each owner of a sole proprietorship,  
9198 partners in a partnership or principal owners of a limited  
9199 liability company that own at least ten percent (10%) of the  
9200 voting shares of the company, shareholders owning ten percent  
9201 (10%) or more of the outstanding shares of the corporation, except  
9202 publically traded corporations and their subsidiaries, and any  
9203 other executive officer with significant oversight duties of the  
9204 business. In order to determine the applicant's suitability for  
9205 license, the commissioner shall forward the fingerprints to the



9206 Department of Public Safety for a state criminal history records  
9207 check, and the fingerprints shall be forwarded by the Department  
9208 of Public Safety to the FBI for a national criminal history  
9209 records check. The department shall not issue a license if it  
9210 finds that the applicant, or any person who is an owner, partner,  
9211 director or executive officer of the applicant, has been convicted  
9212 of: (i) a felony in any jurisdiction; or (ii) a crime that, if  
9213 committed within the state, would constitute a felony under the  
9214 laws of this state; or (iii) a misdemeanor of fraud, theft,  
9215 forgery, bribery, embezzlement or making a fraudulent or false  
9216 statement in any jurisdiction. For the purposes of this chapter,  
9217 a person shall be deemed to have been convicted of a crime if the  
9218 person has pleaded guilty to a crime before a court or federal  
9219 magistrate, or plea of nolo contendere, or has been found guilty  
9220 of a crime by the decision or judgment of a court or federal  
9221 magistrate or by the verdict of a jury, irrespective of the  
9222 pronouncement of sentence or the suspension of a sentence, unless  
9223 the person convicted of the crime has received a pardon from the  
9224 President of the United States or the Governor or other pardoning  
9225 authority in the jurisdiction where the conviction was obtained.

9226 **SECTION 125.** Section 75-21-1, Mississippi Code of 1972, is  
9227 amended as follows:

9228 75-21-1. A trust or combine is a combination, contract,  
9229 understanding or agreement, expressed or implied, between two (2)  
9230 or more persons, corporations or firms or association of persons



9231 or between any one or more of either with one or more of the  
9232 others, when inimical to public welfare and the effect of which  
9233 would be:

9234 (a) To restrain trade;

9235 (b) To limit, increase or reduce the price of a  
9236 commodity;

9237 (c) To limit, increase or reduce the production or  
9238 output of a commodity;

9239 (d) To hinder competition in the production,  
9240 importation, manufacture, transportation, sale or purchase of a  
9241 commodity;

9242 (e) To engross or forestall a commodity;

9243 (f) To issue, own or hold the certificate of stock of  
9244 any trust and combine within the spirit of this chapter knowing it  
9245 to be such at the time of the issue or the acquisition or holding  
9246 such certificate; or

9247 (g) To place the control to any extent of business or  
9248 of the proceeds or earnings thereof, contrary to the spirit and  
9249 meaning of this chapter, in the power of trustees, by whatever  
9250 name called; or

9251 (h) To enable or empower any other person than  
9252 themselves, their proper officers, agents and employees to dictate  
9253 or control the management of business, contrary to the spirit and  
9254 meaning of this chapter; or



9255 (i) To unite or pool interest in the importation,  
9256 manufacture, production, transportation, or price of a commodity,  
9257 contrary to the spirit and meaning of this chapter.

9258 Any corporation, domestic or foreign, or any partnership, or  
9259 individual, or other association, or person whatsoever, who are  
9260 now, or shall hereafter create, enter into, become a member of, or  
9261 a party to any trust or combine as hereinabove defined shall be  
9262 deemed and adjudged guilty of a conspiracy to defraud and shall be  
9263 subject to the penalties hereinafter provided. Any person,  
9264 association of persons, corporation, or corporations, domestic or  
9265 foreign, who shall be a party or belong to a trust and combine  
9266 shall be guilty of crime and upon conviction thereof shall, for a  
9267 first offense be fined in any sum not less than One Hundred  
9268 Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00)  
9269 and for a second or subsequent offense not less than Two Hundred  
9270 Dollars (\$200.00) nor more than Ten Thousand Dollars (\$10,000.00),  
9271 and may be enjoined by a final decree of the chancery court, in a  
9272 suit by the state, subject to the provisions of Sections 1 and 2  
9273 of this act, on the relation of the Attorney General, from the  
9274 further prosecution of or doing of the acts constituting the trust  
9275 and combine as defined in this chapter.

9276 **SECTION 126.** Section 75-21-7, Mississippi Code of 1972, is  
9277 amended as follows:

9278 75-21-7. Any person, corporation, partnership, firm or  
9279 association of persons and the officers and representatives of the



9280 corporation or association violating any of the provisions of this  
9281 chapter shall forfeit not less than One Hundred Dollars (\$100.00)  
9282 nor more than Two Thousand Dollars (\$2,000.00) for every such  
9283 violation. Each month in which such person, corporation or  
9284 association shall violate this chapter shall be a separate  
9285 violation, the forfeiture and penalty in such case to be recovered  
9286 alone by suit in the name of the state on the relation of the  
9287 Attorney General, subject to the provisions of Sections 1 and 2 of  
9288 this act, and by the consent of the Attorney General suits may be  
9289 brought by any district attorney, such suits to be brought in any  
9290 court of competent jurisdiction.

9291 **SECTION 127.** Section 75-21-37, Mississippi Code of 1972, is  
9292 amended as follows:

9293 75-21-37. It shall be the duty of the district attorneys in  
9294 their several districts, when requested by the Attorney General,  
9295 to enforce the civil features of the antitrust laws of this state  
9296 by appropriate legal proceedings and suits at law or in equity;  
9297 and their duty to enforce criminal features of said laws shall be  
9298 the same as their duty to enforce other criminal statutes and  
9299 shall be subject to the provisions of Sections 1 and 2 of this act  
9300 for the Attorney General. All such suits shall be brought by and  
9301 in the name of the State of Mississippi upon the relation of the  
9302 Attorney General or an authorized district attorney.

9303 **SECTION 128.** Section 75-24-9, Mississippi Code of 1972, is  
9304 amended as follows:





9305           75-24-9. Whenever the Attorney General has reason to believe  
9306 that any person is using, has used, or is about to use any method,  
9307 act or practice prohibited by Section 75-24-5, and that  
9308 proceedings would be in the public interest, he may bring an  
9309 action subject to the provisions of Sections 1 and 2 of this act,  
9310 in the name of the state against such person to restrain by  
9311 temporary or permanent injunction the use of such method, act or  
9312 practice. The action shall be brought in the chancery or county  
9313 court of the county in which such person resides or has his  
9314 principal place of business, or, with consent of the parties, may  
9315 be brought in the chancery or county court of the county in which  
9316 the State Capitol is located. The said courts are authorized to  
9317 issue temporary or permanent injunctions to restrain and prevent  
9318 violations of this chapter, and such injunctions shall be issued  
9319 without bond.

9320           **SECTION 129.** Section 75-24-15, Mississippi Code of 1972, is  
9321 amended as follows:

9322           75-24-15. (1) In addition to all other statutory and common  
9323 law rights, remedies and defenses, any person who purchases or  
9324 leases goods or services primarily for personal, family or  
9325 household purposes and thereby suffers any ascertainable loss of  
9326 money or property, real or personal, as a result of the use or  
9327 employment by the seller, lessor, manufacturer or producer of a  
9328 method, act or practice prohibited by Section 75-24-5 may bring an  
9329 action at law in the court having jurisdiction in the county in



9330 which the seller, lessor, manufacturer or producer resides, or has  
9331 his principal place of business or, where the act or practice  
9332 prohibited by Section 75-24-5 allegedly occurred, to recover such  
9333 loss of money or damages for the loss of such property, or may  
9334 assert, by way of setoff or counterclaim, the fact of such loss in  
9335 a proceeding against him for the recovery of the purchase price or  
9336 rental, or any portion thereof, of the goods or services.

9337 (2) In any private action brought under this chapter, the  
9338 plaintiff must have first made a reasonable attempt to resolve any  
9339 claim through an informal dispute settlement program approved by  
9340 the Attorney General, approval which is subject to the provisions  
9341 of Sections 1 and 2 of this act.

9342 (3) In any action or counterclaim under this section of this  
9343 chapter, a prevailing defendant may recover in addition to any  
9344 other relief that may be provided in this section costs and a  
9345 reasonable attorney's fee, if in the opinion of the court, said  
9346 action or counterclaim was frivolous or filed for the purpose of  
9347 harassment or delay.

9348 (4) Nothing in this chapter shall be construed to permit any  
9349 class action or suit, but every private action must be maintained  
9350 in the name of and for the sole use and benefit of the individual  
9351 person.

9352 **SECTION 130.** Section 75-24-19, Mississippi Code of 1972, is  
9353 amended as follows:

9354 75-24-19. (1) Civil remedies.



9355           (a) Any person who violated the terms of an injunction  
9356 issued under Section 75-24-9 shall forfeit and pay to the state a  
9357 civil penalty in a sum not to exceed Ten Thousand Dollars  
9358 (\$10,000.00) per violation which shall be payable to the General  
9359 Fund of the State of Mississippi. For the purposes of this  
9360 section, the chancery or county court issuing an injunction shall  
9361 retain jurisdiction, and the cause shall be continued, and in such  
9362 cases the Attorney General acting in the name of the state may  
9363 petition for recovery of civil penalties.

9364           (b) In any action brought under Section 75-24-9, if the  
9365 court finds from clear and convincing evidence, that a person  
9366 knowingly and willfully used any unfair or deceptive trade  
9367 practice, method or act prohibited by Section 75-24-5, the  
9368 Attorney General, upon petition to the court, may recover on  
9369 behalf of the state a civil penalty in a sum not to exceed Ten  
9370 Thousand Dollars (\$10,000.00) per violation, subject to the  
9371 provisions of Sections 1 and 2 of this act. One-half (1/2) of  
9372 said penalty shall be payable to the Office of Consumer Protection  
9373 to be deposited into the Attorney General's special fund. All  
9374 monies collected under this section shall be used by the Attorney  
9375 General for consumer fraud education and investigative and  
9376 enforcement operations of the Office of Consumer Protection. The  
9377 other one-half (1/2) shall be payable to the General Fund of the  
9378 State of Mississippi. The Attorney General may also recover, in  
9379 addition to any other relief that may be provided in this section,



9380 investigative costs and a reasonable attorney's fee, subject to  
9381 the provisions of Sections 1 and 2 of this act.

9382 (2) No penalty authorized by this section shall be deemed to  
9383 limit the court's powers to insure compliance with its orders,  
9384 decrees and judgments, or punish for the violations thereof.

9385 (3) For purposes of this section, a knowing and willful  
9386 violation occurs when the court finds from clear and convincing  
9387 evidence that the party committing the violation knew or should  
9388 have known that his conduct was a violation of Section 75-24-5.

9389 **SECTION 131.** Section 75-24-21, Mississippi Code of 1972, is  
9390 amended as follows:

9391 75-24-21. It shall be the duty of the district and county  
9392 attorneys to lend to the Attorney General such assistance as the  
9393 Attorney General may request in the commencement and prosecution  
9394 of actions pursuant to this chapter, subject to the provisions of  
9395 Sections 1 and 2 of this act. The district attorney and county  
9396 attorney shall, within their respective jurisdictions, have the  
9397 same duty and responsibility under this chapter as that of the  
9398 Attorney General statewide in the enforcement thereof, and they  
9399 shall prosecute actions hereunder in the same manner as provided  
9400 for the Attorney General. When any action is prosecuted by such  
9401 district or county attorney alone or in concert, he or they shall  
9402 make a full report thereon to the Attorney General, including the  
9403 final disposition of the matter.



9404           When any action has been prosecuted by a district or county  
9405 attorney, at the request of the Attorney General, the Attorney  
9406 General is authorized to pay the actual cost and expense of such  
9407 action after same has been submitted to and approved by the court  
9408 in which the action was taken, subject always to the final  
9409 approval of the Attorney General.

9410           The Attorney General may establish programs for the education  
9411 of the public with respect to this chapter.

9412           **SECTION 132.** Section 75-24-27, Mississippi Code of 1972, is  
9413 brought forward as follows:

9414           75-24-27. (1) To accomplish the objectives and to carry out  
9415 the duties prescribed in this chapter, the Attorney General, or  
9416 his designee, in addition to the powers conferred by this chapter,  
9417 may:

9418                   (a) Issue subpoenas and subpoenas duces tecum;

9419                   (b) Issue cease and desist orders to persons suspected  
9420 of violating any provisions of this chapter;

9421                   (c) Administer an oath or affirmation to any person;

9422                   (d) Conduct hearings in aid of any investigation or  
9423 inquiry;

9424                   (e) Compel the production of books, papers, documents,  
9425 and other evidence, and call upon other state agencies for  
9426 information;

9427                   (f) Issue any necessary rules and regulations in order  
9428 to carry out the provisions of this chapter; and



9429           (g) Enter into an assurance of voluntary compliance or  
9430 an assurance of voluntary discontinuance with any person for  
9431 settlement purposes.

9432           (2) Unless otherwise ordered by a court for good cause  
9433 shown, no statement or documentary material produced pursuant to  
9434 subpoena under this section shall be produced for inspection or  
9435 copying by, nor shall the contents thereof be disclosed to any  
9436 person other than the authorized employees of the Attorney General  
9437 without the consent of the person who produced the material.

9438           (3) The Attorney General may use the documentary material or  
9439 copies thereof in the enforcement of this chapter by presentation  
9440 before any court, provided that any such material which contains  
9441 trade secrets or proprietary information shall not be presented  
9442 except with the approval of the court in which the action is  
9443 pending after adequate notice to the person furnishing such  
9444 material. However, when material containing trade secrets or  
9445 proprietary information is presented with court approval, the  
9446 material and the evidence pertaining thereto shall be held in  
9447 camera and shall not be part of the court record or trial  
9448 transcript.

9449           **SECTION 133.** Section 75-24-29, Mississippi Code of 1972, is  
9450 amended as follows:

9451           75-24-29. (1) This section applies to any person who  
9452 conducts business in this state and who, in the ordinary course of



9453 the person's business functions, owns, licenses or maintains  
9454 personal information of any resident of this state.

9455 (2) For purposes of this section, the following terms shall  
9456 have the meanings ascribed unless the context clearly requires  
9457 otherwise:

9458 (a) "Breach of security" means unauthorized acquisition  
9459 of electronic files, media, databases or computerized data  
9460 containing personal information of any resident of this state when  
9461 access to the personal information has not been secured by  
9462 encryption or by any other method or technology that renders the  
9463 personal information unreadable or unusable;

9464 (b) "Personal information" means an individual's first  
9465 name or first initial and last name in combination with any one or  
9466 more of the following data elements:

9467 (i) Social security number;

9468 (ii) Driver's license number or state  
9469 identification card number; or

9470 (iii) An account number or credit or debit card  
9471 number in combination with any required security code, access code  
9472 or password that would permit access to an individual's financial  
9473 account; "personal information" does not include publicly  
9474 available information that is lawfully made available to the  
9475 general public from federal, state or local government records or  
9476 widely distributed media;



9477 (iv) "Affected individual" means any individual  
9478 who is a resident of this state whose personal information was, or  
9479 is reasonably believed to have been, intentionally acquired by an  
9480 unauthorized person through a breach of security.

9481 (3) A person who conducts business in this state shall  
9482 disclose any breach of security to all affected individuals. The  
9483 disclosure shall be made without unreasonable delay, subject to  
9484 the provisions of subsections (4) and (5) of this section and the  
9485 completion of an investigation by the person to determine the  
9486 nature and scope of the incident, to identify the affected  
9487 individuals, or to restore the reasonable integrity of the data  
9488 system. Notification shall not be required if, after an  
9489 appropriate investigation, the person reasonably determines that  
9490 the breach will not likely result in harm to the affected  
9491 individuals.

9492 (4) Any person who conducts business in this state that  
9493 maintains computerized data which includes personal information  
9494 that the person does not own or license shall notify the owner or  
9495 licensee of the information of any breach of the security of the  
9496 data as soon as practicable following its discovery, if the  
9497 personal information was, or is reasonably believed to have been,  
9498 acquired by an unauthorized person for fraudulent purposes.

9499 (5) Any notification required by this section shall be  
9500 delayed for a reasonable period of time if a law enforcement  
9501 agency determines that the notification will impede a criminal





9502 investigation or national security and the law enforcement agency  
9503 has made a request that the notification be delayed. Any such  
9504 delayed notification shall be made after the law enforcement  
9505 agency determines that notification will not compromise the  
9506 criminal investigation or national security and so notifies the  
9507 person of that determination.

9508 (6) Any notice required by the provisions of this section  
9509 may be provided by one (1) of the following methods: (a) written  
9510 notice; (b) telephone notice; (c) electronic notice, if the  
9511 person's primary means of communication with the affected  
9512 individuals is by electronic means or if the notice is consistent  
9513 with the provisions regarding electronic records and signatures  
9514 set forth in 15 USCS 7001; or (d) substitute notice, provided the  
9515 person demonstrates that the cost of providing notice in  
9516 accordance with paragraph (a), (b) or (c) of this subsection would  
9517 exceed Five Thousand Dollars (\$5,000.00), that the affected class  
9518 of subject persons to be notified exceeds five thousand (5,000)  
9519 individuals or the person does not have sufficient contact  
9520 information. Substitute notice shall consist of the following:  
9521 electronic mail notice when the person has an electronic mail  
9522 address for the affected individuals; conspicuous posting of the  
9523 notice on the Web site of the person if the person maintains one;  
9524 and notification to major statewide media, including newspapers,  
9525 radio and television.



9526 (7) Any person who conducts business in this state that  
9527 maintains its own security breach procedures as part of an  
9528 information security policy for the treatment of personal  
9529 information, and otherwise complies with the timing requirements  
9530 of this section, shall be deemed to be in compliance with the  
9531 security breach notification requirements of this section if the  
9532 person notifies affected individuals in accordance with the  
9533 person's policies in the event of a breach of security. Any  
9534 person that maintains such a security breach procedure pursuant to  
9535 the rules, regulations, procedures or guidelines established by  
9536 the primary or federal functional regulator, as defined in 15 USCS  
9537 6809(2), shall be deemed to be in compliance with the security  
9538 breach notification requirements of this section, provided the  
9539 person notifies affected individuals in accordance with the  
9540 policies or the rules, regulations, procedures or guidelines  
9541 established by the primary or federal functional regulator in the  
9542 event of a breach of security of the system.

9543 (8) Failure to comply with the requirements of this section  
9544 shall constitute an unfair trade practice and shall be enforced by  
9545 the Attorney General, subject to the provisions of Sections 1 and  
9546 2 of this act; however, nothing in this section may be construed  
9547 to create a private right of action.

9548 **SECTION 134.** Section 75-24-59, Mississippi Code of 1972, is  
9549 amended as follows:



9550           75-24-59. In addition to other penalties and remedies  
9551 provided in Sections 75-24-51 through 75-24-61, whenever it  
9552 appears that any person is engaged or is about to engage in any  
9553 act or practice which constitutes a pyramid sales scheme or which  
9554 is prohibited by Sections 75-24-51 through 75-24-61, the Attorney  
9555 General may bring an action, subject to the provisions of Sections  
9556 1 and 2 of this act in the name of the state pursuant to the  
9557 provisions of Section 75-24-9 in order to enjoin any such act or  
9558 practice.

9559           **SECTION 135.** Section 75-24-355, Mississippi Code of 1972, is  
9560 amended as follows:

9561           75-24-355. (1) The Attorney General shall have the  
9562 authority under Sections 75-24-351 through 75-24-357 to conduct  
9563 civil investigations and bring civil actions, subject to the  
9564 provisions of Sections 1 and 2 of this act.

9565           (2) In an action brought by the Attorney General, subject to  
9566 the provisions of Sections 1 and 2 of this act, under Sections  
9567 75-24-351 through 75-24-357, the court may award or impose any  
9568 relief available under state law.

9569           (3) In addition to the relief provided for in Section  
9570 75-24-357, upon a motion by the Attorney General and a finding by  
9571 the court that there is a reasonable likelihood that a person  
9572 violated Section 75-24-353, the court may require the person to  
9573 post a bond in an amount equal to a good faith estimate of the  
9574 costs to litigate a claim and amounts reasonably likely to be



9575 recovered if an action were to be brought under Section 75-24-355.  
9576 A hearing shall be held if either party requests a hearing.

9577         **SECTION 136.** Section 75-60-21, Mississippi Code of 1972, is  
9578 amended as follows:

9579         75-60-21. The commission shall petition the chancery court  
9580 of the county in which a person or agent offers one or more  
9581 courses of instruction subject to the provisions of this chapter  
9582 or advertises for the offering of such courses without a  
9583 certificate of registration for an order enjoining such offering  
9584 or advertising. The court may grant such injunctive relief upon a  
9585 showing that the respondent named in the petition is offering or  
9586 advertising one or more courses of instruction without a  
9587 certificate of registration. The Attorney General, subject to the  
9588 provisions of Sections 1 and 2 of this act, or the district  
9589 attorney of the district including the county in which such action  
9590 is brought, shall, upon request of the commission, represent the  
9591 commission in prosecuting any such action.

9592         **SECTION 137.** Section 75-75-19, Mississippi Code of 1972, is  
9593 brought forward as follows:

9594         75-75-19. It shall be the duty of the sheriff of the county  
9595 to require every such concern or organization doing business in  
9596 his county to submit to him for inspection a valid certificate of  
9597 compliance issued by the Secretary of State as provided by Section  
9598 75-75-17. It shall be unlawful for any such concern or  
9599 organization to do business in any county of this state until it



9600 has submitted to the sheriff of the county for inspection its  
9601 valid certificate of compliance.

9602 Any person or persons or firm or corporation violating any of  
9603 the provisions of Section 75-75-17 shall be guilty of a  
9604 misdemeanor and on conviction thereof shall be fined not more than  
9605 Five Hundred Dollars (\$500.00), or imprisoned in the county jail  
9606 not exceeding six (6) months, or by both such fine and  
9607 imprisonment in the discretion of the court.

9608 Whenever any person or persons or firm or corporation  
9609 operates or attempts to operate in violation of Section 75-75-17,  
9610 the Attorney General of the state, the district attorney of the  
9611 district, the county attorney, or any person who is a citizen of  
9612 the county, may bring an action in equity in the name of the State  
9613 of Mississippi, upon the relation of such Attorney General,  
9614 district attorney, or county attorney, or person to abate such  
9615 operation and to enjoin any person or persons or firm or  
9616 corporation operating the same from further operation thereof.  
9617 Orders and injunctions, both temporary and permanent, may be  
9618 issued and the same procedure shall be followed therein in the  
9619 same manner as the law relating to nuisances.

9620 **SECTION 138.** Section 75-76-87, Mississippi Code of 1972, is  
9621 amended as follows:

9622 75-76-87. (1) Applications, returns and information  
9623 contained therein filed or furnished under this chapter shall be  
9624 confidential, and except in accordance with proper judicial order



9625 or as otherwise authorized by this chapter, it shall be unlawful  
9626 for \* \* \* the Commissioner of Revenue, members of the Mississippi  
9627 Gaming Commission or \* \* \* any deputy, agent, clerk or other  
9628 employee of the Department of Revenue, the Mississippi Gaming  
9629 Commission or the Department of Information Technology Services,  
9630 or any former employee thereof to divulge or make known in any  
9631 manner the amount of income or any particulars set forth or  
9632 disclosed on any application, report or return required.

9633 The term "proper judicial order" as used in this chapter  
9634 shall not include subpoenas or subpoenas duces tecum but shall  
9635 include only those orders entered by a court of record in this  
9636 state after furnishing notice and a hearing to the taxpayer and  
9637 the \* \* \* Department of Revenue. The court shall not authorize  
9638 the furnishing of such information unless it is satisfied that the  
9639 information is needed to pursue pending litigation wherein the  
9640 return itself is in issue, or the judge is satisfied that the need  
9641 for furnishing the information outweighs the rights of the  
9642 taxpayer to have such information secreted.

9643 (2) Such information contained on the application, returns  
9644 or reports from the licensee or the Mississippi Gaming Commission  
9645 may be furnished to: (a) members and employees of the \* \* \*  
9646 Department of Revenue and the income tax department thereof, for  
9647 the purpose of auditing, comparing and correcting returns; (b) the  
9648 Attorney General, subject to the provisions of Sections 1 and 2 of  
9649 this act, or any other attorney representing the state in any



9650 action in respect to the amount of tax under the provisions of  
9651 this chapter; (c) the Mississippi Gaming Commission; or (d) the  
9652 revenue department of the other states or the federal government  
9653 when said states of federal government grants a like comity to  
9654 Mississippi.

9655 (3) The State Auditor and the employees of his office shall  
9656 have the right to examine only such tax returns as are necessary  
9657 for auditing the \* \* \* Department of Revenue, or the Mississippi  
9658 Gaming Commission and the same prohibitions against disclosure  
9659 which apply to the \* \* \* Department of Revenue shall apply to the  
9660 State Auditor and his office.

9661 (4) Nothing in this section shall prohibit the \* \* \*  
9662 Commissioner of Revenue from making available information  
9663 necessary to recover taxes, fees, fines or damages owing the state  
9664 pursuant to the authority granted in Section 27-75-16.

9665 **SECTION 139.** Section 75-76-145, Mississippi Code of 1972, is  
9666 amended as follows:

9667 75-76-145. (1) The Attorney General, at the request of the  
9668 executive director or the commission, may institute a civil  
9669 action, subject to the provisions of Sections 1 and 2 of this act,  
9670 in any court of this state against any person subject to this  
9671 chapter, to restrain a violation of this chapter.

9672 (2) The court shall give priority over other civil actions  
9673 to an action brought pursuant to this section.



9674 (3) An action brought against a person pursuant to this  
9675 section shall not preclude a criminal action or administrative  
9676 proceeding against that person.

9677 **SECTION 140.** Section 75-76-147, Mississippi Code of 1972, is  
9678 amended as follows:

9679 75-76-147. (1) The commission or the executive director  
9680 shall initiate proceedings or actions appropriate to enforce the  
9681 provisions of this chapter and may recommend that a district  
9682 attorney or the Attorney General, subject to the provisions of  
9683 Sections 1 and 2 of this act, prosecute any public offense  
9684 committed in violation of any provision of this chapter, or in  
9685 violation of Section 97-19-55 when the offense involves the use of  
9686 a casino marker issued to a licensed gaming establishment.

9687 (2) If an investigation indicates probable cause for belief  
9688 that a violation of this chapter, or a violation of Section  
9689 97-19-55 when the offense involves the use of a casino marker  
9690 issued to a licensed gaming establishment, has occurred, the  
9691 commission or the executive director shall refer the matter and  
9692 the evidence gathered during the investigation to the district  
9693 attorney having jurisdiction, with a request that such violation  
9694 be prosecuted (a) by presentation to the grand jury if it appears  
9695 that a felony violation has occurred, or (b) either by  
9696 presentation to the grand jury or by filing a criminal affidavit  
9697 if it appears that a misdemeanor violation has occurred.





9698 (3) If a district attorney declines to prosecute an offense  
9699 referred to him by the commission or the executive director, he  
9700 shall respond in writing to the commission or the executive  
9701 director within sixty (60) days following receipt of the request  
9702 to prosecute and state the reasons declining to prosecute.

9703 (4) If the commission or the executive director, after  
9704 reviewing a district attorney's declination to prosecute,  
9705 disagrees with the decision of such district attorney, the  
9706 commission or the executive director may then refer the request  
9707 for criminal prosecution to the Attorney General. In conducting  
9708 any such prosecution, the Attorney General shall have all powers  
9709 of a district attorney, including the power to issue or cause to  
9710 be issued subpoenas or other process, and the right to enter the  
9711 grand jury room while the grand jury is in session and to perform  
9712 services with reference to the work of the grand jury.

9713 **SECTION 141.** Section 75-91-7, Mississippi Code of 1972, is  
9714 amended as follows:

9715 75-91-7. (1) Whenever the Attorney General or a district  
9716 attorney has reason to believe that any person is advertising or  
9717 conducting or is about to advertise or conduct a live musical  
9718 performance or production in violation of Section 75-91-5 and that  
9719 proceedings would be in the public interest, the Attorney General,  
9720 subject to the provisions of Sections 1 and 2 of this act, or  
9721 district attorney may bring an action in the name of the state



9722 against the person to restrain by temporary or permanent  
9723 injunction that practice.

9724 (2) Whenever any court issues a permanent injunction to  
9725 restrain and prevent violations of this chapter as authorized in  
9726 subsection (1) of this section, the court may, in its discretion,  
9727 direct that the defendant restore to any person in interest any  
9728 monies or property, real or personal, which may have been acquired  
9729 by means of any violation of this chapter, under terms and  
9730 conditions to be established by the court.

9731 **SECTION 142.** Section 77-1-43, Mississippi Code of 1972, is  
9732 amended as follows:

9733 77-1-43. (1) The commission may apply to the circuit or  
9734 chancery court, by proper proceeding, for aid in the enforcement  
9735 of obedience to its process, and to compel compliance with the law  
9736 and its lawful orders, decisions, and determinations. Said courts  
9737 shall have jurisdiction to grant aid and relief in such cases,  
9738 subject to the right of appeal to the Supreme Court by the party  
9739 aggrieved. The Attorney General, subject to the provisions of  
9740 Sections 1 and 2 of this act, or district attorney in his  
9741 district, shall institute such proceedings in the name of the  
9742 commission.

9743 (2) Any action for violation of the law, or for the  
9744 violation of any lawful rule, regulation or order of the  
9745 commission may be instituted by the commission or by the Attorney  
9746 General in any court of competent jurisdiction.



9747 (3) The remedies given by this chapter against all carriers  
9748 under the supervision of the commission, are cumulative to those  
9749 now in existence by law.

9750 **SECTION 143.** Section 77-2-11, Mississippi Code of 1972, is  
9751 amended as follows:

9752 77-2-11. (1) A person who serves as (a) Commissioner of the  
9753 Public Service Commission, (b) Executive Director of the public  
9754 utilities staff, or (c) Executive Secretary of the commission  
9755 shall not, while employed with or within one (1) year after  
9756 leaving the commission or public utilities staff, accept  
9757 employment with, receive compensation directly or indirectly from,  
9758 or enter into a contractual relationship with an entity, or an  
9759 affiliate company of an entity, that was subject to rate  
9760 regulation by the commission at the time of his departure.

9761 (2) An entity or an affiliate company of an entity that is  
9762 subject to rate regulation by the commission, or a person acting  
9763 on behalf of the entity or its affiliate, shall not negotiate or  
9764 offer to employ or compensate a commissioner of the Public Service  
9765 Commission, Executive Director of the public utilities staff or  
9766 the Executive Secretary of the commission, while the person is so  
9767 employed or within one (1) year after the person leaves that  
9768 employment.

9769 (3) A person who is employed with the public utilities staff  
9770 shall not, within one (1) year, after leaving the public utilities  
9771 staff, accept employment with, or receive compensation, directly



9772 or indirectly from the Public Service Commission or the public  
9773 service commission staff.

9774 (4) A person who is employed with the Public Service  
9775 Commission or public service commission staff, shall not, within  
9776 one (1) year, after leaving the commission or public service  
9777 commission staff, accept employment with, or receive compensation,  
9778 directly or indirectly, from the public utilities staff.

9779 (5) A person who violates this section is subject to a civil  
9780 penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each  
9781 violation. The Attorney General may bring an action, subject to  
9782 the provisions of Sections 1 and 2 of this act, in circuit court  
9783 to collect the penalties provided in this section.

9784 **SECTION 144.** Section 77-3-611, Mississippi Code of 1972, is  
9785 amended as follows:

9786 77-3-611. The Attorney General shall investigate any  
9787 complaints received concerning violations of Sections 77-3-601  
9788 through 77-3-619. If, after investigating any complaint, the  
9789 Attorney General finds that there has been a violation of Sections  
9790 77-3-601 through 77-3-619, the Attorney General, subject to the  
9791 provisions of Sections 1 and 2 of this act, may bring an action to  
9792 impose a civil penalty and to seek other relief, including  
9793 injunctive relief, as the court deems appropriate against the  
9794 telephone solicitor. The civil penalty shall not exceed Ten  
9795 Thousand Dollars (\$10,000.00) per violation and shall be deposited  
9796 in the State General Fund, unallocated. This civil penalty may be



9797 recovered in any action brought under Sections 77-3-601 through  
9798 77-3-619 by the Attorney General. Alternatively, the Attorney  
9799 General may terminate any investigation or action upon agreement  
9800 by the person to pay a stipulated civil penalty. The Attorney  
9801 General or the court may waive any civil penalty if the person has  
9802 previously made full restitution or reimbursement or has paid  
9803 actual damages to the consumers who have been injured by the  
9804 violation.

9805         **SECTION 145.** Section 79-11-133, Mississippi Code of 1972, is  
9806 amended as follows:

9807             79-11-133. (1) The Attorney General shall be given notice  
9808 of the commencement of any proceeding which Section 79-11-101 et  
9809 seq. authorizes the Attorney General to bring but which has been  
9810 commenced by another person.

9811             (2) Whenever any provision of Section 79-11-101 et seq.  
9812 requires that notice be given to the Attorney General or permits  
9813 the Attorney General to commence a proceeding:

9814                 (a) If no proceeding has been commenced, the Attorney  
9815 General, subject to the provisions of Sections 1 and 2 of this  
9816 act, may take appropriate action including, but not limited to,  
9817 seeking injunctive relief.

9818                 (b) If a proceeding has been commenced by a person  
9819 other than the Attorney General, the Attorney General, subject to  
9820 the provisions of Sections 1 and 2 of this act, as of right, may  
9821 intervene in such proceeding.



9822           **SECTION 146.** Section 79-11-509, Mississippi Code of 1972, is  
9823 amended as follows:

9824           79-11-509. (1) The Secretary of State shall deny, suspend  
9825 or revoke a registration or an exemption for the following  
9826 reasons:

9827                   (a) The application for registration or renewal is  
9828 incomplete.

9829                   (b) The application or renewal fee (where applicable)  
9830 has not been paid.

9831                   (c) A document filed with the Secretary of State  
9832 contains one or more false or misleading statements or omits  
9833 material facts.

9834                   (d) The charitable contributions have not been or are  
9835 not being applied for the purpose or purposes stated in the  
9836 documents filed with the Secretary of State.

9837                   (e) The applicant or registrant has violated or failed  
9838 to comply with any provisions of this chapter or any rule or order  
9839 thereunder.

9840                   (f) Any applicant, registrant, officer, director, or  
9841 partner of the applicant or registrant, or any agent or employee  
9842 thereof who has been convicted of a felony or a misdemeanor  
9843 involving misrepresentation, misapplication or misuse of the money  
9844 or property of another maintains a position where he or she has  
9845 access to or control over the funds of the charitable  
9846 organization.



9847           (g) The applicant or registrant has engaged in the use  
9848 or employment of dishonesty, fraud, deception, misrepresentation,  
9849 false promise or false pretense.

9850           (h) The applicant or registrant has had the authority  
9851 to engage in charitable or fund-raising activities denied, revoked  
9852 or suspended by the Secretary of State or any other state or  
9853 jurisdiction.

9854           (i) The applicant or registrant has been convicted of  
9855 any criminal offense committed in connection with the performance  
9856 of activities regulated under Sections 79-11-501 through 79-11-529  
9857 or any criminal offense involving untruthfulness or dishonesty or  
9858 any criminal offense relating adversely to the registrant's or  
9859 applicant's fitness to perform activities regulated by Sections  
9860 79-11-501 through 79-11-529. For the purposes of this paragraph,  
9861 a plea of guilty, non vult, nolo contendere or any other similar  
9862 disposition of alleged criminal activity shall be deemed a  
9863 conviction.

9864           (j) Any applicant, registrant, officer, director, or  
9865 partner of the applicant or registrant, or any agent, volunteer or  
9866 employee thereof, who has been convicted under federal or state  
9867 law of any criminal offense involving acts against children  
9868 maintains a position where he or she is in close contact with  
9869 children.



9870           (k) Any officer, director, partner, employee, agent or  
9871 volunteer has accrued three (3) or more unremediated citations  
9872 issued by the Secretary of State pursuant to this section.

9873           (1) The applicant or registrant has engaged in other  
9874 forms of misconduct as may be determined by the rules adopted by  
9875 the Secretary of State.

9876           (2) The Secretary of State shall notify the applicant or  
9877 licensee of his intent to deny, suspend or revoke a license. The  
9878 notification shall contain the reasons for the action and shall  
9879 inform him of his right to request an administrative hearing  
9880 within thirty (30) days of receipt of the notification. The  
9881 denial, suspension or revocation shall become effective thirty  
9882 (30) days after receipt of the notification unless a request for  
9883 an administrative hearing is received by the Secretary of State  
9884 before the expiration of the thirty (30) days. If a hearing is  
9885 requested and the denial, suspension or revocation is upheld, the  
9886 denial, suspension or revocation shall become effective upon the  
9887 service of the final administrative decision on the applicant or  
9888 licensee.

9889           (3) Registration shall become effective no later than noon  
9890 of the thirtieth day after a completed application is filed, if no  
9891 denial order is in effect and no proceeding is pending under this  
9892 chapter. The Secretary of State may, by rule or order, specify an  
9893 earlier effective date, and the Secretary of State may, by order,





9894 defer the effective date until noon of the thirtieth day after the  
9895 filing of any amendment.

9896 (4) (a) Whenever it appears to the Secretary of State that  
9897 any person has engaged in or is about to engage in any act or  
9898 practice constituting a violation of any provision of this chapter  
9899 or any rule or order hereunder, he may, in his discretion, seek  
9900 one or more of the following remedies in addition to other  
9901 remedies authorized by law:

9902 ( \* \* \*i) Issue a cease and desist order, with or  
9903 without a prior hearing against the person or persons engaged in  
9904 the prohibited activities, directing them to cease and desist from  
9905 further illegal activity;

9906 ( \* \* \*ii) Administratively dissolve or seek the  
9907 judicial dissolution of a domestic corporation that is a  
9908 charitable organization, or revoke the certificate of authority of  
9909 a foreign corporation that is a charitable organization; or

9910 ( \* \* \*iii) Issue an order imposing an  
9911 administrative penalty up to a maximum of Twenty-five Thousand  
9912 Dollars (\$25,000.00) for each offense, each violation to be  
9913 considered as a separate offense in a single proceeding or a  
9914 series of related proceedings;

9915 ( \* \* \*b) For the purpose of determining the amount or  
9916 extent of a sanction, if any, to be imposed under paragraph \* \* \*  
9917 (a) (ii) or (iii) of this subsection, the Secretary of State shall  
9918 consider, among other factors, the frequency, persistence and



9919 willfulness of the conduct constituting a violation of this  
9920 chapter or a rule promulgated thereunder or an order of the  
9921 Secretary of State, the number of persons adversely affected by  
9922 the conduct, and the resources of the person committing the  
9923 violation.

9924 (5) In addition to the above remedies, the Secretary of  
9925 State may issue a citation to any person engaging in any act or  
9926 practice constituting a violation of any provision of this chapter  
9927 or any rule or order hereunder. The Secretary of State shall  
9928 establish rules providing remediation of certain citations, and  
9929 the decision whether to allow such remediation will be within the  
9930 Secretary of State's discretion.

9931 (6) Whenever it appears to the Secretary of State or  
9932 Attorney General, subject to the provisions of Sections 1 and 2 of  
9933 this act, that any person has engaged in or is about to engage in  
9934 any act or practice constituting a violation of any provision of  
9935 Sections 79-11-501 through 79-11-529 or any rule or order  
9936 thereunder, either official may, in his discretion, take any or  
9937 all of the following actions: bring an action in chancery court  
9938 to obtain a temporary restraining order or injunction to enjoin  
9939 the acts or practices and enforce compliance with Sections  
9940 79-11-501 through 79-11-529 or any rule or order thereunder;  
9941 collect administrative penalties imposed under this section; or  
9942 obtain on behalf of a charitable organization the return or  
9943 repayment of any property or consideration received as private



9944 inurement or an excess benefit in violation of Section  
9945 79-11-519(3)(j). Upon a proper showing a permanent or temporary  
9946 injunction, restraining order or writ of mandamus shall be granted  
9947 and a receiver or conservator may be appointed for the defendant  
9948 or the defendant's assets. In addition, upon a proper showing,  
9949 the court may enter an order of rescission, restitution or  
9950 disgorgement directed to any person who has engaged in any act  
9951 constituting a violation of any provision of Sections 79-11-501  
9952 through 79-11-529 or any rule or order thereunder. In addition  
9953 the court may impose a civil penalty up to a maximum of  
9954 Twenty-five Thousand Dollars (\$25,000.00) for each offense, and  
9955 each violation shall be considered as a separate offense in a  
9956 single proceeding or a series of related proceedings. The court  
9957 may not require the Secretary of State or Attorney General to post  
9958 a bond.

9959 (7) Any person aggrieved by a final order of the Secretary  
9960 of State may obtain a review of the order in the Chancery Court of  
9961 the First Judicial District of Hinds County, Mississippi, by  
9962 filing in the court, within thirty (30) days after the entry of  
9963 the order, a written petition praying that the order be modified  
9964 or set aside, in whole or in part. A copy of the petition shall  
9965 be forthwith served upon the Secretary of State and thereupon the  
9966 Secretary of State shall certify and file in court a copy of the  
9967 filing and evidence upon which the order was entered. When these



9968 have been filed, the court has exclusive jurisdiction to affirm,  
9969 modify, enforce or set aside the order, in whole or in part.

9970 **SECTION 147.** Section 79-11-519, Mississippi Code of 1972, is  
9971 amended as follows:

9972 79-11-519. (1) It is the duty of the district attorneys and  
9973 county prosecuting attorneys of this state to prosecute all  
9974 violations of the provisions of Sections 79-11-501 through  
9975 79-11-529. In addition, actions for violations of Sections  
9976 79-11-501 through 79-11-529 may be prosecuted by the Attorney  
9977 General, subject to the provisions of Sections 1 and 2 of this  
9978 act.

9979 (2) Sections 79-11-501 through 79-11-529 shall not be  
9980 construed to limit or restrict the exercise of the powers or the  
9981 performance of the duties of the Attorney General which he  
9982 otherwise is authorized to exercise or perform under any other  
9983 provision of law by statute or otherwise except the rendering of  
9984 interpretative opinions in accordance with Section 79-11-503 which  
9985 shall be limited to the Secretary of State.

9986 (3) It shall be a violation of Sections 79-11-501 through  
9987 79-11-529 for any person:

9988 (a) To misrepresent:

9989 (i) The purpose or beneficiary of a solicitation;

9990 (ii) The purpose or nature of a charitable

9991 organization; or



9992 (iii) That any other person sponsors or endorses a  
9993 solicitation \* \* \*;

9994 (b) To use or exploit the fact of registration so as to  
9995 lead the public to believe that such registration constitutes an  
9996 endorsement or approval by the state;

9997 (c) To use the name of a charitable organization, or to  
9998 display any emblem, device or printed matter belonging to or  
9999 associated with a charitable organization without the express  
10000 written permission of the charitable organization;

10001 (d) To make any false or misleading statement on any  
10002 document required by Sections 79-11-501 through 79-11-529 or any  
10003 rule or order thereunder;

10004 (e) To fail to comply with the requirements of Sections  
10005 79-11-501 through 79-11-529 or any rule or order thereunder;

10006 (f) To commit any unfair or deceptive act or practice;  
10007 to employ any device, scheme or artifice to defraud; to engage in  
10008 any act, practice or course of business which operates or would  
10009 operate as a fraud or deceit upon any person; or to obtain money  
10010 or property by means of any false pretense, representation or  
10011 promise;

10012 (g) To fail to provide complete and timely payment to a  
10013 charitable organization of the proceeds from a solicitation  
10014 campaign or a charitable sales promotion;

10015 (h) To make any false or misleading statements in the  
10016 solicitations of contributions in this state or to omit to state



10017 any fact necessary in order to make the statements made, in light  
10018 of the circumstances under which they are made, not misleading;

10019 (i) To refuse or fail, after notice, to produce any  
10020 records required to be kept under Sections 79-11-501 through  
10021 79-11-529, or any rule or order promulgated thereunder;

10022 (j) To benefit, directly or indirectly, from any  
10023 transaction in which an economic benefit is provided by a  
10024 charitable organization where the value of the benefit provided by  
10025 the organization exceeds the fair market value of the  
10026 consideration received by the organization.

10027 (4) It shall be a violation of Sections 79-11-501 through  
10028 79-11-529 for any charitable organization:

10029 (a) To engage in any financial transaction which is not  
10030 related to the accomplishment of a charitable purpose, or which  
10031 jeopardizes or interferes with the ability of the charitable  
10032 organization to accomplish a charitable purpose;

10033 (b) To expend an unreasonable amount of money for  
10034 solicitation or management;

10035 (c) To use the name which is the same as or confusingly  
10036 similar to the name of another charitable organization unless the  
10037 latter organization shall consent in writing to its use;

10038 (d) To represent itself as being associated with  
10039 another charitable organization without the express written  
10040 acknowledgment and endorsement of such other charitable  
10041 organization;



10042 (e) To use the services of an unregistered professional  
10043 fund-raiser or fund-raising counsel or professional solicitor;

10044 (f) To fail to comply with any provisions of Sections  
10045 79-11-501 through 79-11-529 or any rule or order thereunder;

10046 (g) To employ as an officer, director, partner,  
10047 employee, agent or volunteer any person who has accrued three (3)  
10048 or more unremediated citations issued by the Secretary of State  
10049 pursuant to Section 79-11-509;

10050 (h) To employ as an officer, director, partner,  
10051 employee or agent any person who has been convicted of a felony or  
10052 misdemeanor involving misrepresentation, misapplication or misuse  
10053 of the money or property of another, in a capacity where that  
10054 person has access to or control over the funds of the charitable  
10055 organization;

10056 (i) To employ as an officer, director, partner,  
10057 employee, volunteer or agent any person who has been convicted  
10058 under federal or state law of any criminal offense involving acts  
10059 against children, where such position will bring the person into  
10060 close contact with children; or

10061 (j) To apply the charitable organization's funds or  
10062 assets for private inurement or excess benefits which exceed the  
10063 fair market value of the property or services received in return  
10064 from directors, officers, or those persons who are deemed  
10065 disqualified persons or insiders under applicable federal law for  
10066 tax-exempt organizations.



10067 (5) It shall be a violation of Sections 79-11-501 through  
10068 79-11-529 for any professional fund-raiser, professional  
10069 fund-raising counsel or any professional solicitor:

10070 (a) To perform any services on behalf of an  
10071 unregistered charitable organization; or

10072 (b) To fail to comply with any provisions of Sections  
10073 79-11-501 through 79-11-529 or any rule or order thereunder.

10074 (6) It shall be a violation of Sections 79-11-501 through  
10075 79-11-529 for any person, in connection with a public safety  
10076 organization solicitation:

10077 (a) To use any representation that implies that the  
10078 contribution is for or on behalf of a public safety agency or a  
10079 public safety organization, or using any emblem, device, or  
10080 printed matter belonging to or associated with a public safety  
10081 agency or organization, unless authorized in writing to do so by  
10082 the agency or organization;

10083 (b) To use a name, symbol, or statement that is similar  
10084 to that used by a public safety agency or organization in a manner  
10085 that is intended to confuse or mislead a person being solicited;

10086 (c) To represent or imply that the solicitor is a peace  
10087 officer or member of a public safety agency or public safety  
10088 organization if the solicitor is not;

10089 (d) To solicit for a public safety organization,  
10090 independent promoter, public safety publication, or cause by  
10091 representing that those who respond affirmatively to the





10092 solicitation will receive favored treatment by public safety  
10093 personnel; or

10094 (e) To fail to comply with any provisions of Sections  
10095 79-11-501 through 79-11-529 or any rule or order thereunder.

10096 (7) A misrepresentation may be accomplished by words or  
10097 conduct or failure to disclose a material fact. Regardless of a  
10098 person's intent or the lack of injury, the above acts and  
10099 practices are prohibited in the planning, conduct or execution of  
10100 any solicitation or charitable sales promotion.

10101 (8) The Secretary of State or the Attorney General may  
10102 exercise the authority granted in this section against any  
10103 charitable organization or person which or who operates under the  
10104 guise or pretense of being an organization exempted by the  
10105 provisions of Section 79-11-505, and is not in fact an  
10106 organization entitled to such an exemption.

10107 **SECTION 148.** Section 79-13-1105, Mississippi Code of 1972,  
10108 is amended as follows:

10109 79-13-1105. The Attorney General may maintain an action,  
10110 subject to the provisions of Sections 1 and 2 of this act, to  
10111 restrain a foreign limited liability partnership from transacting  
10112 business in this state in violation of this article.

10113 **SECTION 149.** Section 79-14-1012, Mississippi Code of 1972,  
10114 is amended as follows:

10115 79-14-1012. The Attorney General, subject to the provisions  
10116 of Sections 1 and 2 of this act, may maintain an action to enjoin



10117 a foreign limited partnership from doing business in this state in  
10118 violation of this article.

10119 **SECTION 150.** Section 79-29-1017, Mississippi Code of 1972,  
10120 is amended as follows:

10121 79-29-1017. The Attorney General, subject to the provisions  
10122 of Sections 1 and 2 of this act, may bring an action to restrain a  
10123 foreign limited liability company from transacting business in  
10124 this state in violation of this article.

10125 **SECTION 151.** Section 81-1-67, Mississippi Code of 1972, is  
10126 amended as follows:

10127 81-1-67. The commissioner and the deputy commissioner each  
10128 shall, before entering upon the discharge of their respective  
10129 duties, take and subscribe the constitutional oath of office and  
10130 shall execute to the State of Mississippi a bond in the sum of  
10131 Fifty Thousand Dollars (\$50,000.00) with a surety company  
10132 authorized to do business in this state, to be delivered to and  
10133 approved by the Treasurer of the State of Mississippi.

10134 The state bank examiners shall, before entering upon the  
10135 discharge of their duties, take and subscribe the constitutional  
10136 oath of office and shall execute to the State of Mississippi a  
10137 bond in the sum of Twenty Thousand Dollars (\$20,000.00) with a  
10138 surety company authorized to do business in this state, to be  
10139 delivered to and approved by the Treasurer of the State of  
10140 Mississippi.



10141           These bonds shall, by the terms thereof, be payable to the  
10142 state, and shall be liable to the state in actions brought by the  
10143 Attorney General, subject to the provisions of Sections 1 and 2 of  
10144 this act, on behalf of the state, and shall also be liable in  
10145 actions brought by anyone aggrieved by breach thereof. The bonds  
10146 shall be conditioned for the faithful and impartial performance of  
10147 the duties of the particular office for which the bond was given,  
10148 for the faithful and proper handling and accounting for all funds,  
10149 and for the payment of all damages and costs which may accrue  
10150 under provisions of law.

10151           **SECTION 152.** Section 81-19-9, Mississippi Code of 1972, is  
10152 amended as follows:

10153           81-19-9. (1) An application to become licensed as a  
10154 consumer loan broker shall be in writing, under oath and in a form  
10155 prescribed by the commissioner, and shall contain:

10156                   (a) The full name and address of the applicant;

10157                   (b) The street address, municipality and county of the  
10158 proposed licensed location;

10159                   (c) The complete business and residence address of:

10160                           (i) The proprietor, if an individual applicant;

10161                           (ii) All partners, if a partnership applicant; or

10162                           (iii) The directors and chief executive officer,

10163 if a corporate applicant; and



10164 (d) Such other information as the commissioner may  
10165 reasonably require in order to evaluate the applicant's  
10166 suitability to operate as a consumer loan broker.

10167 (2) Each application shall be accompanied by the payment of  
10168 Three Hundred Dollars (\$300.00), which shall be the annual license  
10169 fee for each licensed location of a consumer loan broker and is in  
10170 addition to all other taxes and fees required by law. The  
10171 twelve-month licensing period shall begin on the date the license  
10172 is issued.

10173 (3) Each application shall be accompanied by evidence of a  
10174 surety bond in an amount of Twenty-five Thousand Dollars  
10175 (\$25,000.00) issued by a company authorized to do business in  
10176 Mississippi and approved by the commissioner. The bond shall be  
10177 in favor of the State of Mississippi to discharge unsatisfied  
10178 indebtedness or liability of the licensed consumer loan broker to  
10179 the state, any political subdivision thereof or to any person who  
10180 may have a cause of action against the broker by reason of the  
10181 broker's conduct as a licensed consumer loan broker.

10182 The surety on the bond may cancel same by giving sixty (60)  
10183 days' notice in writing to the commissioner and thereafter shall  
10184 be relieved of liability after the effective date of cancellation.  
10185 The commissioner shall require a new bond in an amount of  
10186 Twenty-five Thousand Dollars (\$25,000.00) at any time he has  
10187 knowledge that a licensee's bond has expired, is about to expire  
10188 or, in the opinion of the commissioner, is insecure for any



10189 reason. The license of any consumer loan broker who fails to post  
10190 a replacement bond within ten (10) days from receipt of a notice  
10191 from the commissioner shall be cancelled immediately.

10192 Claimants against the licensee may bring suit directly on the  
10193 bond, and the Attorney General, subject to the provisions of  
10194 Sections 1 and 2 of this act, also may bring suit on behalf of  
10195 claimants in one (1) or multiple actions.

10196 **SECTION 153.** Section 81-22-17, Mississippi Code of 1972, is  
10197 amended as follows:

10198 81-22-17. The commissioner may exercise the following powers  
10199 and functions:

10200 (a) **Complaint investigation.** The commissioner may  
10201 receive and act on complaints, take action to obtain voluntary  
10202 compliance with this chapter or refer cases to the Attorney  
10203 General, subject to the provisions of Sections 1 and 2 of this  
10204 act, who shall appear for and represent the commissioner in court.

10205 (b) **Rules.** The commissioner may adopt reasonable  
10206 administrative regulations, not inconsistent with law, for the  
10207 enforcement of this chapter.

10208 (c) **Examination of licensees.** To assure compliance  
10209 with the provisions of this chapter, the department may examine  
10210 the books and records of any licensee without notice during normal  
10211 business hours. The commissioner shall charge the licensee an  
10212 examination fee in an amount not less than Three Hundred Dollars  
10213 (\$300.00) nor more than Six Hundred Dollars (\$600.00) for each



10214 office or location within the State of Mississippi, plus any  
10215 actual expenses incurred while examining the licensee's records or  
10216 books that are located outside the State of Mississippi. However,  
10217 in no event shall a licensee be examined more than once in a  
10218 two-year period unless for cause shown based upon consumer  
10219 complaint and/or other exigent reasons as determined by the  
10220 commissioner.

10221 (d) **Examination of nonlicensees.** The department, its  
10222 designated officers and employees, or its duly authorized  
10223 representatives, for the purposes of discovering violations of  
10224 this chapter and for the purpose of determining whether any person  
10225 or individual reasonably suspected by the commissioner of  
10226 conducting business that requires a license under this chapter,  
10227 may investigate those persons and individuals and examine all  
10228 relevant books, records and papers employed by those persons or  
10229 individuals in the transaction of business, and may summon  
10230 witnesses and examine them under oath concerning matters as to the  
10231 business of those persons, or other such matters as may be  
10232 relevant to the discovery of violations of this chapter,  
10233 including, without limitation, the conduct of business without a  
10234 license as required under this chapter.

10235 **SECTION 154.** Section 83-29-45, Mississippi Code of 1972, is  
10236 amended as follows:

10237 83-29-45. The Commissioner of Insurance, or any person or  
10238 persons he may appoint, shall have the power of visitation and



10239 examination into the affairs of any domestic society. They shall  
10240 have free access to all the books, papers, and documents that  
10241 relate to the business of the society.

10242 The expenses of such examination shall be paid by the society  
10243 examined, upon statement furnished by the Commissioner of  
10244 Insurance, and the examination shall be made as often as the  
10245 commissioner, in his sole discretion, deems appropriate but, at a  
10246 minimum, at least once in every five (5) years.

10247 Whenever after examination the Commissioner of Insurance is  
10248 satisfied that any domestic society has failed to comply with any  
10249 provisions of this chapter, or is exceeding its powers, or is not  
10250 carrying out its contracts in good faith, or is transacting  
10251 business fraudulently, or whenever any domestic society, after the  
10252 existence of one (1) year or more, shall have a membership of less  
10253 than four hundred (400) or shall determine to discontinue  
10254 business, the Commissioner of Insurance may present the facts  
10255 relating thereto to the Attorney General, subject to the  
10256 provisions of Sections 1 and 2 of this act, who shall, if he deem  
10257 the circumstances warrant, commence an action in quo warranto in a  
10258 court of competent jurisdiction. Such court shall thereupon  
10259 notify the officers of such society of a hearing, and if it shall  
10260 then appear that such society should be closed, said society shall  
10261 be enjoined from carrying on any further business; and some person  
10262 shall be appointed receiver of such society and shall proceed at  
10263 once to take possession of the books, papers, monies, and other



10264 assets of the society and shall forthwith, under the direction of  
10265 the court, proceed to close the affairs of the society and to  
10266 distribute its funds to those entitled thereto.

10267 **SECTION 155.** Section 83-37-31, Mississippi Code of 1972, is  
10268 amended as follows:

10269 83-37-31. Should the insurance commissioner find that any  
10270 person, firm, association, or corporation engaged in the business  
10271 herein described has refused to pay any just claim or demand based  
10272 on the contracts, or that he or they be unable to pay same after  
10273 the claim or demand has been legally determined to be just and  
10274 outstanding, or fail to comply with any of the licensing  
10275 provisions of this chapter, the commissioner shall notify the  
10276 Attorney General. The Attorney General, subject to the provisions  
10277 of Sections 1 and 2 of this act, shall apply to the chancery court  
10278 for a receivership to wind up the business of such person, firm,  
10279 association, or corporation, shall represent the interest of all  
10280 claimants under such contracts, and shall have a right of action  
10281 for the use and benefit of the claimants against the bond or  
10282 security herein required for the full amount of all such claims,  
10283 together with all necessary costs of such receivership.

10284 **SECTION 156.** Section 83-49-31, Mississippi Code of 1972, is  
10285 amended as follows:

10286 83-49-31. If the commissioner finds that any prepaid legal  
10287 services plan operator or its sponsor (a) has failed to comply  
10288 with any provision of this chapter; (b) is fraudulently operated;





10289 (c) is in such condition as to render further plan operations  
10290 hazardous to the public interest or the interest of subscribers;  
10291 (d) is financially unable to meet its obligations and claims as  
10292 they come due; or (e) has violated any other provision of law, he  
10293 may apply to the Circuit Court of the First Judicial District of  
10294 Hinds County, State of Mississippi, for an injunction. The court  
10295 may forthwith issue a temporary injunction restraining the  
10296 transaction of any business by the plan, and it may, after a full  
10297 hearing, make the injunction permanent, and appoint one or more  
10298 receivers to take the plan to settle its affairs, and distribute  
10299 its funds to those entitled thereto, subject to such rules and  
10300 orders as the court may prescribe. If it appears that a crime has  
10301 been committed in connection with the sale, advertisement,  
10302 administration or management of any prepaid legal services plan,  
10303 the Attorney General of the State of Mississippi may pursue the  
10304 appropriate criminal action, subject to the provisions of Sections  
10305 1 and 2 of this act.

10306 **SECTION 157.** Section 83-69-1, Mississippi Code of 1972, is  
10307 amended as follows:

10308 83-69-1. The Interstate Insurance Product Regulation Compact  
10309 is enacted into law and entered into by this State with any and  
10310 all States legally joining in accordance with its terms, in the  
10311 form substantially as follows:



10312           **Article I. Purposes.** The purposes of this Compact are,  
10313 through means of joint and cooperative action among the Compacting  
10314 States:

10315           1. To promote and protect the interest of consumers of  
10316 individual and group annuity, life insurance, disability income  
10317 and long-term care insurance products;

10318           2. To develop Uniform Standards for insurance products  
10319 covered under the Compact;

10320           3. To establish a central clearinghouse to receive and  
10321 provide prompt review of insurance products covered under the  
10322 Compact and, in certain cases, advertisements related thereto,  
10323 submitted by Insurers authorized to do business in one or more  
10324 Compacting States;

10325           4. To give appropriate regulatory approval to those product  
10326 filings and advertisements satisfying the applicable Uniform  
10327 Standard;

10328           5. To improve coordination of regulatory resources and  
10329 expertise between State insurance departments regarding the  
10330 setting of Uniform Standards and review of insurance products  
10331 covered under the Compact;

10332           6. To create the Interstate Insurance Product Regulation  
10333 Commission; and

10334           7. To perform these and such other related functions as may  
10335 be consistent with the State regulation of the business of  
10336 insurance.



10337           **Article II. Definitions.** For purposes of this Compact:

10338           1. "Advertisement" means any material designed to create  
10339 public interest in a product, or induce the public to purchase,  
10340 increase, modify, reinstate, borrow on, surrender, replace or  
10341 retain a policy, as more specifically defined in the Rules and  
10342 Operating Procedures of the Commission.

10343           2. "Bylaws" mean those Bylaws established by the Commission  
10344 for its governance, or for directing or controlling the  
10345 Commission's actions or conduct.

10346           3. "Compacting State" means any State which has enacted this  
10347 Compact legislation and which has not withdrawn pursuant to  
10348 Article XIV, Section 1, or been terminated pursuant to Article  
10349 XIV, Section 2.

10350           4. "Commission" means the "Interstate Insurance Product  
10351 Regulation Commission" established by this Compact.

10352           5. "Commissioner" means the chief insurance regulatory  
10353 official of a State including, but not limited to, Commissioner,  
10354 superintendent, director or administrator.

10355           6. "Domiciliary State" means the State in which an Insurer  
10356 is incorporated or organized; or, in the case of an alien Insurer,  
10357 its State of entry.

10358           7. "Insurer" means any entity licensed by a State to issue  
10359 contracts of insurance for any of the lines of insurance covered  
10360 by this Compact.



10361           8. "Member" means the person chosen by a Compacting State as  
10362 its representative to the Commission, or his or her designee.

10363           9. "Noncompacting State" means any State which is not at the  
10364 time a Compacting State.

10365           10. "Operating Procedures" mean procedures promulgated by  
10366 the Commission implementing a Rule, Uniform Standard or a  
10367 provision of this Compact.

10368           11. "Product" means the form of a policy or contract,  
10369 including any application, endorsement, or related form which is  
10370 attached to and made a part of the policy or contract, and any  
10371 evidence of coverage or certificate, for an individual or group  
10372 annuity, life insurance, disability income or long-term care  
10373 insurance product that an Insurer is authorized to issue.

10374           12. "Rule" means a statement of general or particular  
10375 applicability and future effect promulgated by the Commission,  
10376 including a Uniform Standard developed pursuant to Article VII of  
10377 this Compact, designed to implement, interpret, or prescribe law  
10378 or policy or describing the organization, procedure, or practice  
10379 requirements of the Commission, which shall have the force and  
10380 effect of law in the Compacting States.

10381           13. "State" means any State, district or territory of the  
10382 United States of America.

10383           14. "Third Party Filer" means an entity that submits a  
10384 product filing to the Commission on behalf of an Insurer.



10385           15. "Uniform Standard" means a standard adopted by the  
10386 Commission for a product line, pursuant to Article VII of this  
10387 Compact, and shall include all of the product requirements in  
10388 aggregate; provided, that each Uniform Standard shall be  
10389 construed, whether express or implied, to prohibit the use of any  
10390 inconsistent, misleading or ambiguous provisions in a product and  
10391 the form of the product made available to the public shall not be  
10392 unfair, inequitable or against public policy as determined by the  
10393 Commission.

10394           **Article III. Establishment of the Commission and Venue.**

10395           1. The Compacting States hereby create and establish a joint  
10396 public agency known as the "Interstate Insurance Product  
10397 Regulation Commission." Pursuant to Article IV, the Commission  
10398 will have the power to develop Uniform Standards for product  
10399 lines, receive and provide prompt review of products filed  
10400 therewith, and give approval to those product filings satisfying  
10401 applicable Uniform Standards; provided, it is not intended for the  
10402 Commission to be the exclusive entity for receipt and review of  
10403 insurance product filings. Nothing herein shall prohibit any  
10404 Insurer from filing its product in any State wherein the Insurer  
10405 is licensed to conduct the business of insurance; and any such  
10406 filing shall be subject to the laws of the State where filed.

10407           2. The Commission is a body corporate and politic, and an  
10408 instrumentality of the Compacting States.



10409           3. The Commission is solely responsible for its liabilities  
10410 except as otherwise specifically provided in this Compact.

10411           4. Venue is proper and judicial proceedings by or against  
10412 the Commission shall be brought solely and exclusively in a Court  
10413 of competent jurisdiction where the principal office of the  
10414 Commission is located.

10415           **Article IV. Powers of the Commission.** The Commission shall  
10416 have the following powers:

10417           1. To promulgate Rules, pursuant to Article VII of this  
10418 Compact, which shall have the force and effect of law and shall be  
10419 binding in the Compacting States to the extent and in the manner  
10420 provided in this Compact;

10421           2. To exercise its Rulemaking Authority and establish  
10422 reasonable Uniform Standards for Products covered under the  
10423 Compact, and Advertisement related thereto, which shall have the  
10424 force and effect of law and shall be binding in the Compacting  
10425 States, but only for those products filed with the Commission,  
10426 provided, that a Compacting State shall have the right to opt out  
10427 of such Uniform Standard pursuant to Article VII, to the extent  
10428 and in the manner provided in this Compact, and, provided further,  
10429 that any Uniform Standard established by the Commission for  
10430 long-term care insurance products may provide the same or greater  
10431 protections for consumers as, but shall not provide less than,  
10432 those protections set forth in the National Association of  
10433 Insurance Commissioners' Long-Term Care Insurance Model Act and



10434 Long-Term Care Insurance Model Regulation, respectively, adopted  
10435 as of 2001. The Commission shall consider whether any subsequent  
10436 amendments to the NAIC Long-Term Care Insurance Model Act or  
10437 Long-Term Care Insurance Model Regulation adopted by the NAIC  
10438 require amending of the Uniform Standards established by the  
10439 Commission for long-term care insurance products;

10440       3. To receive and review in an expeditious manner products  
10441 filed with the Commission, and rate filings for disability income  
10442 and long-term care insurance products, and give approval of those  
10443 products and rate filings that satisfy the applicable Uniform  
10444 Standard, where such approval shall have the force and effect of  
10445 law and be binding on the Compacting States to the extent and in  
10446 the manner provided in the Compact;

10447       4. To receive and review in an expeditious manner  
10448 Advertisement relating to long-term care insurance products for  
10449 which Uniform Standards have been adopted by the Commission, and  
10450 give approval to all Advertisement that satisfies the applicable  
10451 Uniform Standard. For any product covered under this Compact,  
10452 other than long-term care insurance products, the Commission shall  
10453 have the authority to require an Insurer to submit all or any part  
10454 of its Advertisement with respect to that product for review or  
10455 approval prior to use, if the Commission determines that the  
10456 nature of the product is such that an Advertisement of the product  
10457 could have the capacity or tendency to mislead the public. The  
10458 actions of the Commission as provided in this section shall have



10459 the force and effect of law and shall be binding in the Compacting  
10460 States to the extent and in the manner provided in the Compact;

10461 5. To exercise its Rulemaking Authority and designate  
10462 Products and Advertisement that may be subject to a  
10463 self-certification process without the need for prior approval by  
10464 the Commission \* \* \*;

10465 6. To promulgate Operating Procedures, pursuant to Article  
10466 VII of this Compact, which shall be binding in the Compacting  
10467 States to the extent and in the manner provided in this Compact;

10468 7. To bring and prosecute legal proceedings or actions in  
10469 its name as the Commission; provided, that the standing of any  
10470 State insurance department to sue or be sued under applicable law  
10471 shall not be affected;

10472 8. To issue subpoenas requiring the attendance and testimony  
10473 of witnesses and the production of evidence;

10474 9. To establish and maintain offices;

10475 10. To purchase and maintain insurance and bonds;

10476 11. To borrow, accept or contract for services of personnel,  
10477 including, but not limited to, employees of a Compacting State;

10478 12. To hire employees, professionals or specialists, and  
10479 elect or appoint officers, and to fix their compensation, define  
10480 their duties and give them appropriate authority to carry out the  
10481 purposes of the Compact, and determine their qualifications; and  
10482 to establish the Commission's personnel policies and programs





10483 relating to, among other things, conflicts of interest, rates of  
10484 compensation and qualifications of personnel;

10485 13. To accept any and all appropriate donations and grants  
10486 of money, equipment, supplies, materials and services, and to  
10487 receive, utilize and dispose of the same; provided that at all  
10488 times the Commission shall strive to avoid any appearance of  
10489 impropriety;

10490 14. To lease, purchase, accept appropriate gifts or  
10491 donations of, or otherwise to own, hold, improve or use, any  
10492 property, real, personal or mixed; provided that at all times the  
10493 Commission shall strive to avoid any appearance of impropriety;

10494 15. To sell, convey, mortgage, pledge, lease, exchange,  
10495 abandon or otherwise dispose of any property, real, personal or  
10496 mixed;

10497 16. To remit filing fees to Compacting States as may be set  
10498 forth in the Bylaws, Rules or Operating Procedures;

10499 17. To enforce compliance by Compacting States with Rules,  
10500 Uniform Standards, Operating Procedures and Bylaws;

10501 18. To provide for dispute resolution among Compacting  
10502 States;

10503 19. To advise Compacting States on issues relating to  
10504 Insurers domiciled or doing business in Noncompacting  
10505 jurisdictions, consistent with the purposes of this Compact;



10506           20. To provide advice and training to those personnel in  
10507 State insurance departments responsible for product review, and to  
10508 be a resource for State insurance departments;

10509           21. To establish a budget and make expenditures;

10510           22. To borrow money;

10511           23. To appoint committees, including advisory committees  
10512 comprising members, State insurance regulators, State legislators  
10513 or their representatives, insurance industry and consumer  
10514 representatives, and such other interested persons as may be  
10515 designated in the Bylaws;

10516           24. To provide and receive information from, and to  
10517 cooperate with law enforcement agencies;

10518           25. To adopt and use a corporate seal; and

10519           26. To perform such other functions as may be necessary or  
10520 appropriate to achieve the purposes of this Compact consistent  
10521 with the State regulation of the business of insurance.

10522           **Article V. Organization of the Commission.**

10523           1. Membership, Voting and Bylaws.

10524           a. Each Compacting State shall have and be limited to  
10525 one (1) member. Each member shall be qualified to serve in that  
10526 capacity pursuant to applicable law of the Compacting State. Any  
10527 member may be removed or suspended from office as provided by the  
10528 law of the State from which he or she shall be appointed. Any  
10529 vacancy occurring in the Commission shall be filled in accordance  
10530 with the laws of the Compacting State wherein the vacancy exists.



10531 Nothing herein shall be construed to affect the manner in which a  
10532 Compacting State determines the election or appointment and  
10533 qualification of its own Commissioner.

10534           b. Each member shall be entitled to one (1) vote and  
10535 shall have an opportunity to participate in the governance of the  
10536 Commission in accordance with the Bylaws. Notwithstanding any  
10537 provision herein to the contrary, no action of the Commission with  
10538 respect to the promulgation of a Uniform Standard shall be  
10539 effective unless two-thirds (2/3) of the members vote in favor  
10540 thereof.

10541           c. The Commission shall, by a majority of the members,  
10542 prescribe Bylaws to govern its conduct as may be necessary or  
10543 appropriate to carry out the purposes, and exercise the powers, of  
10544 the Compact, including, but not limited to:

10545                   i. Establishing the fiscal year of the Commission;

10546                   ii. Providing reasonable procedures for appointing  
10547 and electing members, as well as holding meetings, of the  
10548 Management Committee;

10549                   iii. Providing reasonable standards and  
10550 procedures: (i) for the establishment and meetings of other  
10551 committees, and (ii) governing any general or specific delegation  
10552 of any authority or function of the Commission;

10553                   iv. Providing reasonable procedures for calling  
10554 and conducting meetings of the Commission that consists of a  
10555 majority of Commission members, ensuring reasonable advance notice



10556 of each such meeting and providing for the right of citizens to  
10557 attend each such meeting with enumerated exceptions designed to  
10558 protect the public's interest, the privacy of individuals, and  
10559 Insurers' proprietary information, including trade secrets. The  
10560 Commission may meet in camera only after a majority of the entire  
10561 membership votes to close a meeting en toto or in part. As soon  
10562 as practicable, the Commission must make public (i) a copy of the  
10563 vote to close the meeting revealing the vote of each member with  
10564 no proxy votes allowed, and (ii) votes taken during such meeting;

10565           v. Establishing the titles, duties and authority  
10566 and reasonable procedures for the election of the officers of the  
10567 Commission;

10568           vi. Providing reasonable standards and procedures  
10569 for the establishment of the personnel policies and programs of  
10570 the Commission. Notwithstanding any civil service or other  
10571 similar laws of any Compacting State, the Bylaws shall exclusively  
10572 govern the personnel policies and programs of the Commission;

10573           vii. Promulgating a code of ethics to address  
10574 permissible and prohibited activities of Commission members and  
10575 employees; and

10576           viii. Providing a mechanism for winding up the  
10577 operations of the Commission and the equitable disposition of any  
10578 surplus funds that may exist after the termination of the Compact  
10579 after the payment and/or reserving of all of its debts and  
10580 obligations.



10581           d. The Commission shall publish its Bylaws in a  
10582 convenient form and file a copy thereof and a copy of any  
10583 amendment thereto, with the appropriate agency or officer in each  
10584 of the Compacting States.

10585           2. Management Committee, Officers and Personnel.

10586           a. A Management Committee comprising no more than  
10587 fourteen (14) members shall be established as follows:

10588           i. One (1) member from each of the six (6)  
10589 Compacting States with the largest premium volume for individual  
10590 and group annuities, life, disability income and long-term care  
10591 insurance products, determined from the records of the NAIC for  
10592 the prior year;

10593           ii. Four (4) members from those Compacting States  
10594 with at least two percent (2%) of the market based on the premium  
10595 volume described above, other than the six (6) Compacting States  
10596 with the largest premium volume, selected on a rotating basis as  
10597 provided in the Bylaws; and

10598           iii. Four (4) members from those Compacting States  
10599 with less than two percent (2%) of the market, based on the  
10600 premium volume described above, with one (1) selected from each of  
10601 the four (4) zone regions of the NAIC as provided in the Bylaws.

10602           b. The Management Committee shall have such authority  
10603 and duties as may be set forth in the Bylaws, including but not  
10604 limited to:



10605                   i. Managing the affairs of the Commission in a  
10606 manner consistent with the Bylaws and purposes of the Commission;

10607                   ii. Establishing and overseeing an organizational  
10608 structure within, and appropriate procedures for, the Commission  
10609 to provide for the creation of Uniform Standards and other Rules,  
10610 receipt and review of product filings, administrative and  
10611 technical support functions, review of decisions regarding the  
10612 disapproval of a product filing, and the review of elections made  
10613 by a Compacting State to opt out of a Uniform Standard; provided  
10614 that a Uniform Standard shall not be submitted to the Compacting  
10615 States for adoption unless approved by two-thirds (2/3) of the  
10616 members of the Management Committee;

10617                   iii. Overseeing the offices of the Commission; and

10618                   iv. Planning, implementing, and coordinating  
10619 communications and activities with other State, federal and local  
10620 government organizations in order to advance the goals of the  
10621 Commission.

10622                   c. The Commission shall elect annually officers from  
10623 the Management Committee, with each having such authority and  
10624 duties, as may be specified in the Bylaws.

10625                   d. The Management Committee may, subject to the  
10626 approval of the Commission, appoint or retain an executive  
10627 director for such period, upon such terms and conditions and for  
10628 such compensation as the Commission may deem appropriate. The  
10629 executive director shall serve as secretary to the Commission, but



10630 shall not be a member of the Commission. The executive director  
10631 shall hire and supervise such other staff as may be authorized by  
10632 the Commission.

10633 3. Legislative and Advisory Committees.

10634 a. A legislative committee comprising State legislators  
10635 or their designees shall be established to monitor the operations  
10636 of, and make recommendations to, the Commission, including the  
10637 Management Committee; provided that the manner of selection and  
10638 term of any legislative committee member shall be as set forth in  
10639 the Bylaws. Prior to the adoption by the Commission of any  
10640 Uniform Standard, revision to the Bylaws, annual budget or other  
10641 significant matter as may be provided in the Bylaws, the  
10642 Management Committee shall consult with and report to the  
10643 legislative committee.

10644 b. The Commission shall establish two (2) advisory  
10645 committees, one (1) of which shall comprise consumer  
10646 representatives independent of the insurance industry, and the  
10647 other comprising insurance industry representatives.

10648 c. The Commission may establish additional advisory  
10649 committees as its Bylaws may provide for the carrying out of its  
10650 functions.

10651 4. Corporate Records of the Commission. The Commission  
10652 shall maintain its corporate books and records in accordance with  
10653 the Bylaws.

10654 5. Qualified Immunity, Defense and Indemnification.



10655           a. The members, officers, executive director, employees  
10656 and representatives of the Commission shall be immune from suit  
10657 and liability, either personally or in their official capacity,  
10658 for any claim for damage to or loss of property or personal injury  
10659 or other civil liability caused by or arising out of any actual or  
10660 alleged act, error or omission that occurred, or that the person  
10661 against whom the claim is made had a reasonable basis for  
10662 believing occurred within the scope of Commission employment,  
10663 duties or responsibilities; provided, that nothing in this  
10664 paragraph shall be construed to protect any such person from suit  
10665 and/or liability for any damage, loss, injury or liability caused  
10666 by the intentional or willful and wanton misconduct of that  
10667 person.

10668           b. The Commission shall defend any member, officer,  
10669 executive director, employee or representative of the Commission  
10670 in any civil action seeking to impose liability arising out of any  
10671 actual or alleged act, error or omission that occurred within the  
10672 scope of Commission employment, duties or responsibilities, or  
10673 that the person against whom the claim is made had a reasonable  
10674 basis for believing occurred within the scope of Commission  
10675 employment, duties or responsibilities; provided, that nothing  
10676 herein shall be construed to prohibit that person from retaining  
10677 his or her own counsel; and provided further, that the actual or  
10678 alleged act, error or omission did not result from that person's  
10679 intentional or willful and wanton misconduct.





10680 c. The Commission shall indemnify and hold harmless any  
10681 member, officer, executive director, employee or representative of  
10682 the Commission for the amount of any settlement or judgment  
10683 obtained against that person arising out of any actual or alleged  
10684 act, error or omission that occurred within the scope of  
10685 Commission employment, duties or responsibilities, or that such  
10686 person had a reasonable basis for believing occurred within the  
10687 scope of Commission employment, duties or responsibilities,  
10688 provided, that the actual or alleged act, error or omission did  
10689 not result from the intentional or willful and wanton misconduct  
10690 of that person.

10691 **Article VI. Meetings and Acts of the Commission.**

10692 1. The Commission shall meet and take such actions as are  
10693 consistent with the provisions of this Compact and the Bylaws.

10694 2. Each member of the Commission shall have the right and  
10695 power to cast a vote to which that Compacting State is entitled  
10696 and to participate in the business and affairs of the Commission.  
10697 A member shall vote in person or by such other means as provided  
10698 in the Bylaws. The Bylaws may provide for members' participation  
10699 in meetings by telephone or other means of communication.

10700 3. The Commission shall meet at least once during each  
10701 calendar year. Additional meetings shall be held as set forth in  
10702 the Bylaws.

10703 **Article VII. Rules and Operating Procedures: Rulemaking**  
10704 **Functions of the Commission and Opting Out of Uniform Standards.**



10705           1. Rulemaking Authority. The Commission shall promulgate  
10706 reasonable Rules, including Uniform Standards, and Operating  
10707 Procedures in order to effectively and efficiently achieve the  
10708 purposes of this Compact. Notwithstanding the foregoing, in the  
10709 event the Commission exercises its Rulemaking Authority in a  
10710 manner that is beyond the scope of the purposes of this Compact,  
10711 or the powers granted hereunder, then such an action by the  
10712 Commission shall be invalid and have no force and effect.

10713           2. Rulemaking Procedure. Rules and Operating Procedures  
10714 shall be made pursuant to a rulemaking process that conforms to  
10715 the Model State Administrative Procedure Act of 1981 as amended,  
10716 as may be appropriate to the operations of the Commission. Before  
10717 the Commission adopts a Uniform Standard, the Commission shall  
10718 give written notice to the relevant State legislative committee(s)  
10719 in each Compacting State responsible for insurance issues of its  
10720 intention to adopt the Uniform Standard. The Commission in  
10721 adopting a Uniform Standard shall consider fully all submitted  
10722 materials and issue a concise explanation of its decision.

10723           3. Effective Date and Opt Out of a Uniform Standard. A  
10724 Uniform Standard shall become effective ninety (90) days after its  
10725 promulgation by the Commission or such later date as the  
10726 Commission may determine; provided, however, that a Compacting  
10727 State may opt out of a Uniform Standard as provided in this  
10728 Article. "Opt out" shall be defined as any action by a Compacting  
10729 State to decline to adopt or participate in a promulgated Uniform



10730 Standard. All other Rules and Operating Procedures, and  
10731 amendments thereto, shall become effective as of the date  
10732 specified in each Rule, Operating Procedure or amendment.

10733 4. Opt Out Procedure. A Compacting State may opt out of a  
10734 Uniform Standard, either by legislation or regulation duly  
10735 promulgated by the Insurance Department under the Compacting  
10736 State's Administrative Procedure Act. If a Compacting State  
10737 elects to opt out of a Uniform Standard by regulation, it must (a)  
10738 give written notice to the Commission no later than ten (10)  
10739 business days after the Uniform Standard is promulgated, or at the  
10740 time the State becomes a Compacting State and (b) find that the  
10741 Uniform Standard does not provide reasonable protections to the  
10742 citizens of the State, given the conditions in the State. The  
10743 Commissioner shall make specific findings of fact and conclusions  
10744 of law, based on a preponderance of the evidence, detailing the  
10745 conditions in the State which warrant a departure from the Uniform  
10746 Standard and determining that the Uniform Standard would not  
10747 reasonably protect the citizens of the State. The Commissioner  
10748 must consider and balance the following factors and find that the  
10749 conditions in the State and needs of the citizens of the State  
10750 outweigh: (i) the intent of the Legislature to participate in,  
10751 and the benefits of, an interstate agreement to establish national  
10752 uniform consumer protections for the products subject to this  
10753 Compact; and (ii) the presumption that a Uniform Standard adopted



10754 by the Commission provides reasonable protections to consumers of  
10755 the relevant product.

10756 Notwithstanding the foregoing, a Compacting State may, at the  
10757 time of its enactment of this Compact, prospectively opt out of  
10758 all Uniform Standards involving long-term care insurance products  
10759 by expressly providing for such opt out in the enacted Compact,  
10760 and such an opt out shall not be treated as a material variance in  
10761 the offer or acceptance of any State to participate in this  
10762 Compact. Such an opt out shall be effective at the time of  
10763 enactment of this Compact by the Compacting State and shall apply  
10764 to all existing Uniform Standards involving long-term care  
10765 insurance products and those subsequently promulgated.

10766 5. Effect of Opt Out. If a Compacting State elects to opt  
10767 out of a Uniform Standard, the Uniform Standard shall remain  
10768 applicable in the Compacting State electing to opt out until such  
10769 time the opt out legislation is enacted into law or the regulation  
10770 opting out becomes effective.

10771 Once the opt out of a Uniform Standard by a Compacting State  
10772 becomes effective as provided under the laws of that State, the  
10773 Uniform Standard shall have no further force and effect in that  
10774 State unless and until the legislation or regulation implementing  
10775 the opt out is repealed or otherwise becomes ineffective under the  
10776 laws of the State. If a Compacting State opts out of a Uniform  
10777 Standard after the Uniform Standard has been made effective in



10778 that State, the opt out shall have the same prospective effect as  
10779 provided under Article XIV for withdrawals.

10780         6. Stay of Uniform Standard. If a Compacting State has  
10781 formally initiated the process of opting out of a Uniform Standard  
10782 by regulation, and while the regulatory opt out is pending, the  
10783 Compacting State may petition the Commission, at least fifteen  
10784 (15) days before the effective date of the Uniform Standard, to  
10785 stay the effectiveness of the Uniform Standard in that State. The  
10786 Commission may grant a stay if it determines the regulatory opt  
10787 out is being pursued in a reasonable manner and there is a  
10788 likelihood of success. If a stay is granted or extended by the  
10789 Commission, the stay or extension thereof may postpone the  
10790 effective date by up to ninety (90) days, unless affirmatively  
10791 extended by the Commission; provided, a stay may not be permitted  
10792 to remain in effect for more than one (1) year unless the  
10793 Compacting State can show extraordinary circumstances which  
10794 warrant a continuance of the stay, including, but not limited to,  
10795 the existence of a legal challenge which prevents the Compacting  
10796 State from opting out. A stay may be terminated by the Commission  
10797 upon notice that the rulemaking process has been terminated.

10798         7. Not later than thirty (30) days after a Rule or Operating  
10799 Procedure is promulgated, any person may file a petition for  
10800 judicial review of the Rule or Operating Procedure; provided, that  
10801 the filing of such a petition shall not stay or otherwise prevent  
10802 the Rule or Operating Procedure from becoming effective unless the



10803 court finds that the petitioner has a substantial likelihood of  
10804 success. The court shall give deference to the actions of the  
10805 Commission consistent with applicable law and shall not find the  
10806 Rule or Operating Procedure to be unlawful if the Rule or  
10807 Operating Procedure represents a reasonable exercise of the  
10808 Commission's authority.

10809 **Article VIII. Commission Records and Enforcement.**

10810 1. The Commission shall promulgate Rules establishing  
10811 conditions and procedures for public inspection and copying of its  
10812 information and official records, except such information and  
10813 records involving the privacy of individuals and Insurers' trade  
10814 secrets. The Commission may promulgate additional Rules under  
10815 which it may make available to federal and State agencies,  
10816 including law enforcement agencies, records and information  
10817 otherwise exempt from disclosure, and may enter into agreements  
10818 with such agencies to receive or exchange information or records  
10819 subject to nondisclosure and confidentiality provisions.

10820 2. Except as to privileged records, data and information,  
10821 the laws of any Compacting State pertaining to confidentiality or  
10822 nondisclosure shall not relieve any Compacting State Commissioner  
10823 of the duty to disclose any relevant records, data or information  
10824 to the Commission; provided, that disclosure to the Commission  
10825 shall not be deemed to waive or otherwise affect any  
10826 confidentiality requirement; and further provided, that, except as  
10827 otherwise expressly provided in this Compact, the Commission shall



10828 not be subject to the Compacting State's laws pertaining to  
10829 confidentiality and nondisclosure with respect to records, data  
10830 and information in its possession. Confidential information of  
10831 the Commission shall remain confidential after such information is  
10832 provided to any Commissioner.

10833         3. The Commission shall monitor Compacting States for  
10834 compliance with duly adopted Bylaws, Rules, including Uniform  
10835 Standards, and Operating Procedures. The Commission shall notify  
10836 any noncomplying Compacting State in writing of its noncompliance  
10837 with Commission Bylaws, Rules or Operating Procedures. If a  
10838 noncomplying Compacting State fails to remedy its noncompliance  
10839 within the time specified in the notice of noncompliance, the  
10840 Compacting State shall be deemed to be in default as set forth in  
10841 Article XIV.

10842         4. The Commissioner of any State in which an Insurer is  
10843 authorized to do business, or is conducting the business of  
10844 insurance, shall continue to exercise his or her authority to  
10845 oversee the market regulation of the activities of the Insurer in  
10846 accordance with the provisions of the State's law. The  
10847 Commissioner's enforcement of compliance with the Compact is  
10848 governed by the following provisions:

10849             a. With respect to the Commissioner's market regulation  
10850 of a Product or Advertisement that is approved or certified to the  
10851 Commission, the content of the Product or Advertisement shall not  
10852 constitute a violation of the provisions, standards or



10853 requirements of the Compact except upon a final order of the  
10854 Commission, issued at the request of a Commissioner after prior  
10855 notice to the Insurer and an opportunity for hearing before the  
10856 Commission.

10857           b. Before a Commissioner may bring an action for  
10858 violation of any provision, standard or requirement of the Compact  
10859 relating to the content of an Advertisement not approved or  
10860 certified to the Commission, the Commission, or an authorized  
10861 Commission officer or employee, must authorize the action.  
10862 However, authorization pursuant to this paragraph does not require  
10863 notice to the Insurer, opportunity for hearing or disclosure of  
10864 requests for authorization or records of the Commission's action  
10865 on such requests.

10866           **Article IX. Dispute Resolution.** The Commission shall  
10867 attempt, upon the request of a member, to resolve any disputes or  
10868 other issues that are subject to this Compact and which may arise  
10869 between two (2) or more Compacting States, or between Compacting  
10870 States and Noncompacting States, and the Commission shall  
10871 promulgate an Operating Procedure providing for resolution of such  
10872 disputes.

10873           **Article X. Product Filing and Approval.**

10874           1. Insurers and Third Party Filers seeking to have a product  
10875 approved by the Commission shall file the product with, and pay  
10876 applicable filing fees to, the Commission. Nothing in this  
10877 Compact shall be construed to restrict or otherwise prevent an





10878 Insurer from filing its product with the insurance department in  
10879 any State wherein the Insurer is licensed to conduct the business  
10880 of insurance, and such filing shall be subject to the laws of the  
10881 States where filed.

10882         2. The Commission shall establish appropriate filing and  
10883 review processes and procedures pursuant to Commission Rules and  
10884 Operating Procedures. Notwithstanding any provision herein to the  
10885 contrary, the Commission shall promulgate Rules to establish  
10886 conditions and procedures under which the Commission will provide  
10887 public access to product filing information. In establishing such  
10888 Rules, the Commission shall consider the interests of the public  
10889 in having access to such information, as well as protection of  
10890 personal medical and financial information and trade secrets, that  
10891 may be contained in a product filing or supporting information.

10892         3. Any product approved by the Commission may be sold or  
10893 otherwise issued in those Compacting States for which the Insurer  
10894 is legally authorized to do business.

10895                 **Article XI. Review of Commission Decisions Regarding**  
10896 **Filings.**

10897         1. Not later than thirty (30) days after the Commission has  
10898 given notice of a disapproved Product or Advertisement filed with  
10899 the Commission, the Insurer or Third Party Filer whose filing was  
10900 disapproved may appeal the determination to a review panel  
10901 appointed by the Commission. The Commission shall promulgate  
10902 Rules to establish procedures for appointing such review panels



10903 and provide for notice and hearing. An allegation that the  
10904 Commission, in disapproving a Product or Advertisement filed with  
10905 the Commission, acted arbitrarily, capriciously, or in a manner  
10906 that is an abuse of discretion or otherwise not in accordance with  
10907 the law, is subject to judicial review in accordance with Article  
10908 III, Section 4.

10909 2. The Commission shall have authority to monitor, review  
10910 and reconsider Products and Advertisement subsequent to their  
10911 filing or approval upon a finding that the product does not meet  
10912 the relevant Uniform Standard. Where appropriate, the Commission  
10913 may withdraw or modify its approval after proper notice and  
10914 hearing, subject to the appeal process in Section 1 above.

10915 **Article XII. Finance.**

10916 1. The Commission shall pay or provide for the payment of  
10917 the reasonable expenses of its establishment and organization. To  
10918 fund the cost of its initial operations, the Commission may accept  
10919 contributions and other forms of funding from the National  
10920 Association of Insurance Commissioners, Compacting States and  
10921 other sources. Contributions and other forms of funding from  
10922 other sources shall be of such a nature that the independence of  
10923 the Commission concerning the performance of its duties shall not  
10924 be compromised.

10925 2. The Commission shall collect a filing fee from each  
10926 Insurer and Third Party Filer filing a product with the Commission  
10927 to cover the cost of the operations and activities of the



10928 Commission and its staff in a total amount sufficient to cover the  
10929 Commission's annual budget.

10930         3. The Commission's budget for a fiscal year shall not be  
10931 approved until it has been subject to notice and comment as set  
10932 forth in Article VII of this Compact.

10933         4. The Commission shall be exempt from all taxation in and  
10934 by the Compacting States.

10935         5. The Commission shall not pledge the credit of any  
10936 Compacting State, except by and with the appropriate legal  
10937 authority of that Compacting State.

10938         6. The Commission shall keep complete and accurate accounts  
10939 of all its internal receipts, including grants and donations, and  
10940 disbursements of all funds under its control. The internal  
10941 financial accounts of the Commission shall be subject to the  
10942 accounting procedures established under its Bylaws. The financial  
10943 accounts and reports including the system of internal controls and  
10944 procedures of the Commission shall be audited annually by an  
10945 independent certified public accountant. Upon the determination  
10946 of the Commission, but no less frequently than every three (3)  
10947 years, the review of the independent auditor shall include a  
10948 management and performance audit of the Commission. The  
10949 Commission shall make an Annual Report to the Governor and  
10950 Legislature of the Compacting States, which shall include a report  
10951 of the independent audit. The Commission's internal accounts  
10952 shall not be confidential and such materials may be shared with



10953 the Commissioner of any Compacting State upon request; provided,  
10954 however, that any work papers related to any internal or  
10955 independent audit and any information regarding the privacy of  
10956 individuals and Insurers' proprietary information, including trade  
10957 secrets, shall remain confidential.

10958 7. No Compacting State shall have any claim to or ownership  
10959 of any property held by or vested in the Commission or to any  
10960 Commission funds held pursuant to the provisions of this Compact.

10961 **Article XIII. Compacting States, Effective Date and**  
10962 **Amendment.**

10963 1. Any State is eligible to become a Compacting State.

10964 2. The Compact shall become effective and binding upon  
10965 legislative enactment of the Compact into law by two (2)  
10966 Compacting States; provided, the Commission shall become effective  
10967 for purposes of adopting Uniform Standards for, reviewing, and  
10968 giving approval or disapproval of, Products filed with the  
10969 Commission that satisfy applicable Uniform Standards only after  
10970 twenty-six (26) States are Compacting States or, alternatively, by  
10971 States representing greater than forty percent (40%) of the  
10972 premium volume for life insurance, annuity, disability income and  
10973 long-term care insurance products, based on records of the NAIC  
10974 for the prior year. Thereafter, it shall become effective and  
10975 binding as to any other Compacting State upon enactment of the  
10976 Compact into law by that State.



10977           3. Amendments to the Compact may be proposed by the  
10978 Commission for enactment by the Compacting States. No amendment  
10979 shall become effective and binding upon the Commission and the  
10980 Compacting States unless and until all Compacting States enact the  
10981 amendment into law.

10982           **Article XIV. Withdrawal, Default and Termination.**

10983           1. Withdrawal.

10984                 a. Once effective, the Compact shall continue in force  
10985 and remain binding upon each and every Compacting State; provided,  
10986 that a Compacting State may withdraw from the Compact  
10987 ("Withdrawing State") by enacting a statute specifically repealing  
10988 the statute which enacted the Compact into law.

10989                 b. The effective date of withdrawal is the effective  
10990 date of the repealing statute. However, the withdrawal shall not  
10991 apply to any product filings approved or self-certified, or any  
10992 Advertisement of such products, on the date the repealing statute  
10993 becomes effective, except by mutual agreement of the Commission  
10994 and the Withdrawing State unless the approval is rescinded by the  
10995 Withdrawing State as provided in paragraph (e) of this section.

10996                 c. The Commissioner of the Withdrawing State shall  
10997 immediately notify the Management Committee in writing upon the  
10998 introduction of legislation repealing this Compact in the  
10999 Withdrawing State.



11000           d. The Commission shall notify the other Compacting  
11001 States of the introduction of such legislation within ten (10)  
11002 days after its receipt of notice thereof.

11003           e. The Withdrawing State is responsible for all  
11004 obligations, duties and liabilities incurred through the effective  
11005 date of withdrawal, including any obligations, the performance of  
11006 which extend beyond the effective date of withdrawal, except to  
11007 the extent those obligations may have been released or  
11008 relinquished by mutual agreement of the Commission and the  
11009 Withdrawing State. The Commission's approval of Products and  
11010 Advertisement prior to the effective date of withdrawal shall  
11011 continue to be effective and be given full force and effect in the  
11012 Withdrawing State, unless formally rescinded by the Withdrawing  
11013 State in the same manner as provided by the laws of the  
11014 Withdrawing State for the prospective disapproval of Products or  
11015 Advertisement previously approved under State law.

11016           f. Reinstatement following withdrawal of any Compacting  
11017 State shall occur upon the effective date of the Withdrawing State  
11018 reenacting the Compact.

11019           2. Default.

11020           a. If the Commission determines that any Compacting  
11021 State has at any time defaulted ("Defaulting State") in the  
11022 performance of any of its obligations or responsibilities under  
11023 this Compact, the Bylaws or duly promulgated Rules or Operating  
11024 Procedures, then, after notice and hearing as set forth in the



11025 Bylaws, all rights, privileges and benefits conferred by this  
11026 Compact on the Defaulting State shall be suspended from the  
11027 effective date of default as fixed by the Commission. The grounds  
11028 for default include, but are not limited to, failure of a  
11029 Compacting State to perform its obligations or responsibilities,  
11030 and any other grounds designated in Commission Rules. The  
11031 Commission shall immediately notify the Defaulting State in  
11032 writing of the Defaulting State's suspension pending a cure of the  
11033 default. The Commission shall stipulate the conditions and the  
11034 time period within which the Defaulting State must cure its  
11035 default. If the Defaulting State fails to cure the default within  
11036 the time period specified by the Commission, the Defaulting State  
11037 shall be terminated from the Compact and all rights, privileges  
11038 and benefits conferred by this Compact shall be terminated from  
11039 the effective date of termination.

11040           b. Product approvals by the Commission or product  
11041 self-certifications, or any Advertisement in connection with such  
11042 product, that are in force on the effective date of termination  
11043 shall remain in force in the Defaulting State in the same manner  
11044 as if the Defaulting State had withdrawn voluntarily pursuant to  
11045 Section 1 of this article.

11046           c. Reinstatement following termination of any  
11047 Compacting State requires a reenactment of the Compact.

11048           3. Dissolution of Compact.



11049           a. The Compact dissolves effective upon the date of the  
11050 withdrawal or default of the Compacting State which reduces  
11051 membership in the Compact to one (1) Compacting State.

11052           b. Upon the dissolution of this Compact, the Compact  
11053 becomes null and void and shall be of no further force or effect,  
11054 and the business and affairs of the Commission shall be wound up  
11055 and any surplus funds shall be distributed in accordance with the  
11056 Bylaws.

11057           **Article XV. Severability and Construction.**

11058           1. The provisions of this Compact shall be severable; and if  
11059 any phrase, clause, sentence or provision is deemed unenforceable,  
11060 the remaining provisions of the Compact shall be enforceable.

11061           2. The provisions of this Compact shall be liberally  
11062 construed to effectuate its purposes.

11063           **Article XVI. Binding Effect of Compact and Other Laws.**

11064           1. Other Laws

11065           a. Nothing herein prevents the enforcement of any other  
11066 law of a Compacting State, except as provided in paragraph (b) of  
11067 this section.

11068           b. For any product approved or certified to the  
11069 Commission, the Rules, Uniform Standards and any other  
11070 requirements of the Commission shall constitute the exclusive  
11071 provisions applicable to the content, approval and certification  
11072 of such products. For Advertisement that is subject to the  
11073 Commission's authority, any Rule, Uniform Standard or other





11074 requirement of the Commission which governs the content of the  
11075 Advertisement shall constitute the exclusive provision that a  
11076 Commissioner may apply to the content of the Advertisement.  
11077 Notwithstanding the foregoing, no action taken by the Commission  
11078 shall abrogate or restrict: (i) the access of any person to State  
11079 courts; (ii) remedies available under State law related to breach  
11080 of contract, tort, or other laws not specifically directed to the  
11081 content of the product; (iii) State law relating to the  
11082 construction of insurance contracts; or (iv) the authority of the  
11083 Attorney General of the State including, but not limited to,  
11084 maintaining any actions or proceedings, as authorized by law and  
11085 subject to the provisions of Sections 1 and 2 of this act.

11086 c. All insurance products filed with individual States  
11087 shall be subject to the laws of those States.

11088 2. Binding Effect of this Compact.

11089 a. All lawful actions of the Commission, including all  
11090 Rules and Operating Procedures promulgated by the Commission, are  
11091 binding upon the Compacting States.

11092 b. All agreements between the Commission and the  
11093 Compacting States are binding in accordance with their terms.

11094 c. Upon the request of a party to a conflict over the  
11095 meaning or interpretation of Commission actions, and upon a  
11096 majority vote of the Compacting States, the Commission may issue  
11097 advisory opinions regarding the meaning or interpretation in  
11098 dispute.



11099           d. In the event any provision of this Compact exceeds  
11100 the constitutional limits imposed on the Legislature of any  
11101 Compacting State, the obligations, duties, powers or jurisdiction  
11102 sought to be conferred by that provision upon the Commission shall  
11103 be ineffective as to that Compacting State, and those obligations,  
11104 duties, powers or jurisdiction shall remain in the Compacting  
11105 State and shall be exercised by the agency thereof to which those  
11106 obligations, duties, powers or jurisdiction are delegated by law  
11107 in effect at the time this Compact becomes effective.

11108           **SECTION 158.** Section 85-11-19, Mississippi Code of 1972, is  
11109 amended as follows:

11110           85-11-19. (1) The department shall maintain notices of tax  
11111 liens filed in the tax lien registry after January 1, 2015, in its  
11112 information management system in a form that permits them to be  
11113 readily accessible in an electronic form through the Internet and  
11114 to be reduced to printed form. The electronic and printed form  
11115 shall include the following information:

11116                   (a) The name of the taxpayer as judgment debtor;

11117                   (b) The name and address of the department;

11118                   (c) The tax lien number assigned to the lien by the  
11119 department;

11120                   (d) Whether the enrollment is the first enrollment of  
11121 the tax lien or a reenrollment of the tax lien;



11122 (e) The amount of the taxes, penalties, interest, and  
11123 fees indicated due on the notice of tax lien received from the  
11124 department; and

11125 (f) The date and time of enrollment or reenrollment.

11126 (2) The department shall not charge for the access to  
11127 information on the enrollment of tax liens by name of judgment  
11128 debtor or by tax lien number. The department is, however,  
11129 authorized to charge for the certification of any record or lack  
11130 of records appearing on the tax lien registry. The department  
11131 shall determine the process by which such tax lien registry  
11132 certification can be requested, including a charge for such  
11133 certification that shall cover at least the cost of providing the  
11134 certification. The payment of the charge for a tax lien registry  
11135 certification shall be retained by the department as reimbursement  
11136 of its cost to provide the certification.

11137 (3) The department is authorized to sell at bulk the  
11138 information appearing on the tax lien registry. In selling the  
11139 information, the department shall determine the process by which  
11140 the information will be sold and the media or method by which it  
11141 will be available to the purchaser and shall set a price for the  
11142 information that will at least cover the cost of producing the  
11143 information. The proceeds from the sale of bulk information shall  
11144 be retained by the department and used to cover its cost to  
11145 produce the information sold and to maintain the tax lien  
11146 registry.



11147           (4) Tax lien registry information, whether accessed by name  
11148 of judgment debtor or by tax lien number at no charge, through a  
11149 bulk sale of information or by other means, will not be used for a  
11150 survey, marketing or solicitation purposes. Survey, marketing or  
11151 solicitation purpose shall not include any action by the  
11152 department or its authorized agent to collect a debt represented  
11153 by a tax lien appearing in the tax lien registry. The department  
11154 or the Attorney General, subject to the provisions of Sections 1  
11155 and 2 of this act, is hereby authorized to bring an action to  
11156 enjoin the unlawful use of tax lien registry information for a  
11157 survey, marketing or solicitation purpose and to recover the cost  
11158 of such action, including reasonable attorney's fees.

11159           **SECTION 159.** Section 91-8-1014, Mississippi Code of 1972, is  
11160 amended as follows:

11161           91-8-1014. (a) For the purposes of this section,  
11162 "no-contest provision" includes a "no-contest provision," "in  
11163 terrorem provision" or "forfeiture provision" of a trust  
11164 instrument. A "no-contest provision" means a provision that, if  
11165 given effect, would reduce or eliminate the interest of any  
11166 beneficiary of the trust who, directly or indirectly, initiates or  
11167 otherwise pursues:

11168           (1) Any action to contest the validity of the trust or  
11169 the terms of the trust;

11170           (2) Any action to set aside or vary the terms of the  
11171 trust;



11172           (3) Any action to challenge the acts of the trustee or  
11173 other fiduciary of the trust in the performance of the trustee's  
11174 or other fiduciary's duties as described in the terms of the  
11175 trust; or

11176           (4) Any other act or proceedings to frustrate or defeat  
11177 the settlor's intent as expressed in the terms of the trust.

11178           (b) With regard to whether the beneficiary sought, received  
11179 or relied upon legal counsel, a no-contest provision shall be  
11180 enforceable according to the express terms of the no-contest  
11181 provision without regard to the beneficiary's good or bad faith in  
11182 taking the action that would justify the complete or partial  
11183 forfeiture of the beneficiary's interest in the trust under the  
11184 terms of the no-contest provision unless probable cause exists for  
11185 the beneficiary taking such action on the grounds of:

- 11186           (1) Fraud;
- 11187           (2) Duress;
- 11188           (3) Revocation;
- 11189           (4) Lack of testamentary capacity;
- 11190           (5) Undue influence;
- 11191           (6) Mistake;
- 11192           (7) Forgery; or
- 11193           (8) Irregularity in the execution of the trust  
11194 instrument.

11195           (c) Subsection (b) shall not apply to:



11196 (1) Any action brought solely to challenge the acts of  
11197 the trustee or other fiduciary of the trust to the extent that the  
11198 trustee or other fiduciary has committed a breach of fiduciary  
11199 duties or breach of trust;

11200 (2) Any action brought by the trustee or any other  
11201 fiduciary serving under the terms of the trust, unless the trustee  
11202 or other fiduciary is a beneficiary against whom the no-contest  
11203 provision is otherwise enforceable;

11204 (3) Any agreement among the beneficiaries and any other  
11205 interested persons in settlement of a dispute or resolution of any  
11206 other matter relating to the trust, including, without limitation,  
11207 any nonjudicial settlement agreement;

11208 (4) Any action to determine whether a proposed or  
11209 pending motion, petition, or other proceeding constitutes a  
11210 contest within the meaning of a no-contest provision;

11211 (5) Any action brought by a beneficiary or on behalf of  
11212 any such beneficiary for a construction or interpretation of the  
11213 terms of the trust; or

11214 (6) Any action brought by the Attorney General, subject  
11215 to the provisions of Sections 1 and 2 of this act, for a  
11216 construction or interpretation of a charitable trust or a trust  
11217 containing a charitable interest if a provision exists in a trust  
11218 purporting to penalize a charity or charitable interest for  
11219 contesting the trust if probable cause exists for instituting  
11220 proceedings.



11221 (d) Pursuant to this section, courts shall enforce the  
11222 settlor's intent as reflected in a no-contest provision to the  
11223 greatest extent possible.

11224 **SECTION 160.** Section 95-3-5, Mississippi Code of 1972, is  
11225 amended as follows:

11226 95-3-5. Whenever a nuisance exists, the Attorney General of  
11227 the state, the district attorney of the district, the county  
11228 attorney, or any person who is a citizen of the county, may bring  
11229 an action in equity in the name of the State of Mississippi,  
11230 subject to the provisions of Sections 1 and 2 of this act, upon  
11231 the relation of such Attorney General, district attorney, or  
11232 county attorney, or person to abate such nuisance and to  
11233 perpetually enjoin the person or persons maintaining the same from  
11234 further maintenance thereof.

11235 **SECTION 161.** Section 95-3-13, Mississippi Code of 1972, is  
11236 amended as follows:

11237 95-3-13. The action when brought shall be triable at the  
11238 next term of court, provided process shall have been served for  
11239 twenty (20) or more days, otherwise at the following term, and  
11240 said cause shall have precedence over all other cases except  
11241 election contests, or injunctions. In such action evidence of the  
11242 general reputation of the place, or an admission, or finding, of  
11243 guilt of any person under the criminal laws against prostitution,  
11244 lewdness, or assignation at any such place shall be admissible for  
11245 the purpose of proving the existence of said nuisance and shall be



11246 prima facie evidence of such nuisance and of knowledge of and  
11247 acquiescence and participation therein on the part of the person  
11248 or persons charged with maintaining said nuisance as herein  
11249 defined. If the complaint is filed by a person who is a citizen  
11250 of the county, it shall not be dismissed except upon a sworn  
11251 statement by the complainant and his or its attorney, setting  
11252 forth the reasons why the actions should be dismissed and the  
11253 dismissal approved by the district attorney or county attorney in  
11254 writing or in open court. If the court be of the opinion that the  
11255 action ought not to be dismissed, he may direct the district  
11256 attorney or county attorney to prosecute said action to final  
11257 decree, and if the action is continued more than one (1) term of  
11258 court any person who is a citizen of the county, or the Attorney  
11259 General, subject to the provisions of Sections 1 and 2 of this  
11260 act, or the district attorney, or the county attorney, may be  
11261 substituted for the complainant and prosecute said action to final  
11262 decree. If the action is brought by a person who is a citizen of  
11263 the county and the court finds that there were no reasonable  
11264 grounds or cause for said action, the costs may be taxed to such  
11265 person. If the existence of the nuisance be established upon the  
11266 trial, a judgment shall be entered which shall perpetually enjoin  
11267 the defendants and other person or persons from further  
11268 maintaining the nuisance at the place complained of, and the  
11269 defendants from maintaining such nuisance elsewhere within the





11270 chancery district, and may tax said defendants with all costs of  
11271 the proceedings.

11272           **SECTION 162.** Section 97-21-101, Mississippi Code of 1972, is  
11273 amended as follows:

11274           97-21-101. (1) All property, real or personal, including  
11275 money, used in the course of, intended for use in the course of,  
11276 derived from, or realized through, conduct in violation of Section  
11277 97-21-53, 97-21-55, 97-21-57 or 97-23-89 is subject to civil  
11278 forfeiture to the state pursuant to the provisions of Section  
11279 97-21-103; provided, however, that a forfeiture of personal  
11280 property encumbered by a bona fide security interest or real  
11281 property encumbered by a bona fide mortgage, deed of trust, lien  
11282 or encumbrance of record shall be subject to the interest of the  
11283 secured party or subject to the interest of the holder of the  
11284 mortgage, deed of trust, lien or encumbrance of record if such  
11285 secured party or holder neither had knowledge of or consented to  
11286 the act or omission.

11287           (2) Property subject to forfeiture may be seized by law  
11288 enforcement officers upon process issued by any appropriate court  
11289 having jurisdiction over the property. Seizure without process  
11290 may be made if:

11291           (a) The seizure is incident to an arrest or a search  
11292 under a search warrant or an inspection under a lawful  
11293 administrative inspection;



11294 (b) The property subject to seizure has been the  
11295 subject of a prior judgment in favor of the state in a criminal  
11296 injunction or forfeiture proceeding based upon this article.

11297 (3) The Attorney General, any district attorney or any state  
11298 agency having jurisdiction over conduct in violation of Section  
11299 97-21-53, 97-21-55, 97-21-57 or 97-23-89 may institute civil  
11300 proceedings under this section. In any action brought under this  
11301 section, the circuit court shall proceed as soon as practicable to  
11302 the hearing and determination. Pending final determination, the  
11303 circuit court may at any time enter such injunctions or  
11304 restraining orders, or take such actions, including the acceptance  
11305 of satisfactory performance bonds, as the court may deem proper.

11306 (4) Any aggrieved person may institute a civil proceeding  
11307 against any person or enterprise convicted of engaging in activity  
11308 in violation of Section 97-21-53, 97-21-55, 97-21-57 or 97-23-89.  
11309 In such proceeding, relief shall be granted in conformity with the  
11310 principles that govern the granting of injunctive relief from  
11311 threatened loss or damage in other civil cases, except that no  
11312 showing of immediate and irreparable injury, loss or damage to the  
11313 person shall have to be made.

11314 (5) The Attorney General may, upon timely application and  
11315 subject to the provisions of Sections 1 and 2 of this act,  
11316 intervene in any civil action or proceeding brought under this  
11317 section if he certifies that, in his opinion, the action or  
11318 proceeding is of general public importance. In such action or



11319 proceeding, the state shall be entitled to the same relief as if  
11320 the Attorney General instituted the action or proceeding.

11321 (6) Notwithstanding any other provision of law, a criminal  
11322 or civil action or proceeding under this article may be commenced  
11323 at any time within five (5) years after the conduct in violation  
11324 of law terminates or the cause of action accrues. If a criminal  
11325 prosecution or civil action or other proceeding is brought, or  
11326 intervened in, to punish, prevent or restrain any violation of  
11327 law, the running of the period of limitations prescribed by this  
11328 section with respect to any cause of action arising under this  
11329 section which is based, in whole or in part, upon any matter  
11330 complained of in any such prosecution, action or proceeding shall  
11331 be suspended during the pendency of such prosecution, action or  
11332 proceeding and for two (2) years following its termination.

11333 (7) The application of one (1) civil remedy under any  
11334 provision of this article shall not preclude the application of  
11335 any other remedy, civil or criminal, under this article or any  
11336 other provision of law. Civil remedies under this article are  
11337 supplemental.

11338 **SECTION 163.** Section 97-32-5, Mississippi Code of 1972, is  
11339 amended as follows:

11340 97-32-5. It shall be unlawful for any person, or retailer,  
11341 to sell, barter, deliver or give tobacco products to any  
11342 individual under eighteen (18) years of age unless the individual  
11343 under eighteen (18) years of age holds a retailer's license to



11344 sell tobacco under Section 27-69-1 et seq., Mississippi Code of  
11345 1972.

11346       It shall be an absolute affirmative defense that the person  
11347 selling, bartering, delivering or giving tobacco products over the  
11348 counter in a retail establishment to an individual under eighteen  
11349 (18) years of age in violation of this article had requested and  
11350 examined a government-issued photographic identification from such  
11351 person establishing his age as at least eighteen (18) years prior  
11352 to selling such person a tobacco product. The failure of a  
11353 seller, barterer, deliverer or giver of tobacco products over the  
11354 counter in a retail establishment to request and examine  
11355 photographic identification from a person under eighteen (18)  
11356 years of age prior to the sale of a tobacco product to such person  
11357 if the individual is not known to the seller, barterer, deliverer  
11358 or giver of the tobacco product to be over the age of eighteen  
11359 (18) years, shall be construed against the seller, barterer,  
11360 deliverer or giver and form a conclusive basis for the seller's  
11361 violation of this section.

11362       It shall be an absolute affirmative defense that the person  
11363 or entity giving tobacco products through the mail to an  
11364 individual under eighteen (18) years of age in violation of this  
11365 article had requested and received documentary or written evidence  
11366 from such person purportedly establishing his age to be at least  
11367 eighteen (18) years of age.



11368 Any person who violates this section shall be liable as  
11369 follows: For a first conviction, a fine of Fifty Dollars  
11370 (\$50.00); for a second conviction, a fine of Seventy-five Dollars  
11371 (\$75.00); and for all subsequent convictions, a fine of One  
11372 Hundred Fifty Dollars (\$150.00) shall be imposed.

11373 Any person found in violation of this section shall be issued  
11374 a citation and the holder of the retailer permit shall be sent  
11375 notification of this citation by registered mail by the law  
11376 enforcement agency issuing the citation. Notification shall  
11377 include the opportunity for hearing before the appropriate court.  
11378 For a first conviction, the retailer shall be sent a warning  
11379 letter informing him of the retailer's responsibility in the  
11380 selling of tobacco products. For a second conviction, the  
11381 retailer, or retailer's designee, shall be required to enroll in  
11382 and complete a "Retailer Tobacco Education Program."

11383 For a third or subsequent violation of this section by any  
11384 retailer, within one (1) year of the two (2) prior violations, any  
11385 retailer's permit issued pursuant to Section 27-69-1 et seq.,  
11386 Mississippi Code of 1972, may be revoked or suspended for a period  
11387 of at least one (1) year after notice and opportunity for hearing.  
11388 If said permit is revoked by the \* \* \* Department of Revenue, the  
11389 retailer may not reapply for a permit to sell tobacco for a period  
11390 of six (6) months. For the purposes of this section, "subsequent  
11391 violations" are those committed at the same place of business.



11392           It is the responsibility of all law enforcement officers and  
11393 law enforcement agencies of this state to ensure that the  
11394 provisions of this article are enforced.

11395           It shall not be considered a violation of this section on the  
11396 part of any law enforcement officer or person under eighteen (18)  
11397 years of age for any law enforcement officer of this state to use  
11398 persons under eighteen (18) years of age to purchase or attempt to  
11399 purchase tobacco products for the purpose of monitoring compliance  
11400 with this section, as long as those persons are supervised by duly  
11401 authorized law enforcement agency officials.

11402           Any law enforcement agency conducting enforcement efforts  
11403 undertaken pursuant to this article shall prepare a report as  
11404 prescribed by the Attorney General which includes the number of  
11405 unannounced inspections conducted by the agency, a summary of  
11406 enforcement actions taken pursuant to this article, the name and  
11407 permit number of the retailer pursuant to Section 27-69-1 et seq.,  
11408 Mississippi Code of 1972, and final judicial disposition on all  
11409 enforcement actions. Reports shall be forwarded to the Office of  
11410 the Attorney General within twenty (20) working days of the final  
11411 judicial disposition.

11412           On notification from local law enforcement that a retailer  
11413 has violated this article so as to warrant a revocation of the  
11414 retailer's permit, the Attorney General shall notify in writing  
11415 the \* \* \* Department of Revenue within twenty (20) working days.



11416 In accordance with the procedures of Section 27-69-9,  
11417 Mississippi Code of 1972, the \* \* \* Department of Revenue shall  
11418 initiate revocation procedures of the retailer's permit. The  
11419 Office of the Attorney General shall provide legal assistance in  
11420 revocation procedures when requested by the \* \* \* Department of  
11421 Revenue.

11422 **SECTION 164.** Section 97-33-109, Mississippi Code of 1972, is  
11423 amended as follows:

11424 97-33-109. (1) The commission shall monitor the conduct or  
11425 business of licensees, both on a routine scheduled and an  
11426 unscheduled basis, to the extent necessary to ensure compliance  
11427 with the provisions of charitable bingo game laws and regulations  
11428 of the state.

11429 (2) In carrying out its enforcement responsibilities, the  
11430 commission may:

11431 (a) Inspect and examine all premises in which  
11432 charitable bingo games are conducted or supplies or equipment for  
11433 such games are manufactured and distributed;

11434 (b) Inspect all such supplies and equipment in, upon or  
11435 about such premises;

11436 (c) Seize and remove from such premises and impound  
11437 such supplies and equipment for the purpose of examination and  
11438 inspection pursuant to an appropriate court order;



11439 (d) Demand access to and audit and inspect books and  
11440 records of licensees for the purpose of determining compliance  
11441 with laws and regulations relative to charitable bingo games;

11442 (e) Conduct in-depth audits and investigations; and

11443 (f) Mandate that internal controls be executed in  
11444 accordance with the provisions of the Charitable Bingo Law and  
11445 other applicable laws and regulations.

11446 (3) The commission shall require licensees to maintain  
11447 records and submit reports.

11448 (4) In addition to license revocation or suspension or any  
11449 criminal penalty imposed, the commission may assess a fine against  
11450 any person who violates any law or regulation relative to  
11451 charitable bingo games. Such a fine shall only be assessed after  
11452 notice and an opportunity for a hearing to be held.

11453 (5) All departments, commissions, boards, agencies, officers  
11454 and institutions of the state, and all subdivisions thereof, shall  
11455 cooperate with the commission in carrying out its enforcement  
11456 responsibilities.

11457 (6) Except as otherwise authorized in Section 7-5-39, the  
11458 Attorney General shall be the attorney for the commission in  
11459 regard to its duties to regulate the Charitable Bingo Law and he  
11460 shall represent it in all legal proceedings and shall prosecute  
11461 any civil action for a violation of the provisions of Sections  
11462 97-33-51 through 97-33-203 or the rules and regulations of the





11463 commission, subject to the provisions of Sections 1 and 2 of this  
11464 act.

11465 (7) It is the duty of the sheriffs, deputy sheriffs and  
11466 police officers of this state to assist the commission in the  
11467 enforcement of the provisions of Sections 97-33-51 through  
11468 97-33-203 and to arrest and complain against any person violating  
11469 the provisions of Sections 97-33-51 through 97-33-203. It is the  
11470 duty of the district attorneys of this state to prosecute all  
11471 violations of the provisions of Sections 97-33-51 through  
11472 97-33-203 if requested to do so by the commission.

11473 (8) (a) Whenever any person who is a resident of the State  
11474 of Mississippi has reason to believe that a person or organization  
11475 is violating or has violated the provisions of Sections 97-33-51  
11476 through 97-33-203 and that proceedings would be in the public  
11477 interest, he may bring an action in the name of the state against  
11478 such person to restrain by temporary or permanent injunction such  
11479 violation, upon at least five (5) days' summons before the hearing  
11480 of the action. The action shall be brought in the chancery or  
11481 county court of the county in which such violation has occurred  
11482 or, with consent of the parties, may be brought in the chancery or  
11483 county court of the county in which the State Capitol is located.  
11484 The said courts are authorized to issue temporary or permanent  
11485 injunctions to restrain and prevent violations of Sections  
11486 97-33-51 through 97-33-203, and such injunctions shall be issued  
11487 without bond.



11488           (b) Any person who violates the terms of an injunction  
11489 issued under this subsection shall forfeit and pay to the state a  
11490 civil penalty of not more than Five Thousand Dollars (\$5,000.00)  
11491 per violation which shall be payable to the General Fund of the  
11492 State of Mississippi. For the purposes of this subsection, the  
11493 chancery or county court issuing an injunction shall retain  
11494 jurisdiction, and the cause shall be continued, and in such cases  
11495 the person bringing the action may petition for recovery of civil  
11496 penalties.

11497           (c) In any action brought under this subsection, if the  
11498 court finds that a person is willfully violating the provisions of  
11499 Sections 97-33-51 through 97-33-203, the person bringing the  
11500 action, upon petition to the court, may recover on behalf of the  
11501 state a civil penalty of not exceeding Five Hundred Dollars  
11502 (\$500.00) per violation which shall be payable to the General Fund  
11503 of the State of Mississippi.

11504           (d) No penalty authorized by this subsection shall be  
11505 deemed to limit the court's powers to insure compliance with its  
11506 orders, decrees and judgments, or punish for the violations  
11507 thereof.

11508           (e) For purposes of this subsection, a willful  
11509 violation occurs when the party committing the violation knew or  
11510 should have known that his conduct was a violation of the  
11511 provisions of Sections 97-33-51 through 97-33-203.



11512           **SECTION 165.** Section 97-37-7, Mississippi Code of 1972, is  
11513 brought forward as follows:

11514           97-37-7. (1) (a) It shall not be a violation of Section  
11515 97-37-1 or any other statute for pistols, firearms or other  
11516 suitable and appropriate weapons to be carried by duly constituted  
11517 bank guards, company guards, watchmen, railroad special agents or  
11518 duly authorized representatives who are not sworn law enforcement  
11519 officers, agents or employees of a patrol service, guard service,  
11520 or a company engaged in the business of transporting money,  
11521 securities or other valuables, while actually engaged in the  
11522 performance of their duties as such, provided that such persons  
11523 have made a written application and paid a nonrefundable permit  
11524 fee of One Hundred Dollars (\$100.00) to the Department of Public  
11525 Safety.

11526           (b) No permit shall be issued to any person who has  
11527 ever been convicted of a felony under the laws of this or any  
11528 other state or of the United States. To determine an applicant's  
11529 eligibility for a permit, the person shall be fingerprinted. If  
11530 no disqualifying record is identified at the state level, the  
11531 fingerprints shall be forwarded by the Department of Public Safety  
11532 to the Federal Bureau of Investigation for a national criminal  
11533 history record check. The department shall charge a fee which  
11534 includes the amounts required by the Federal Bureau of  
11535 Investigation and the department for the national and state  
11536 criminal history record checks and any necessary costs incurred by



11537 the department for the handling and administration of the criminal  
11538 history background checks. In the event a legible set of  
11539 fingerprints, as determined by the Department of Public Safety and  
11540 the Federal Bureau of Investigation, cannot be obtained after a  
11541 minimum of three (3) attempts, the Department of Public Safety  
11542 shall determine eligibility based upon a name check by the  
11543 Mississippi Highway Safety Patrol and a Federal Bureau of  
11544 Investigation name check conducted by the Mississippi Highway  
11545 Safety Patrol at the request of the Department of Public Safety.

11546 (c) A person may obtain a duplicate of a lost or  
11547 destroyed permit upon payment of a Fifteen Dollar (\$15.00)  
11548 replacement fee to the Department of Public Safety, if he  
11549 furnishes a notarized statement to the department that the permit  
11550 has been lost or destroyed.

11551 (d) (i) No less than ninety (90) days prior to the  
11552 expiration date of a permit, the Department of Public Safety shall  
11553 mail to the permit holder written notice of expiration together  
11554 with the renewal form prescribed by the department. The permit  
11555 holder shall renew the permit on or before the expiration date by  
11556 filing with the department the renewal form, a notarized affidavit  
11557 stating that the permit holder remains qualified, and the renewal  
11558 fee of Fifty Dollars (\$50.00); honorably retired law enforcement  
11559 officers shall be exempt from payment of the renewal fee. A  
11560 permit holder who fails to file a renewal application on or before



11561 its expiration date shall pay a late fee of Fifteen Dollars  
11562 (\$15.00).

11563 (ii) Renewal of the permit shall be required every  
11564 four (4) years. The permit of a qualified renewal applicant shall  
11565 be renewed upon receipt of the completed renewal application and  
11566 appropriate payment of fees.

11567 (iii) A permit cannot be renewed six (6) months or  
11568 more after its expiration date, and such permit shall be deemed to  
11569 be permanently expired; the holder may reapply for an original  
11570 permit as provided in this section.

11571 (2) It shall not be a violation of this or any other statute  
11572 for pistols, firearms or other suitable and appropriate weapons to  
11573 be carried by Department of Wildlife, Fisheries and Parks law  
11574 enforcement officers, railroad special agents who are sworn law  
11575 enforcement officers, investigators employed by the Attorney  
11576 General, criminal investigators employed by the district  
11577 attorneys, all prosecutors, public defenders, investigators or  
11578 probation officers employed by the Department of Corrections,  
11579 employees of the State Auditor who are authorized by the State  
11580 Auditor to perform investigative functions, or any deputy fire  
11581 marshal or investigator employed by the State Fire Marshal, while  
11582 engaged in the performance of their duties as such, or by fraud  
11583 investigators with the Department of Human Services, or by judges  
11584 of the Mississippi Supreme Court, Court of Appeals, circuit,  
11585 chancery, county, justice and municipal courts, or by coroners.



11586 Before any person shall be authorized under this subsection to  
11587 carry a weapon, he shall complete a weapons training course  
11588 approved by the Board of Law Enforcement Officer Standards and  
11589 Training. Before any criminal investigator employed by a district  
11590 attorney shall be authorized under this section to carry a pistol,  
11591 firearm or other weapon, he shall have complied with Section  
11592 45-6-11 or any training program required for employment as an  
11593 agent of the Federal Bureau of Investigation. A law enforcement  
11594 officer, as defined in Section 45-6-3, shall be authorized to  
11595 carry weapons in courthouses in performance of his official  
11596 duties. A person licensed under Section 45-9-101 to carry a  
11597 concealed pistol, who (a) has voluntarily completed an  
11598 instructional course in the safe handling and use of firearms  
11599 offered by an instructor certified by a nationally recognized  
11600 organization that customarily offers firearms training, or by any  
11601 other organization approved by the Department of Public Safety,  
11602 (b) is a member or veteran of any active or reserve component  
11603 branch of the United States of America Armed Forces having  
11604 completed law enforcement or combat training with pistols or other  
11605 handguns as recognized by such branch after submitting an  
11606 affidavit attesting to have read, understand and agree to comply  
11607 with all provisions of the enhanced carry law, or (c) is an  
11608 honorably retired law enforcement officer or honorably retired  
11609 member or veteran of any active or reserve component branch of the  
11610 United States of America Armed Forces having completed law



11611 enforcement or combat training with pistols or other handguns,  
11612 after submitting an affidavit attesting to have read, understand  
11613 and agree to comply with all provisions of Mississippi enhanced  
11614 carry law shall also be authorized to carry weapons in courthouses  
11615 except in courtrooms during a judicial proceeding, and any  
11616 location listed in subsection (13) of Section 45-9-101, except any  
11617 place of nuisance as defined in Section 95-3-1, any police,  
11618 sheriff or highway patrol station or any detention facility,  
11619 prison or jail. For the purposes of this subsection (2),  
11620 component branch of the United States Armed Forces includes the  
11621 Army, Navy, Air Force, Coast Guard or Marine Corps, or the Army  
11622 National Guard, the Army National Guard of the United States, the  
11623 Air National Guard or the Air National Guard of the United States,  
11624 as those terms are defined in Section 101, Title 10, United States  
11625 Code, and any other reserve component of the United States Armed  
11626 Forces enumerated in Section 10101, Title 10, United States Code.  
11627 The department shall promulgate rules and regulations allowing  
11628 concealed pistol permit holders to obtain an endorsement on their  
11629 permit indicating that they have completed the aforementioned  
11630 course and have the authority to carry in these locations. This  
11631 section shall in no way interfere with the right of a trial judge  
11632 to restrict the carrying of firearms in the courtroom.

11633 (3) It shall not be a violation of this or any other statute  
11634 for pistols, firearms or other suitable and appropriate weapons,  
11635 to be carried by any out-of-state, full-time commissioned law



11636 enforcement officer who holds a valid commission card from the  
11637 appropriate out-of-state law enforcement agency and a photo  
11638 identification. The provisions of this subsection shall only  
11639 apply if the state where the out-of-state officer is employed has  
11640 entered into a reciprocity agreement with the state that allows  
11641 full-time commissioned law enforcement officers in Mississippi to  
11642 lawfully carry or possess a weapon in such other states. The  
11643 Commissioner of Public Safety is authorized to enter into  
11644 reciprocal agreements with other states to carry out the  
11645 provisions of this subsection.

11646         **SECTION 166.** Section 97-43-9, Mississippi Code of 1972, is  
11647 amended as follows:

11648             97-43-9. (1) Any circuit court may, after making due  
11649 provision for the rights of innocent persons, enjoin violations of  
11650 the provisions of this chapter by issuing appropriate orders and  
11651 judgments, including, but not limited to:

11652             (a) Ordering any defendant to divest himself of any  
11653 interest in any enterprise, including real property.

11654             (b) Imposing reasonable restrictions upon the future  
11655 activities or investments of any defendant, including, but not  
11656 limited to, prohibiting any defendant from engaging in the same  
11657 type of endeavor as the enterprise in which he was engaged in  
11658 violation of the provisions of this chapter.

11659             (c) Ordering the dissolution or reorganization of any  
11660 enterprise.





11661 (d) Ordering the suspension or revocation of a license  
11662 or permit granted to any enterprise by any agency of the state.

11663 (e) Ordering the forfeiture of the charter of a  
11664 corporation organized under the laws of the state, or the  
11665 revocation of a certificate authorizing a foreign corporation to  
11666 conduct business within the state, upon finding that the board of  
11667 directors or a managerial agent acting on behalf of the  
11668 corporation, in conducting the affairs of the corporation, has  
11669 authorized or engaged in conduct in violation of this chapter and  
11670 that, for the prevention of future criminal activity, the public  
11671 interest requires the charter of the corporation forfeited and the  
11672 corporation dissolved or the certificate revoked.

11673 (2) All property, real or personal, including money, used in  
11674 the course of, intended for use in the course of, derived from, or  
11675 realized through, conduct in violation of a provision of this  
11676 chapter is subject to civil forfeiture to the state pursuant to  
11677 the provisions of Section 97-43-11; provided, however, that a  
11678 forfeiture of personal property encumbered by a bona fide security  
11679 interest or real property encumbered by a bona fide mortgage, deed  
11680 of trust, lien or encumbrance of record shall be subject to the  
11681 interest of the secured party or subject to the interest of the  
11682 holder of the mortgage, deed of trust, lien \* \* \* or encumbrance  
11683 of record if such secured party or holder neither had knowledge of  
11684 or consented to the act or omission.



11685           (3) Property subject to forfeiture may be seized by law  
11686 enforcement officers upon process issued by any appropriate court  
11687 having jurisdiction over the property. Seizure without process  
11688 may be made if:

11689                   (a) The seizure is incident to an arrest or a search  
11690 under a search warrant or an inspection under a lawful  
11691 administrative inspection;

11692                   (b) The property subject to seizure has been the  
11693 subject of a prior judgment in favor of the state in a criminal  
11694 injunction or forfeiture proceeding based upon this article \* \* \*.

11695           (4) The Attorney General, any district attorney or any state  
11696 agency having jurisdiction over conduct in violation of a  
11697 provision of this chapter may institute civil proceedings under  
11698 this section. In any action brought under this section, the  
11699 circuit court shall proceed as soon as practicable to the hearing  
11700 and determination. Pending final determination, the circuit court  
11701 may at any time enter such injunctions or restraining orders, or  
11702 take such actions, including the acceptance of satisfactory  
11703 performance bonds, as the court may deem proper.

11704           (5) Any aggrieved person may institute a civil proceeding  
11705 under subsection (1) of this section against any person or  
11706 enterprise convicted of engaging in activity in violation of this  
11707 chapter. In such proceeding, relief shall be granted in  
11708 conformity with the principles that govern the granting of  
11709 injunctive relief from threatened loss or damage in other civil



11710 cases, except that no showing of immediate and irreparable injury,  
11711 loss or damage to the person shall have to be made.

11712 (6) Any person who is injured by reason of any violation of  
11713 the provisions of this chapter shall have a cause of action  
11714 against any person or enterprise convicted of engaging in activity  
11715 in violation of this chapter for threefold the actual damages  
11716 sustained and, when appropriate, punitive damages. Such person  
11717 shall also recover attorney's \* \* \* fees in the trial and  
11718 appellate courts and costs of investigation and litigation,  
11719 reasonably incurred.

11720 (a) The defendant or any injured person may demand a  
11721 trial by jury in any civil action brought pursuant to this  
11722 subsection.

11723 (b) Any injured person shall have a right or claim to  
11724 forfeited property or to the proceeds derived therefrom superior  
11725 to any right or claim the state has in the same property or  
11726 proceeds.

11727 (7) The Attorney General may, upon timely application and  
11728 subject to the provisions of Sections 1 and 2 of this act,  
11729 intervene in any civil action or proceeding brought under  
11730 subsections (5) or (6) of this section if he certifies that, in  
11731 his opinion, the action or proceeding is of general public  
11732 importance. In such action or proceeding, the state shall be  
11733 entitled to the same relief as if the Attorney General instituted  
11734 the action or proceeding.



11735 (8) Notwithstanding any other provision of law, a criminal  
11736 or civil action or proceeding under this chapter may be commenced  
11737 at any time within five (5) years after the conduct in violation  
11738 of a provision of this chapter terminates or the cause of action  
11739 accrues. If a criminal prosecution or civil action or other  
11740 proceeding is brought, or intervened in, to punish, prevent or  
11741 restrain any violation of the provisions of this chapter, the  
11742 running of the period of limitations prescribed by this section  
11743 with respect to any cause of action arising under subsections (5)  
11744 or (6) of this section which is based, in whole or in part, upon  
11745 any matter complained of in any such prosecution, action or  
11746 proceeding shall be suspended during the pendency of such  
11747 prosecution, action or proceeding and for two (2) years following  
11748 its termination.

11749 (9) The application of one (1) civil remedy under any  
11750 provision of this chapter shall not preclude the application of  
11751 any other remedy, civil or criminal, under this chapter or any  
11752 other provision of law. Civil remedies under this chapter are  
11753 supplemental.

11754 **SECTION 167.** Section 97-44-5, Mississippi Code of 1972, is  
11755 amended as follows:

11756 97-44-5. (1) A civil cause of action is hereby created in  
11757 favor of any public authority expending money, allocating or  
11758 reallocating police, firefighting, emergency or other personnel or  
11759 resources, or otherwise incurring any loss, deprivation or injury,



11760 or sustaining any damage, impairment or harm whatsoever,  
11761 proximately caused by any criminal activity.

11762 (2) The cause of action created by this chapter shall lie  
11763 against:

11764 (a) Any streetgang in whose name, for whose benefit, on  
11765 whose behalf or under whose direction the act was committed; and

11766 (b) Any gang officer or director who causes, orders,  
11767 suggests, authorizes, consents to, agrees to, requests, acquiesces  
11768 in or ratifies any such act; and

11769 (c) Any gang member who, in the furtherance of or in  
11770 connection with, any gang-related activity, commits any such act;  
11771 and

11772 (d) Any gang officer, director, leader or member.

11773 (3) The cause of action authorized by this chapter shall be  
11774 brought by the Attorney General, subject to the provisions of  
11775 Sections 1 and 2 of this act, the district attorney or attorneys,  
11776 or the county attorney, or by his or their respective designees.  
11777 This cause of action shall be in addition to any other civil or  
11778 criminal proceeding authorized by the laws of this state or by  
11779 federal law, and shall not be construed as requiring the  
11780 prosecutor to elect a civil, rather than criminal, remedy, or as  
11781 replacing any other cause of action. Liability of the gang, its  
11782 officers, directors, leaders and members shall be joint and  
11783 several subject only to the apportionment and allocation of  
11784 punitive damage authorized under Section 97-44-13.



11785           **SECTION 168.** Section 97-45-2, Mississippi Code of 1972, is  
11786 amended as follows:

11787           97-45-2. (1) For the purposes of this chapter, "identity  
11788 theft" includes crimes chargeable under the following provisions  
11789 of law:

11790                   (a) Section 97-9-79, which relates to false  
11791 information.

11792                   (b) Section 97-19-83, which relates to fraud by mail or  
11793 other means of communication.

11794                   (c) Section 97-19-85, which relates to the fraudulent  
11795 use of identity social security number, credit card or debit card  
11796 number or other identifying information.

11797                   (d) Section 97-45-19, which relates to obtaining  
11798 personal identity information of another person without  
11799 authorization.

11800           (2) (a) In conducting identity theft investigations, the  
11801 Attorney General shall have the authority to issue and serve  
11802 subpoenas to any person in control of any designated documents for  
11803 the production of such documents, including, but not limited to,  
11804 writings, drawings, graphs, charts, photographs, phono-records and  
11805 other data compilations from which information can be obtained, or  
11806 translated through detection devices into reasonably usable form.  
11807 Such subpoenas shall require the named person, his agent or  
11808 attorney, to appear and deliver the designated documents to a  
11809 location in the county of his residence unless the court for good



11810 cause shown directs that the subpoena be issued for the person to  
11811 deliver such documents to a location outside of the county of his  
11812 residence. Mere convenience of the Attorney General shall not be  
11813 considered good cause. The Attorney General or his designee shall  
11814 have the authority to inspect and copy such documents. Such  
11815 subpoenas shall be issued only upon the ex parte and in camera  
11816 application of the Attorney General to the circuit or chancery  
11817 court of the county of residence of the person in control of the  
11818 documents or the circuit or chancery court of the county where the  
11819 person in control of the documents may be found, and only upon a  
11820 showing that the documents sought are relevant to a criminal  
11821 investigation under this chapter or may lead to the discovery of  
11822 such relevant evidence. Thereafter said court shall have  
11823 jurisdiction to enforce or quash such subpoenas and to enter  
11824 appropriate orders thereon, and nothing contained in this section  
11825 shall affect the right of a person to assert a claim that the  
11826 information sought is privileged by law.

11827 (b) A subpoena issued pursuant to this subsection shall  
11828 be in substantially the following form:

11829 SUBPOENA TO PRODUCE DOCUMENTS  
11830 PURSUANT TO AN INVESTIGATION BY THE ATTORNEY GENERAL  
11831 TO:  
11832 YOU ARE HEREBY COMMANDED to appear before the Attorney  
11833 General of the State of Mississippi or his designated staff  
11834 attorney at the place, date and time specified below in an



11835 investigation being conducted by the Attorney General pursuant to  
11836 Section \_\_\_\_\_, Mississippi Code of 1972:

11837 Place \_\_\_\_\_ Date and Time \_\_\_\_\_

11838 YOU ARE ALSO COMMANDED to bring with you the following  
11839 document(s) or object(s) \_\_\_\_\_.

11840 You are advised that the \_\_\_ Court of the \_\_\_ Judicial  
11841 District of \_\_\_\_\_ County, Mississippi, has approved the ex  
11842 parte and in camera application of the Attorney General to issue  
11843 this subpoena, and jurisdiction to enforce and/or quash the  
11844 subpoena and to enter appropriate orders thereon is statutorily  
11845 vested in the said court; enforcement and penal provisions  
11846 applicable to an Attorney General's investigation include those  
11847 set forth in Section \_\_\_\_\_, Mississippi Code of 1972; and  
11848 disclosure of testimony and/or records coming into possession of  
11849 the Attorney General pursuant to this subpoena shall be limited by  
11850 and subject to the provisions of said section (for informational  
11851 purposes, these cited statutes are reproduced on the reverse side  
11852 of this subpoena).

11853 You may wish to consult an attorney in regard to this  
11854 subpoena. You have certain state and federal constitutional  
11855 rights, including your protection against self-incrimination and  
11856 unreasonable search and seizure which this subpoena may affect.

11857 ISSUED BY AND UNDER SEAL OF THE ATTORNEY GENERAL OF THE STATE  
11858 OF MISSISSIPPI, this the \_\_\_ day of \_\_\_\_\_, 20\_\_.

11859 (SEAL) \_\_\_\_\_





11860 (c) Following service of any subpoena, pursuant to the  
11861 provisions of this subsection, a record of the return shall be  
11862 made and kept by the Attorney General and subject only to such  
11863 disclosure as may be authorized pursuant to the provisions of this  
11864 section.

11865 (3) Enforcement and penal provisions applicable to an  
11866 investigation under this section shall include the following:

11867 (a) If a person who has been served with a subpoena,  
11868 which has been issued and served upon him in accordance with the  
11869 provisions of this section, shall fail to deliver or have  
11870 delivered the designated documents at the time and place required  
11871 in the subpoena, on application of the Attorney General the  
11872 circuit or chancery court having approved the issuance of the  
11873 subpoena may issue an attachment for such person, returnable  
11874 immediately, or at such time and place as the court may direct.  
11875 Bond may be required and fine imposed and proceedings had thereon  
11876 as in the case of a subpoenaed witness who fails to appear in  
11877 circuit or chancery court.

11878 (b) Every person who shall knowingly and willfully  
11879 obstruct, interfere with or impede an investigation under this  
11880 section by concealing or destroying any documents, papers or other  
11881 tangible evidence which are relevant to an investigation under  
11882 this section shall be guilty of a felony and, upon conviction,  
11883 shall be punished by a fine of not more than Five Thousand Dollars



11884 (\$5,000.00) or by imprisonment for not more than five (5) years,  
11885 or by both such fine and imprisonment.

11886 (c) Every person who shall knowingly and willfully  
11887 endeavor, by means of bribery, force or intimidation, to obstruct,  
11888 delay or prevent the communication of information to any agent or  
11889 employee of the Office of the Attorney General or who injures  
11890 another person for the purpose of preventing the communication of  
11891 such information or an account of the giving of such information  
11892 relevant to an investigation under this section shall be guilty of  
11893 a felony and, upon conviction, shall be punished by a fine of not  
11894 more than Five Thousand Dollars (\$5,000.00) or by imprisonment for  
11895 not more than five (5) years, or by both such fine and  
11896 imprisonment.

11897 (d) The provisions of paragraphs (a), (b) and (c) of  
11898 this subsection shall not prohibit the enforcement of, or  
11899 prosecution under, any other statutes of this state.

11900 (4) (a) If any person shall refuse, or is likely to refuse,  
11901 on the basis of his privilege against self-incrimination, to  
11902 produce the designated documents as requested by a subpoena issued  
11903 under this section or issued by a court, the Attorney General may  
11904 request the court, ex parte and in camera, to issue an order  
11905 requiring such person to produce the documents or information  
11906 which he refuses to give or provide on the basis of his privilege  
11907 against self-incrimination. The Attorney General may request said  
11908 order under this subsection when, in his judgment:



11909                   (i) The documents sought from such individual may  
11910 be necessary to the public interest; and

11911                   (ii) Such individual has refused or is likely to  
11912 refuse to produce the designated document on the basis of his  
11913 privilege against self-incrimination.

11914           Following such request, an order shall issue in accordance  
11915 with this section requiring such person to produce the documents  
11916 which he refuses to produce on the basis of his privilege against  
11917 self-incrimination.

11918                   (b) Whenever a witness refuses, on the basis of his  
11919 privilege against self-incrimination, to produce documents, and  
11920 the court issues to the witness an order under paragraph (a) of  
11921 this subsection, the witness may not refuse to comply with the  
11922 order on the basis of his privilege against self-incrimination,  
11923 but no documents or information compelled under the aforesaid  
11924 order, or any information directly or indirectly derived from such  
11925 documents may be used against the witness in any criminal  
11926 proceeding, except a prosecution for perjury, giving a false  
11927 statement, or otherwise failing to comply with the order.

11928           (5) Documents in the possession of the Attorney General  
11929 gathered pursuant to the provisions of this section and subpoenas  
11930 issued by him shall be maintained in confidential files with  
11931 access limited to prosecutorial and other law enforcement  
11932 investigative personnel on a "need to know" basis and shall be  
11933 exempt from the provisions of the Mississippi Public Records Act



11934 of 1983, except that upon the filing of an indictment or  
11935 information, or upon the filing of an action for recovery of  
11936 property, funds or fines, such documents shall be subject to such  
11937 disclosure as may be required pursuant to the applicable statutes  
11938 or court rules governing the trial of any such judicial  
11939 proceeding.

11940 (6) No person, including the Attorney General, a member of  
11941 his staff, prosecuting attorney, law enforcement officer, witness,  
11942 court reporter, attorney or other person, shall disclose to an  
11943 unauthorized person documents, including subpoenas issued and  
11944 served, gathered by the Attorney General pursuant to the  
11945 provisions of this section, except that upon the filing of an  
11946 indictment or information, or upon the filing of an action for  
11947 recovery of property, funds or fines, or in other legal  
11948 proceedings, subject to the provisions of Sections 1 and 2 of this  
11949 act, such documents shall be subject to such disclosure as may be  
11950 required pursuant to applicable statutes and court rules governing  
11951 the trial of any such judicial proceeding. In event of an  
11952 unauthorized disclosure of any such documents gathered by the  
11953 Attorney General pursuant to the provisions of this section, the  
11954 person making any such unauthorized disclosure shall be guilty of  
11955 a misdemeanor, and upon conviction thereof, shall be punished by a  
11956 fine of not more than One Thousand Dollars (\$1,000.00), or  
11957 imprisonment of not more than six (6) months, or by both such fine  
11958 and imprisonment.



11959           (7) The powers of the Attorney General under this section  
11960 shall not diminish the powers of local authorities to investigate  
11961 or prosecute any type of identity theft crime or any other  
11962 criminal conduct within their respective jurisdictions, and the  
11963 provisions of this section shall be in addition to the powers and  
11964 authority previously granted the Attorney General by common,  
11965 constitutional, statutory or case law.

11966           **SECTION 169.** Section 99-27-31, Mississippi Code of 1972, is  
11967 amended as follows:

11968           99-27-31. It shall be the duty of every railroad company,  
11969 express company, or other carrier, and of every person, firm or  
11970 corporation, that shall transport any of the alcohol or wine  
11971 authorized, and who shall deliver such alcohol or wine or either  
11972 of them in this state, to file with the clerk of the circuit court  
11973 of the county in which said alcohol or wine is delivered, a  
11974 statement, either printed or plainly written, or typewritten on  
11975 stout paper, correctly stating the date on which the alcohol or  
11976 wine was delivered, the name and postoffice address of the  
11977 consignee and consignor, the place of delivery, and to whom  
11978 delivered, and the kind and amount of such liquors delivered, such  
11979 statement to be filed within three (3) days after the date of  
11980 delivery of such liquor. If said statement is in writing, it  
11981 shall be in a fair and legible hand, and the names of the  
11982 consignee and the consignor and of the party who obtained delivery  
11983 shall be truly ascertained and furnished in such way as to avoid



11984 mistakes in names. If any person, firm or corporation making  
11985 delivery shall neglect to file with the circuit clerk such  
11986 statement or statements, then it shall be the duty of the circuit  
11987 clerk to make written demand upon such person, firm or  
11988 corporation, to comply with the requirements of this section, such  
11989 demand to be served by the sheriff and return made by him to the  
11990 circuit clerk upon a copy of the original demand. Upon further  
11991 refusal or noncompliance, it shall be the duty of the circuit  
11992 clerk to promptly inform the Attorney General of the state of such  
11993 failure or refusal, and it shall then be the duty of the Attorney  
11994 General, subject to the provisions of Sections 1 and 2 of this  
11995 act, either himself to file, or to direct and secure some district  
11996 attorney or county attorney whose duty it is to prosecute crime in  
11997 the county, to file a suit in the name of the state.

11998       **SECTION 170.** Section 99-29-9, Mississippi Code of 1972, is  
11999 amended as follows:

12000       99-29-9. The bond provided for by Section 97-35-39 shall be  
12001 made payable to the State of Mississippi, and may be sued upon, in  
12002 case of breach, in the name of the state, and in the circuit  
12003 court, and such suit shall be triable at the first term of the  
12004 circuit court after the breach occurs, provided the sureties on  
12005 such bond are summoned five (5) days before court meets. And such  
12006 suit shall be conducted by the district attorney, for the state,  
12007 in the circuit court, and by the Attorney General, subject to the  
12008 provisions of Sections 1 and 2 of this act, in the Supreme Court.



12009 Whenever any bond so taken shall be forfeited by the misconduct of  
12010 the said vagrant, there shall be no recovery of same less than the  
12011 face value of the bond, unless the vagrant shall be delivered up  
12012 to the circuit court for future trial, as provided in Section  
12013 99-29-11, in which event the court may, in its discretion, limit  
12014 the amount of recovery on the bond to the cost of suit and a  
12015 penalty of Fifty Dollars (\$50.00).

12016 **SECTION 171.** Section 99-38-11, Mississippi Code of 1972, is  
12017 amended as follows:

12018 99-38-11. (1) It shall be unlawful for any person, firm,  
12019 corporation, partnership, association or other legal entity to  
12020 fail to comply with the provisions of this chapter.

12021 (2) Any person, firm, corporation, partnership, association  
12022 or other legal entity violating the provisions of this chapter  
12023 shall be guilty of a misdemeanor and, upon conviction of the  
12024 violation, shall be punished as for a misdemeanor.

12025 (3) Each day any such person, firm, corporation,  
12026 partnership, association or other legal entity continues in  
12027 violation of the provisions of this chapter shall constitute a  
12028 separate offense.

12029 (4) Any action taken by any person accused or convicted of a  
12030 crime or who enters a plea of guilty of a crime, or by a person or  
12031 legal entity with whom any such person contracts as set forth in  
12032 Section 99-38-5, whether by way of execution of a contract or  
12033 agreement outside of this state, execution of a power of attorney,



12034 donation, creation of corporate entities, or otherwise, to defeat  
12035 the purpose of this chapter shall be null and void as against the  
12036 public policy of the state.

12037 (5) In addition to such powers and duties of the Attorney  
12038 General of this state as are otherwise authorized and prescribed  
12039 by law, the Attorney General, subject to the provisions of  
12040 Sections 1 and 2 of this act, shall be authorized to bring a civil  
12041 action in any court of competent jurisdiction to enforce the  
12042 obligations of a contracting party to make payment to the  
12043 Treasurer of such monies as are required to be paid to the  
12044 Treasurer under the provisions of Section 99-38-5.

12045 **SECTION 172.** Section 99-41-13, Mississippi Code of 1972, is  
12046 brought forward as follows:

12047 99-41-13. Any claimant aggrieved by a final decision of the  
12048 Attorney General shall be entitled to judicial review thereof in  
12049 the manner provided in this section.

12050 (a) An appeal may be taken by such claimant to the  
12051 circuit court of the claimant's residence or the Circuit Court of  
12052 the First Judicial District of Hinds County by filing a petition  
12053 with the clerk of the court and executing and filing bond payable  
12054 to the State of Mississippi with sufficient sureties to be  
12055 approved by the clerk of the court, conditioned upon the payment  
12056 of all costs of appeal, including the cost of preparing the  
12057 transcript of the hearing before the Attorney General. The  
12058 petition and bond shall be filed within thirty (30) days of the





12059 receipt of the final decision of the Attorney General. Upon  
12060 approval of the bond, the clerk of the court shall notify the  
12061 Office of the Attorney General, which shall prepare its record in  
12062 the matter and transmit it to the circuit court.

12063 (b) The scope of review of the circuit court in such  
12064 cases shall be limited to a review of the record made before the  
12065 Attorney General to determine if the action of the Attorney  
12066 General is unlawful for the reason that it was:

12067 (i) Not supported by a preponderance of the  
12068 evidence;

12069 (ii) Arbitrary and capricious; or

12070 (iii) In violation of a statutory right of  
12071 claimant.

12072 (c) No relief shall be granted based upon the court's  
12073 finding of harmless error.

12074 (d) Any party aggrieved by action of the circuit court  
12075 may appeal to the Supreme Court in the manner provided by law.

12076 SECTION \_\_\_\_ . The provisions of this act shall be applicable  
12077 to the sections of this act, and shall not be applicable to any  
12078 section not included in this act.

12079 **SECTION 173.** This act shall take effect and be in force from  
12080 and after its passage.

