

By: Ross

To: Finance

SENATE BILL NO. 2996

1 AN ACT TO CODIFY SECTION 27-3-80, MISSISSIPPI CODE OF 1972,  
2 TO EMPOWER THE STATE TAX COMMISSION TO ENTER INTO AN AGREEMENT WITH  
3 ANY TAXPAYER FOR THE SETTLEMENT OR COMPROMISE OF TAX LIABILITIES;  
4 AND FOR RELATED PURPOSES.

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

6 SECTION 1. The following shall be codified as Section  
7 27-3-80, Mississippi Code of 1972:

8 27-3-80. **Settlement or Compromise of Tax Liabilities.**

9 The State Tax Commission shall have the power and authority  
10 to enter into an agreement with any taxpayer under which such  
11 taxpayer's tax liabilities, or any part thereof, including any  
12 applicable or assessed interest and penalty, are settled and  
13 compromised, and in connection therewith to receive and consider  
14 offers in compromise and settlement proposals, and to enter into  
15 binding settlement agreements and closing agreements under which a  
16 taxpayer's liabilities for taxes, interest and penalties are fully  
17 and finally compromised and settled. Such power and authority  
18 shall extend to and include compromise and settlements of proposed  
19 tax assessments, final tax assessments, and tax liabilities  
20 reflected by filed returns, judgments for taxes, and other  
21 proposed or final tax assessments and liabilities, and applicable  
22 interest and penalties.

23 The State Tax Commission or commissioner shall develop  
24 procedures for the receipt and consideration of offers in  
25 compromise and settlement proposals. In considering and taking  
26 action upon such offers and proposals, the State Tax Commission or  
27 the commissioner shall take into account:

28           (1) Controversy or doubt as to the taxpayer's liability  
29 for the tax that is the subject of the offer in compromise or  
30 settlement proposal;

31           (2) Controversy or doubt as to the collectability of  
32 the tax that is the subject of the offer in compromise or  
33 settlement proposal;

34           (3) That payment of the tax liability, or the interest  
35 or penalty thereon, will render the taxpayer insolvent, or  
36 incapable of continuing as a going business concern;

37           (4) That the taxpayer has had an offer in compromise  
38 accepted by the Internal Revenue Service, or has otherwise  
39 compromised or settled the federal tax liability relating to the  
40 same or a similar type of federal tax for the periods in question;  
41 and

42           (5) Hazards and costs of administrative proceedings and  
43 litigation.

44           With respect to the compromise of interest or penalties, the  
45 State Tax Commission or commissioner shall take into account, in  
46 addition to the factors listed above, whether the failure to pay  
47 applicable tax resulted from a mistake of fact or law, made in  
48 good faith.

49           A closing agreement or settlement agreement signed by the  
50 commissioner, or the commissioner's designee, shall be final and  
51 conclusive, and except upon a showing of fraud or  
52 misrepresentation of a material fact, no additional assessment or  
53 collection shall be made by the commissioner or the State Tax  
54 Commission, and the taxpayer shall not institute any judicial  
55 proceeding to recover the taxpayer's liabilities as agreed to in  
56 the closing agreement or settlement agreement.

57           The commissioner shall promulgate regulations to establish  
58 the procedures for the receipt and consideration of offers in  
59 compromise and settlement proposals, and for determining whether  
60 an offer in compromise or settlement proposal is adequate and

61 acceptable to resolve tax liability.

62 SECTION 2. This act shall take effect and be in force from  
63 and after July 1, 2000.