

By: Representative Fleming

To: Ways and Means

## HOUSE BILL NO. 53

1 AN ACT TO AMEND SECTION 27-7-53, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT A TAXPAYER FILING AN INDIVIDUAL INCOME TAX RETURN WHO  
3 OWES ADDITIONAL INCOME TAX IN AN AMOUNT IN EXCESS OF \$75.00 BUT  
4 NOT IN EXCESS OF \$3,000.00, MAY REQUEST THAT THE CHAIRMAN OF THE  
5 STATE TAX COMMISSION ALLOW THE TAXPAYER TO PAY THE ADDITIONAL TAX  
6 THROUGH AN INSTALLMENT AGREEMENT; TO PROVIDE THAT THE CHAIRMAN OF  
7 THE STATE TAX COMMISSION MAY ALLOW SUCH A TAXPAYER TO PAY THE  
8 ADDITIONAL INCOME TAX THROUGH AN INSTALLMENT AGREEMENT IF THE  
9 CHAIRMAN OF THE STATE TAX COMMISSION DETERMINES THE TAXPAYER IS  
10 FINANCIALLY UNABLE TO PAY THE ADDITIONAL TAX AND CERTAIN OTHER  
11 CONDITIONS ARE SATISFIED; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 27-7-53, Mississippi Code of 1972, is  
14 amended as follows:

15 27-7-53. (1) (a) Except as otherwise provided in this  
16 section, if a return is timely filed by the taxpayer but the tax  
17 due is not paid, the commissioner shall make his assessment of tax  
18 due by mail or by personal delivery of the assessment to the  
19 taxpayer, which assessment shall constitute notice and demand for  
20 payment. The taxpayer shall be given a period of thirty (30) days  
21 from the date of the notice in which to pay the tax due, including  
22 penalty and interest as hereinafter provided, and if said sum is  
23 not paid within the period of thirty (30) days, the commissioner  
24 shall proceed to collect same under the provisions of Sections  
25 27-7-55 through 27-7-67 of this article; provided that within said  
26 period of thirty (30) days the taxpayer may appeal as set out in  
27 Sections 27-7-71 and 27-7-73.

28 (b) (i) If an individual return is timely filed by the  
29 taxpayer and the amount of tax liability (determined without  
30 regard to interest, penalties, additions to the tax and additional  
31 amounts) of the taxpayer exceeds Seventy-five Dollars (\$75.00) but

32 does not exceed Three Thousand Dollars (\$3,000.00), the taxpayer  
33 may request to pay the tax liability through an installment  
34 agreement. The taxpayer must file such a request with the return  
35 and must provide all information required by the commissioner. If  
36 the commissioner determines a taxpayer is financially unable to  
37 pay the tax liability, the commissioner may enter into an  
38 agreement to accept payment of the tax liability in installments  
39 if:

40 1. The taxpayer (and the taxpayer's spouse if  
41 the tax liability relates to a joint return), during any of the  
42 preceding five (5) years, has not: a. failed to file any return  
43 required by this chapter, b. failed to pay any tax required by  
44 this chapter or c. entered into an installment agreement under  
45 this paragraph (b);

46 2. The agreement requires full payment of the  
47 tax liability in equal installments within twelve (12) months from  
48 the date the return was filed; and

49 3. The taxpayer agrees to comply with the  
50 terms of the agreement.

51 (ii) Payments made through an installment  
52 agreement shall be subject to the interest provisions of  
53 subsection (3) of this section.

54 (iii) The commissioner may terminate an  
55 installment agreement entered into under this paragraph (b) if he  
56 determines the taxpayer provided inaccurate or incomplete  
57 information before the agreement was entered into or he believes  
58 the collection of the tax to which the agreement relates is in  
59 jeopardy.

60 (iv) The commissioner may modify or terminate an  
61 installment agreement entered into under this paragraph (b) if the  
62 taxpayer fails to:

63 1. Pay any installment due under the  
64 agreement;

65                                   2. Pay any other tax liability due under this  
66 chapter when the liability is due; or

67                                   3. Provide a statement of financial condition  
68 required by the commissioner.

69           (2) If no return is made by a taxpayer required by this  
70 chapter to make a return, the commissioner shall determine the  
71 taxpayer's liability from the best information available, which  
72 determination shall be prima facie correct for the purpose of this  
73 article, and the commissioner shall forthwith make an assessment  
74 of the tax so determined to be due by mail or by personal delivery  
75 of the assessment to the taxpayer, which assessment shall  
76 constitute notice and demand for payment. The taxpayer shall be  
77 given a period of thirty (30) days from the date of the notice in  
78 which to pay the tax due, including penalty and interest as  
79 hereinafter provided, and if said sum is not paid within the  
80 period of thirty (30) days, the commissioner shall proceed to  
81 collect same under the provisions of Sections 27-7-55 through  
82 27-7-67 of this article; provided that within said period of  
83 thirty (30) days the taxpayer may appeal as set out in Sections  
84 27-7-71 and 27-7-73.

85           (3) Interest at the rate of one percent (1%) per month from  
86 the due date of the return may be added or assessed in addition to  
87 the tax due as hereinabove provided in subsections (1) and (2).

88           (4) In case of failure to file a return as required by this  
89 chapter, unless it can be shown that the failure is due to  
90 reasonable cause and not due to willful neglect, there may be  
91 added to the amount required to be shown as tax on the return a  
92 penalty of five percent (5%) of the amount of the tax if the  
93 failure is for not more than one (1) month, with an additional  
94 five percent (5%) for each additional month or fraction thereof  
95 during which the failure continues, not to exceed twenty-five  
96 percent (25%) in the aggregate. Such failure to file a return  
97 penalty shall not be less than One Hundred Dollars (\$100.00).

98           (5) In case of failure to pay the amount shown as tax on any  
99 return specified in subsections (1) and (2) of this section on or  
100 before the date prescribed for payment of the tax, determined with  
101 regard to any extension of time for payment or installment  
102 agreement, or both, unless it is shown that the failure is due to  
103 reasonable cause and not due to willful neglect, there may be  
104 added to the amount shown as tax on the return one-half of one  
105 percent (1/2 of 1%) of the amount of the tax if the failure is for  
106 not more than one (1) month, with an additional one-half of one  
107 percent (1/2 of 1%) for each additional month or fraction thereof  
108 during which the failure continues, not to exceed twenty-five  
109 percent (25%) in the aggregate.

110           **SECTION 2.** This act shall take effect and be in force from  
111 and after January 1, 2006.