

By: Representative Watson

To: Ways and Means

HOUSE BILL NO. 1430

1 AN ACT TO REORGANIZE THE STATE TAX COMMISSION BY PLACING ITS
2 ADMINISTRATIVE FUNCTIONS IN A DEPARTMENT OF REVENUE AND ITS
3 AUTHORITY OVER ADMINISTRATIVE APPEALS IN AN INDEPENDENT BOARD OF
4 TAX APPEALS; TO ESTABLISH THE BOARD OF TAX APPEALS AS AN
5 INDEPENDENT AGENCY AND PROVIDE FOR ITS MEMBERSHIP; TO PROVIDE THAT
6 THE INITIAL MEMBERS OF THE BOARD SHALL BE THE ASSOCIATE TAX
7 COMMISSIONERS PRESENTLY SERVING ON THE STATE TAX COMMISSION AND A
8 CHAIRMAN APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF
9 THE SENATE; TO PROVIDE THAT THE GOVERNOR SHALL APPOINT THE
10 ASSOCIATE MEMBERS WITH THE ADVICE AND CONSENT OF THE SENATE WHEN
11 THE TERMS OF THE INITIAL ASSOCIATE MEMBERS EXPIRE; TO PROVIDE THAT
12 MEMBERS OF THE BOARD OF TAX APPEALS MAY NOT BE REMOVED FROM OFFICE
13 EXCEPT BY IMPEACHMENT OR AS PROVIDED UNDER SECTION 25-5-1,
14 MISSISSIPPI CODE OF 1972, EXCEPT THAT MEMBERS MAY ALSO BE REMOVED
15 FOR A CRIMINAL CONVICTION UNDER THE INTERNAL REVENUE CODE; TO
16 PROVIDE THAT THE SALARIES OF THE BOARD OF TAX APPEALS SHALL BE
17 FIXED BY THE STATE PERSONNEL BOARD; TO PROVIDE FOR THE POWERS AND
18 DUTIES OF THE BOARD OF TAX APPEALS; TO PROVIDE THAT THE CHAIRMAN
19 OF THE BOARD OF TAX APPEALS SHALL APPOINT AN EXECUTIVE DIRECTOR
20 WHO SHALL SERVE AT THE WILL AND PLEASURE OF THE CHAIRMAN AND MAY
21 BE REMOVED UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE THAT THE
22 EXECUTIVE DIRECTOR SHALL BE LICENSED TO PRACTICE LAW IN THIS STATE
23 AND HAVE A FAMILIARITY WITH THE TAX APPEALS PROCESS; TO PROVIDE
24 THAT THE SALARY OF THE EXECUTIVE DIRECTOR SHALL BE SET BY THE
25 STATE PERSONNEL BOARD; TO PROVIDE THE POWERS AND DUTIES OF THE
26 EXECUTIVE DIRECTOR; TO PROVIDE FOR THE MEETINGS OF THE BOARD OF
27 TAX APPEALS; TO PROVIDE THAT, EXCEPT FOR THE DUTIES AND POWERS
28 EXERCISED BY THE BOARD OF TAX APPEALS, THE COMMISSIONER OF REVENUE
29 ACTING THROUGH THE DEPARTMENT OF REVENUE SHALL EXERCISE THOSE
30 POWERS, DUTIES AND FUNCTIONS HERETOFORE VESTED IN THE MISSISSIPPI
31 STATE TAX COMMISSION AND THE CHAIRMAN OF THE STATE TAX COMMISSION;
32 TO PROVIDE THE TRANSITIONAL RULES FOR THIS CHANGE; TO AMEND
33 SECTION 27-3-1, MISSISSIPPI CODE OF 1972, TO ESTABLISH THE
34 DEPARTMENT OF REVENUE AND PROVIDE THAT THE HEAD OF THE DEPARTMENT
35 SHALL BE THE COMMISSIONER OF REVENUE; TO PROVIDE THAT THE
36 COMMISSIONER OF REVENUE SHALL BE APPOINTED BY THE GOVERNOR WITH
37 THE ADVICE AND CONSENT OF THE SENATE FOR A SIX-YEAR TERM; TO
38 PROVIDE THAT THE COMMISSIONER OF REVENUE MAY NOT BE REMOVED FROM
39 OFFICE EXCEPT BY IMPEACHMENT OR AS PROVIDED UNDER SECTION 25-5-1,
40 MISSISSIPPI CODE OF 1972, EXCEPT THAT THE COMMISSIONER MAY ALSO BE
41 REMOVED FOR A CRIMINAL CONVICTION UNDER THE INTERNAL REVENUE CODE;
42 TO AMEND SECTION 27-3-2, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
43 THE CHAIRMAN OF THE STATE TAX COMMISSION WHOSE TERM EXPIRES ON
44 JULY 1, 2010, SHALL BE DEEMED TO BE THE INCUMBENT FOR THE OFFICE
45 OF COMMISSIONER OF REVENUE AND SHALL SERVE AS THE COMMISSIONER OF
46 REVENUE UNTIL THE PERSON APPOINTED BY THE GOVERNOR TO FILL THE



47 POSITION HAS BEEN APPOINTED AND QUALIFIED; TO AMEND SECTION
48 27-3-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE ANNUAL
49 SALARY OF THE COMMISSIONER OF REVENUE SHALL BE FIXED BY THE STATE
50 PERSONNEL BOARD; TO AMEND SECTION 27-3-31, MISSISSIPPI CODE OF
51 1972, TO CLARIFY THE DUTIES OF THE COMMISSIONER OF REVENUE
52 NECESSITATED BY THIS ACT; TO AMEND SECTION 27-3-61, MISSISSIPPI
53 CODE OF 1972, TO AUTHORIZE THE RECORDS AND DOCUMENTS REQUIRED TO
54 BE FILED AND PRESERVED BY THE DEPARTMENT OF REVENUE TO BE
55 PRESERVED DIGITALLY AND/OR ELECTRONICALLY AND TO ALLOW THE
56 DESTRUCTION OF PAPER COPIES OF RECORDS AND DOCUMENTS AFTER THEY
57 HAVE BEEN PRESERVED DIGITALLY OR ELECTRONICALLY; TO AMEND SECTIONS
58 27-7-51 AND 27-7-53, MISSISSIPPI CODE OF 1972, TO INCREASE TO 60
59 DAYS FROM THE DATE OF NOTICE THE TIME WITHIN WHICH A TAXPAYER MAY
60 PAY AN ASSESSMENT OF ADDITIONAL INCOME TAXES OR APPEAL THE
61 ASSESSMENT; TO AMEND SECTIONS 27-9-43 AND 27-9-45, MISSISSIPPI
62 CODE OF 1972, TO INCREASE TO 60 DAYS FROM THE DATE OF NOTICE THE
63 TIME WITHIN WHICH A TAXPAYER MUST PAY A DEFICIENCY IN THE ESTATE
64 TAX; TO AMEND SECTIONS 27-13-23 AND 27-13-25, MISSISSIPPI CODE OF
65 1972, TO INCREASE TO 60 DAYS FROM THE DATE OF NOTICE THE TIME
66 WITHIN WHICH A TAXPAYER MAY PAY AN ASSESSMENT OF ADDITIONAL
67 CORPORATION FRANCHISE TAXES OR APPEAL THE ASSESSMENT; TO AMEND
68 SECTION 27-15-205, MISSISSIPPI CODE OF 1972, TO EXTEND TO 60 DAYS
69 AFTER THE DETERMINATION THAT ADDITIONAL PRIVILEGE TAX IS DUE, THE
70 PERIOD OF TIME DURING WHICH THE ADDITIONAL TAX MAY BE PAID WITHOUT
71 PENALTY; TO AMEND SECTIONS 27-35-163, MISSISSIPPI CODE OF 1972, TO
72 AUTHORIZE THE DEPARTMENT OF REVENUE TO APPEAL ORDERS OF THE BOARD
73 OF TAX APPEALS REGARDING ASSESSMENTS BY THE DEPARTMENT FOR AD
74 VALOREM TAX PURPOSES; TO AMEND SECTIONS 27-35-309, 27-35-501 AND
75 27-35-703, MISSISSIPPI CODE OF 1972, TO INCREASE TO 30 DAYS THE
76 PERIOD OF TIME THAT ASSESSMENTS OF CERTAIN RAILROAD, AIRLINE AND
77 OTHER PUBLIC SERVICE CORPORATIONS PROPERTY REMAIN OPEN IN THE
78 OFFICE OF THE DEPARTMENT OF REVENUE AND TO PROVIDE THAT ANY
79 OBJECTIONS SHALL BE IN WRITING AND FILED WITH THE BOARD OF TAX
80 APPEALS WITHIN SUCH PERIOD; TO PROVIDE THAT A COPY OF THE WRITTEN
81 OBJECTIONS MUST BE FILED WITH THE DEPARTMENT OF REVENUE; TO AMEND
82 SECTIONS 27-55-23 AND 27-55-27, MISSISSIPPI CODE OF 1972, TO
83 INCREASE TO 60 DAYS THE PERIOD OF TIME DURING WHICH CERTAIN
84 DECISIONS OF THE DEPARTMENT OF REVENUE UNDER THE GASOLINE TAX LAW
85 MAY BE APPEALED TO THE BOARD OF REVIEW OF THE DEPARTMENT OF
86 REVENUE; TO AMEND SECTION 27-57-19, MISSISSIPPI CODE OF 1972, TO
87 INCREASE TO 60 DAYS THE PERIOD OF TIME DURING WHICH CERTAIN
88 DECISIONS OF THE DEPARTMENT OF REVENUE UNDER THE LUBRICATING OIL
89 TAX LAW MAY BE APPEALED TO THE BOARD OF REVIEW OF THE DEPARTMENT
90 OF REVENUE; TO AMEND SECTIONS 27-65-35 AND 27-65-37, MISSISSIPPI
91 CODE OF 1972, TO INCREASE TO 60 DAYS THE PERIOD OF TIME WITHIN
92 WHICH A TAXPAYER MUST PAY CERTAIN ASSESSMENTS AND DAMAGES UNDER
93 THE SALES TAX LAW; TO AMEND SECTIONS 27-77-1, 27-77-5, 27-77-7,
94 27-77-9, 27-77-11, 27-77-12, 27-77-13, 27-77-15, 27-77-17 AND
95 27-77-19, MISSISSIPPI CODE OF 1972, TO REVISE THE TIME WITHIN
96 WHICH AN ORDER OF THE BOARD OF REVIEW OF THE DEPARTMENT OF REVENUE
97 MAY BE APPEALED BY AN AGGRIEVED PARTY TO THE BOARD OF TAX APPEALS;
98 TO PROVIDE THAT THE BOARD OF REVIEW RETAINS AUTHORITY TO CORRECT
99 AN ORDER THAT IS BEING APPEALED AT ANY TIME PRIOR TO A DECISION BY
100 THE BOARD OF TAX APPEALS; TO AUTHORIZE THE DEPARTMENT OF REVENUE
101 TO APPEAL THE DECISIONS OF THE BOARD OF TAX APPEALS; TO PROVIDE
102 THAT THE TIME WITHIN WHICH SUCH APPEALS MUST BE FILED IN THE
103 CHANCERY COURT; TO PROVIDE THE TIME WITHIN WHICH THE RESPONDENT
104 MAY FILE A CROSS-APPEAL; TO PROVIDE THAT IF BOTH PARTIES FILE A



105 PETITION, THE APPEALS SHALL BE CONSOLIDATED AND THE CHANCERY COURT
106 WHERE THE FIRST PETITION WAS FILED SHALL HAVE JURISDICTION OVER
107 THE CONSOLIDATED APPEAL; TO PROVIDE THAT A PETITION FILED BY A
108 TAXPAYER THAT APPEALS AN ORDER OF THE BOARD OF TAX APPEALS
109 AFFIRMING A TAX ASSESSMENT SHALL BE ACCOMPANIED BY A SURETY BOND
110 IN A SUM HALF THE AMOUNT IN CONTROVERSY; TO REQUIRE THE TAXPAYER
111 TO PAY ANY TAX INCLUDED IN AN ASSESSMENT THAT HE IS NOT
112 CONTESTING; TO PROVIDE THAT IN AN ACTION RESULTING FROM AN ORDER
113 OF THE BOARD OF TAX APPEALS INVOLVING A REFUND CLAIM DENIAL, THE
114 DEPARTMENT OF REVENUE SHALL REFUND THE AMOUNT OF THE CLAIM THAT IS
115 NOT CONTESTED; TO CLARIFY THE CONDUCT OF HEARINGS REGARDING THE
116 SUSPENSION, SEIZURE OR REVOCATION OF CERTAIN PERMITS, LICENSE TAGS
117 OR TITLES; TO PROVIDE FOR THE PAYMENT OF THE COST OF APPEALS; TO
118 GRANT THE BOARD OF TAX APPEALS CERTAIN AUTHORITY TO ISSUE
119 SUBPOENAS AND THE AUTHORITY TO INSTITUTE CERTAIN PROCEEDINGS TO
120 ENFORCE SUCH SUBPOENAS; TO AMEND SECTION 67-1-33, MISSISSIPPI CODE
121 OF 1972, TO DEFINE THE TERMS "GRATUITY," "EMOLUMENT," "EMPLOYMENT"
122 AND "PECUNIARY BENEFIT" WITH REGARD TO CERTAIN PROHIBITIONS IN THE
123 LOCAL OPTION LAW REGARDING OFFICERS AND EMPLOYEES OF THE
124 DEPARTMENT OF REVENUE; TO AMEND SECTION 67-1-63, MISSISSIPPI CODE
125 OF 1972, TO PROVIDE THE PERIOD OF TIME THAT A PERMITTEE UNDER THE
126 LOCAL OPTION ALCOHOLIC BEVERAGE CONTROL LAW MAY CONTINUE TO
127 OPERATE WHEN HIS APPLICATION FOR RENEWAL OF A PERMIT HAS BEEN
128 DENIED FOR CERTAIN REASONS; TO PROVIDE THAT THE ISSUANCE OR
129 RENEWAL OF A PERMIT BASED ON A DECISION OF THE BOARD OF TAX
130 APPEALS DOES NOT BAR THE DEPARTMENT OF REVENUE FROM APPEALING THE
131 DECISION; TO CREATE NEW CODE SECTION 67-1-72, MISSISSIPPI CODE OF
132 1972, TO PROVIDE THE MANNER OF APPEALING THE DECISIONS OF THE
133 DEPARTMENT OF REVENUE MADE UNDER THE LOCAL OPTION ALCOHOLIC
134 BEVERAGE CONTROL LAW TO THE BOARD OF TAX APPEALS; TO AMEND
135 SECTIONS 1-1-11, 25-41-3, 27-3-3, 27-3-13, 27-3-15, 27-3-17,
136 27-3-19, 27-3-23, 27-3-33, 27-3-35, 27-3-39, 27-3-41, 27-3-43,
137 27-3-45, 27-3-47, 27-3-49, 27-3-51, 27-3-52, 27-3-53, 27-3-57,
138 27-3-58, 27-3-59, 27-3-63, 27-3-65, 27-3-73, 27-3-79, 27-3-80,
139 27-3-81, 27-3-83, 27-7-3, 27-7-45, 27-7-303, 27-7-503, 27-7-601,
140 27-7-701, 27-9-3, 27-13-1, 27-15-3, 27-19-1, 27-19-3, 27-19-303,
141 27-21-1, 27-25-3, 27-25-303, 27-25-501, 27-25-701, 27-33-11,
142 27-33-37, 27-33-41, 27-35-81, 27-35-113, 27-35-115, 27-35-117,
143 27-35-129, 27-35-311, 27-35-313, 27-35-325, 27-35-517, 27-35-701,
144 27-41-69, 27-51-19, 27-51-45, 27-51-101, 27-55-1, 27-55-5,
145 27-55-501, 27-55-505, 27-55-535, 27-57-1, 27-57-5, 27-59-1,
146 27-59-3, 27-59-301, 27-59-303, 27-61-1, 27-61-3, 27-65-3,
147 27-65-87, 27-65-89, 27-67-3, 27-68-3, 27-67-503, 27-69-3, 27-71-1,
148 27-71-301, 63-21-3, 63-21-5, 63-21-75, 67-1-5, 67-1-19, 67-1-23,
149 67-1-35, 67-1-37, 67-1-39, 67-1-71, 67-3-3, 67-7-5, 71-5-389,
150 75-23-5, 75-23-31, 75-76-5 AND 75-76-83, MISSISSIPPI CODE OF 1972,
151 IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
152 PURPOSES.

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

154 **SECTION 1.** (1) The Board of Tax Appeals is established as
155 an independent agency which shall not in any way be subject to the
156 supervision or control of the Department of Revenue.

157 (2) The Board of Tax Appeals shall consist of three (3)
158 members; a chairman and two (2) associate members. Except as



159 provided in subsection (5) of this section, the chairman and
160 associate members shall be appointed by the Governor with the
161 advice and consent of the Senate. Each member of the board shall
162 be a qualified elector, shall have at least a bachelor degree from
163 an accredited college or university, and shall possess a special
164 knowledge of taxation and revenue in the State of Mississippi.
165 The members of the Board of Tax Appeals, while holding office,
166 shall not engage in any other occupation or business interfering
167 with or inconsistent with their official duties on the board.

168 (3) The initial term of the Chairman of the Board of Tax
169 Appeals shall begin on July 1, 2010, and expire on June 30, 2016.
170 The initial term of one (1) associate member of the board shall
171 expire June 30, 2012. The initial term of the other associate
172 member shall expire June 30, 2014. Upon the expiration of the
173 initial terms, the term of office of each member shall be for six
174 (6) years, or until his successor is appointed and qualified. The
175 Governor shall include in his appointment of the chairman and
176 associate members the expiration date of each appointment.
177 Vacancies shall be filled by the Governor for the unexpired
178 portion of the term in which the vacancy occurs.

179 (4) No person appointed by the Governor to the Board of Tax
180 Appeals shall be eligible to take office unless his name shall
181 have been submitted to the Mississippi Senate for its advice and
182 consent at least thirty (30) days prior to the scheduled
183 adjournment of the regular session of the Legislature being held
184 in the calendar year in which the term of the office of the
185 incumbent shall expire; however, if for any reason an appointment
186 is not given the advice and consent of the Mississippi Senate
187 prior to the adjournment of such regular session, the Governor may
188 submit another appointment at any time to the Mississippi Senate
189 for its advice and consent at a regular or extraordinary session
190 of the Legislature. The foregoing prohibition shall not apply



191 when a vacancy shall occur by death or resignation of the
192 incumbent.

193 (5) On July 1, 2010, the Associate Commissioner of the State
194 Tax Commission whose appointment as associate commissioner has an
195 expiration date of June 30, 2012, shall fill the position of the
196 associate member of the Board of Tax Appeals whose term expires on
197 June 30, 2012. On July 1, 2010, the Associate Commissioner of the
198 State Tax Commission whose appointment as associate commissioner
199 has an expiration date of June 30, 2014, shall fill the position
200 of the associate member of the Board of Tax Appeals whose term
201 expires on June 30, 2014. This change of positions from an
202 Associate Commissioner of the State Tax Commission to an associate
203 member of the Board of Tax Appeals shall be treated as a
204 continuation of the same appointment without the need for an
205 additional appointment by the Governor or the advice and consent
206 of the Senate.

207 (6) Each member of the Board of Tax Appeals shall, before
208 entering upon the discharge of the duties of his office, take and
209 subscribe to the oath of office prescribed by the Constitution and
210 shall file the oath in the Office of the Secretary of State, and
211 each member, including the chairman, shall execute a bond in some
212 surety company authorized to do business in the state, to be
213 approved by the Governor, and filed in the Office of the Secretary
214 of State in the penal sum of Fifty Thousand Dollars (\$50,000.00),
215 conditioned for the faithful and impartial discharge of the duties
216 of his office. The premium on the bonds shall be paid as provided
217 by law out of funds appropriated to the Board of Tax Appeals.

218 (7) The members of the Board of Tax Appeals are not subject
219 to removal from office other than by impeachment or by removal
220 from office as provided for under Section 25-5-1, except that in
221 addition to such impeachment and removal, a member of the Board of
222 Tax Appeals may also be removed from office for a criminal
223 conviction for violating the Internal Revenue Code.



224 (8) It is the duty of the Department of Finance and
225 Administration to provide suitable and adequate quarters and
226 equipment for the Board of Tax Appeals, for the executive director
227 and employees of the board and for filing their records, books,
228 and papers.

229 (9) The members of the Board of Tax Appeals shall receive an
230 annual salary fixed by the State Personnel Board. The actual
231 traveling expenses of the board members, the executive director of
232 the board and the employees of the board incurred in the
233 performance of their official duties shall be allowed, and such
234 salaries and expenses shall be payable out of funds appropriated
235 for the expenses of the Board of Tax Appeals.

236 **SECTION 2.** (1) The Board of Tax Appeals shall have the
237 following powers and duties:

238 (a) To adopt, amend or repeal those rules or
239 regulations necessary to implement the duties assigned to the
240 board.

241 (b) To have jurisdiction over all administrative
242 appeals to the board from decisions of the review board and
243 administrative hearing officers of the Department of Revenue under
244 Sections 27-77-5, 27-77-9, 27-77-11 and 27-77-12, to arrange the
245 time and place of the hearing on any such appeal, and where
246 required, to arrange for any evidence presented to the board at
247 such hearing to be transcribed or otherwise preserved for purposes
248 of making a record of the hearing.

249 (c) To have jurisdiction over all administrative
250 appeals regarding certain decisions and actions by the Department
251 of Revenue under the Local Option Alcoholic Beverage Control Law,
252 Section 67-1-1 et seq., and under the Mississippi Native Wine Law
253 of 1976, Section 67-5-1 et seq., as provided for under Section
254 67-1-72, to arrange the time and place of the hearing on any such
255 appeal and to arrange for any evidence presented to the board at



256 such hearing to be transcribed or otherwise preserved for purposes
257 of making a record of the hearing.

258 (d) To have jurisdiction over all administrative
259 appeals under Sections 27-33-37 and 27-33-41 to the board from
260 decisions of the Department of Revenue to deny an objection of a
261 board of supervisors to the rejection by the Department of Revenue
262 of an application for homestead exemption and to arrange the time
263 and place of the hearing on any such appeal.

264 (e) To have jurisdiction over all administrative
265 appeals under Section 27-35-113 to the board from the decision of
266 the Department of Revenue regarding its examination of the
267 recapitulations of the assessment rolls of a county and to arrange
268 the time and place of the hearing on any such appeal.

269 (f) To have jurisdiction to hear any objection to an
270 assessment by the Department of Revenue pursuant to Section
271 27-35-311, 27-35-517 or 27-35-703 and to arrange the time and
272 place of the hearing on any such objection.

273 (g) To perform all other duties which are now or may
274 hereafter be imposed upon the board by law.

275 (2) Each member of the board is empowered to administer and
276 certify oaths.

277 (3) Each member of the board is empowered to perform all
278 other duties which are now or may hereafter be imposed on him by
279 law.

280 **SECTION 3.** (1) Except as provided in subsection (7) of this
281 section, the Chairman of the Board of Tax Appeals shall appoint an
282 executive director of the board who will serve at the will and
283 pleasure of the chairman, but the executive director is subject to
284 removal from office as provided for under Section 25-5-1; however,
285 the executive director may also be removed from office for a
286 criminal conviction for violating the Internal Revenue Code.

287 (2) The executive director shall be admitted to practice law
288 in this state and have a familiarity with the tax appeals process



289 sufficient to fulfill the duties of the office of executive
290 director. The salary of the executive director shall be set by
291 the State Personnel Board. The executive director shall devote
292 full time to the duties assigned to him by the board and/or its
293 chairman.

294 (3) The Executive Director of the Board of Tax Appeals shall
295 keep the minutes of the board and make a record of all official
296 orders, findings and acts of the board. The executive director
297 shall file and preserve as a record, all papers, exhibits and
298 documents, filed with the board in any proceeding before it, and
299 shall perform such other duties as the chairman of the board may
300 direct. He shall certify copies of such records as are in his
301 custody, and such copies, when so certified, shall be accepted in
302 all matters equally and in like manner as the original.

303 (4) The Executive Director of the Board of Tax Appeals shall
304 direct and supervise the preparation of any record of a hearing
305 before the Board of Tax Appeals to be filed in any court of the
306 state.

307 (5) The Executive Director of the Board of Tax Appeals is
308 hereby empowered to employ clerical personnel, stenographers and
309 such other assistants and/or attorneys as he may deem necessary
310 for the proper discharge of his duties and the duties of the Board
311 of Tax Appeals.

312 (6) The Executive Director of the Board of Tax Appeals shall
313 also have the following powers:

314 (a) To supervise and direct all administrative and
315 technical activities of the Board of Tax Appeals;

316 (b) To make, execute and effectuate any and all
317 agreements or contracts, including contracts for the purchase of
318 goods and services, as are necessary;

319 (c) To enter into long-term or multiyear leases of real
320 property with other state agencies;



321 (d) To perform such other acts he deems necessary to
322 carry out the duties assigned to him by the Chairman of the Board
323 of Tax Appeals or imposed on him by law;

324 (7) On July 1, 2010, the person who immediately prior to
325 that date held the position of Secretary of the State Tax
326 Commission shall fill the position of the Executive Director of
327 the Board of Tax Appeals. This change of positions from the
328 Secretary of the State Tax Commission to the Executive Director of
329 the Board of Tax Appeals shall be treated as a continuation of the
330 same position with the position being transferred from the State
331 Tax Commission to the Board of Tax Appeals with the effective date
332 of such transfer being July 1, 2010. Upon assuming the position
333 of the Executive Director of the Board of Tax Appeals on July 1,
334 2010, this person, who had previously been Secretary of the State
335 Tax Commission, shall serve in the position of Executive Director
336 of the Board of Tax Appeals at the will and pleasure of the
337 Chairman of the Board of Tax Appeals and will be subject to
338 removal from that position as set out in subsection (1) of this
339 section.

340 (8) Since the Board of Tax Appeals is the successor to the
341 three-member State Tax Commission in regard to administrative
342 appeals, the Secretary of the State Tax Commission shall take with
343 him, when he assumes the position of the Executive Director of the
344 Board of Tax Appeals, all minutes and orders of the three-member
345 State Tax Commission and all papers, exhibits and documents filed
346 with the three-member State Tax Commission that had been
347 previously preserved as a record of that body by the Secretary of
348 the State Tax Commission and shall continue to preserve these
349 minutes, orders and records of the three-member State Tax
350 Commission in accordance with any record retention schedule
351 established for such records. He shall continue to perform any
352 other duties and responsibilities of the Secretary of the State
353 Tax Commission in regard to these minutes, orders and records,



354 including, but not limited to, certifying copies of such records,
355 and such copies, when so certified, shall be accepted in all
356 matters equally and in like manner as the original.

357 **SECTION 4.** The Board of Tax Appeals shall have a seal which
358 shall be in the form of a circle with the image of an eagle in the
359 center and around the margin the words: "Mississippi Board of Tax
360 Appeals," and under the image of the eagle the word: "Official."
361 The seal, in the discretion of the executive director of the
362 board, may be of a raised or engraved design or printed. The
363 Executive Director of the Board of Tax Appeals shall affix the
364 seal prescribed herein to every document where it is required by
365 law, and to every certificate and other official paper executed by
366 him or the board where necessary or proper. All documents
367 authenticated with the seal and signed by the executive director
368 shall be received as evidence in all courts, investigations, and
369 proceedings authorized by law, and may be recorded in the same
370 manner and with like effect as a deed. All copies of papers in
371 the office of the board, certified by him and authenticated by the
372 seal, shall be accepted in all matters equally and in like manner
373 as the original.

374 **SECTION 5.** The Board of Tax Appeals shall meet at least one
375 (1) day in each month, or more frequently if called by the
376 chairman of the board, at such place as may be designated by the
377 chairman, for the purpose of hearing and considering matters
378 necessary to facilitate the performance of its duties. Any two
379 (2) members of the board shall constitute a quorum, and if two (2)
380 members be unavoidably absent, such fact shall be noted on the
381 minutes and all matters for consideration shall be continued to
382 the next meeting.

383 **SECTION 6.** (1) Except for the duties and powers devolved
384 upon the Board of Tax Appeals by Section 2 of this act, the
385 Commissioner of Revenue acting through the Department of Revenue
386 shall on and after the effective date of this act exercise those



387 powers, duties and functions heretofore vested in the Mississippi
388 State Tax Commission, the State Tax Commission, the Tax
389 Commission, the Commissioner of Revenue, the Chairman of the
390 Mississippi State Tax Commission, the Chairman of the State Tax
391 Commission and/or the Chairman of the Tax Commission.

392 (2) Except for those minutes, orders and records of the
393 three (3) member State Tax Commission which are in the possession
394 of the Secretary of the State Tax Commission and any other
395 property which is transferred from the State Tax Commission to the
396 Board of Tax Appeals, all files, documents, records, property,
397 tangible and intangible, data and funds belonging to and/or in the
398 possession of the State Tax Commission immediately prior to the
399 effective date of this act shall pass to the Department of Revenue
400 on the effective date of this act without the need of the
401 execution of any documents. In regard to such files, documents,
402 records, property, data and funds, the creation of the Department
403 of Revenue on the effective date of this act shall be treated as
404 only a change in the name of the entity owning or possessing such
405 files, documents, records, property, data and funds from that of
406 the State Tax Commission to the Commissioner of Revenue of the
407 Department of Revenue with ownership, possession and custody
408 remaining in the same entity.

409 (3) In regard to any action taken by the Chairman of the
410 State Tax Commission and/or by the State Tax Commission prior to
411 the effective date of this act, the creation of the Department of
412 Revenue and the transfer of powers, duties and functions to the
413 Commissioner of Revenue of the Department of Revenue from the
414 Chairman of the State Tax Commission and from the State Tax
415 Commission as set out in subsection (1) of this section shall be
416 treated as only a change in the name of the entity taking such
417 action from the Chairman of the State Tax Commission to the
418 Commissioner of Revenue of the Department of Revenue or from the
419 State Tax Commission to the Department of Revenue, and the



420 Commissioner of Revenue acting through the Department of Revenue
421 shall succeed to any right, duty or obligation as the result of
422 such action and shall be treated as the same entity that took such
423 action without the execution and/or filing of any document. Any
424 action taken by the Commissioner of Revenue, including those taken
425 by and through the Department of Revenue, after the effective date
426 of this act in regard to any interest, right, duty or obligation
427 arising from the actions of the Chairman of the State Tax
428 Commission and/or the State Tax Commission prior to the effective
429 date of this act shall be taken in the name of the Commissioner of
430 Revenue of the Department of Revenue or in the name of the
431 Department of Revenue and be treated as an action by the official
432 or entity which originally took the action that gave rise to such
433 interest, right, duty or obligation, including, but not limited
434 to, any interest, right or obligation arising from the execution
435 or performance of a contract or agreement, the issuance of a tax
436 assessment, the issuance of a tax lien, the issuance and execution
437 of a distress warrant and the issuance of a notice to extend the
438 time period for issuing a tax assessment.

439 (4) In regard to the promulgation and adoption of any rule
440 or regulation by the State Tax Commission and/or the Chairman of
441 the State Tax Commission prior to the effective date of this act,
442 the creation of the Department of Revenue and the transfer of
443 powers, duties and functions to the Commissioner of Revenue of the
444 Department of Revenue from the State Tax Commission and Chairman
445 of the State Tax Commission as set out in subsection (1) of this
446 section shall be treated as only a change in the name of the
447 official or agency that adopted and promulgated such rules and
448 regulations from the Chairman of the State Tax Commission or the
449 State Tax Commission to the Commissioner of Revenue of the
450 Department of Revenue, and after the effective date of this act,
451 the Commissioner of Revenue of the Department of Revenue is
452 authorized and empowered to enforce such rules or regulations as



453 the official or agency that originally adopted and promulgated
454 such rules and regulations without having to readopt or
455 re-promulgate such rules and regulations. In such rules and
456 regulations, after the effective date of this act, any reference
457 to Mississippi State Tax Commission, the State Tax Commission, the
458 Tax Commission and/or commission shall mean Department of Revenue
459 and any reference to the Commissioner of Revenue, the Chairman of
460 the Mississippi State Tax Commission, the Chairman of the State
461 Tax Commission, the Chairman of the Tax Commission and/or chairman
462 shall mean Commissioner of Revenue of the Department of Revenue.

463 (5) The terms "Mississippi State Tax Commission," "State Tax
464 Commission," "Tax Commission," and "commission" appearing in the
465 laws of this state in connection with the performance of the
466 duties and functions by the Mississippi State Tax Commission, the
467 State Tax Commission or Tax Commission shall mean the Department
468 of Revenue, and, more particularly, such words or terms shall mean
469 the Department of Revenue whenever they appear in Sections 7-5-25,
470 7-7-49, 9-21-51, 11-51-77, 13-3-157, 13-3-169, 17-17-53,
471 17-17-219, 17-17-327, 17-17-415, 17-17-423, 19-2-11, 19-5-357,
472 19-9-151, 21-29-229, 21-29-233, 21-33-3, 21-33-5, 21-33-9,
473 21-33-13, 21-33-43, 21-33-45, 21-33-47, 21-33-205, 21-33-207,
474 21-33-209, 21-45-21, 25-1-73, 25-1-87, 25-3-1, 25-3-3, 25-3-15,
475 25-15-9, 25-17-9, 25-53-151, 25-55-15, 25-58-21, 25-60-1, 25-65-5,
476 25-65-7, 27-5-101, 27-5-103, 27-5-155, 27-5-159, 27-7-901,
477 27-7-903, 27-8-19, 27-17-423, 27-19-11, 27-19-27, 27-19-31,
478 27-19-39, 27-19-40, 27-19-41, 27-21-7, 27-21-19, 27-31-1,
479 27-31-31, 27-31-37, 27-31-38, 27-31-87, 27-31-101, 27-31-107,
480 27-31-109, 27-31-113, 27-35-15, 27-35-17, 27-35-19, 27-35-23,
481 27-35-25, 27-35-35, 27-35-50, 27-35-55, 27-35-75, 27-35-77,
482 27-35-81, 27-35-97, 27-35-111, 27-35-119, 27-35-123, 27-35-127,
483 27-35-131, 27-35-133, 27-35-135, 27-35-141, 27-35-143, 27-35-145,
484 27-35-147, 27-35-165, 27-35-167, 27-35-301, 27-35-303, 27-35-305,
485 27-35-307, 27-35-310, 27-35-313, 27-35-321, 27-35-327, 27-35-337,



486 27-35-509, 27-35-511, 27-35-513, 27-35-515, 27-35-519, 27-35-525,
487 27-35-527, 27-35-531, 27-37-19, 27-37-21, 27-37-23, 27-37-27,
488 27-37-29, 27-37-31, 27-37-301, 27-37-303, 27-38-5, 27-38-7,
489 27-39-317, 27-39-319, 27-39-325, 27-39-329, 27-41-21, 27-41-37,
490 27-41-101, 27-45-21, 27-51-13, 27-51-15, 27-51-17, 27-51-21,
491 27-71-501, 27-71-503, 27-71-507, 27-73-9, 27-75-16, 27-103-209,
492 27-103-211, 27-104-13, 27-104-17, 27-107-75, 27-107-95,
493 27-107-115, 27-107-135, 27-107-157, 27-107-205, 27-107-321,
494 29-1-125, 29-1-127, 29-1-129, 29-5-77, 31-1-1, 31-3-21, 31-17-3,
495 31-19-29, 31-25-27, 31-25-28, 31-31-11, 37-7-301, 37-107-3,
496 41-3-16, 41-29-177, 41-29-181, 43-1-23, 43-13-121, 43-13-145,
497 43-13-303, 43-19-46, 45-3-21, 45-11-5, 49-7-251, 49-7-255,
498 49-15-36, 49-15-64, 49-15-201, 49-15-205, 49-17-65, 49-17-67,
499 49-17-69, 49-17-70, 49-17-83, 49-17-87, 49-17-407, 49-31-5,
500 51-15-129, 57-1-257, 57-1-363, 57-4-13, 57-10-409, 57-10-411,
501 57-10-413, 57-13-23, 57-26-3, 57-28-3, 57-30-3, 57-39-205,
502 57-43-11, 57-61-15, 57-62-3, 57-62-9, 57-62-11, 57-62-13,
503 57-62-15, 57-67-17, 57-73-21, 57-73-23, 57-73-25, 57-73-27,
504 57-75-17, 57-80-9, 57-89-7, 57-91-9, 57-99-3, 57-99-7, 57-99-9,
505 57-101-1, 57-101-3, 57-105-1, 61-15-1, 61-15-7, 61-15-9, 61-15-13,
506 63-2-5, 63-5-34, 63-5-39, 63-7-61, 63-7-87, 63-7-311, 63-11-51,
507 63-11-53, 63-17-76, 63-23-7, 63-25-9, 65-1-46, 65-26-23, 65-26-17,
508 65-26-19, 65-39-35, 67-9-1, 69-9-13, 69-10-13, 69-29-1, 69-44-11,
509 69-48-13, 71-5-359, 71-5-389, 71-11-3, 75-24-209, 75-57-119,
510 75-79-7, 75-85-9, 77-3-87, 77-7-47, 77-9-483, 77-9-493, 77-11-201,
511 79-4-14.22, 79-4-15.32, 79-11-351, 79-15-125, 79-16-23, 83-1-13,
512 83-1-27, 83-1-29, 83-1-31, 83-1-37, 83-1-39, 83-5-215, 83-31-45,
513 83-34-39, 83-47-9, 83-49-45, 91-7-283, 93-11-153, 97-3-111,
514 97-17-4, 97-32-5, 97-33-73, 97-43-11, 99-27-39 and 99-27-41.

515 (6) The terms "Chairman of the Mississippi State Tax
516 Commission," "Chairman of the State Tax Commission," "Chairman of
517 the Tax Commission" and "chairman" appearing in the laws of this
518 state in connection with the performance of the duties and



519 functions by the Chairman of the Mississippi State Tax Commission,
520 the Chairman of the State Tax Commission or the Chairman of the
521 Tax Commission shall mean the Commissioner of Revenue of the
522 Department of Revenue, and, more particularly, such words or terms
523 shall mean the Commissioner of Revenue of the Department of
524 Revenue whenever they appear in Sections 7-5-25, 13-3-157,
525 13-3-169, 21-33-205, 21-33-207, 21-33-209, 25-53-151, 25-60-1,
526 27-31-31, 27-41-69, 27-75-16, 31-17-3, 31-19-29, 57-62-9,
527 57-73-21, 65-1-46 and 75-57-2.

528 **SECTION 7.** Section 1-1-11, Mississippi Code of 1972, is
529 amended as follows:

530 1-1-11. (1) Except as provided in subsection (2) of this
531 section, the Joint Committee on Compilation, Revision and
532 Publication of Legislation shall distribute or provide for the
533 distribution of the sets of the compilation of the Mississippi
534 Code of 1972 purchased by the state as follows:

535 Fifty-seven (57) sets to the Mississippi House of
536 Representatives and forty (40) sets to the Mississippi Senate for
537 the use of the Legislative Reference Bureau, Legislative Services
538 Offices, staffs and committees thereof.

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

541 One (1) set to each of the following: the Lieutenant
542 Governor; each member of the Legislature; the Treasurer; each
543 district attorney; each county attorney; each judge of the Court
544 of Appeals and each judge of the Supreme, circuit, chancery,
545 county, family, justice and municipal courts; each Mississippi
546 Senator and Mississippi Representative in Congress; State
547 Superintendent of Education; Director of the Department of Finance
548 and Administration; six (6) sets to the Performance Evaluation and
549 Expenditure Review (PEER) Committee, three (3) sets to the
550 Director of the Legislative Budget Office; the Commissioner of
551 Agriculture and Commerce; each Mississippi Transportation



552 Commissioner; six (6) sets to the Department of Corrections; the
553 Insurance Commissioner; the Clerk of the Supreme Court; the State
554 Board of Health; each circuit clerk; each chancery clerk in the
555 state for the use of the chancery clerk and the board of
556 supervisors; each sheriff in the state for the use of his office
557 and the county officers; and each county for the county library
558 (and an additional set shall be given to each circuit clerk,
559 chancery clerk, sheriff and county library in counties having two
560 (2) judicial districts).

561 Two (2) sets to the Department of Archives and History; two
562 (2) sets to the State Soil and Water Conservation Commission;
563 sixty-eight (68) sets to the Attorney General's Office; six (6)
564 sets to the Public Service Commission; four (4) sets to the Public
565 Utilities Staff; thirty-five (35) sets to the Department of
566 Revenue; one (1) set to the Board of Tax Appeals; two (2) sets to
567 the State Personnel Board; six (6) sets to the State Law Library;
568 one (1) set to the Library of Congress; ten (10) sets to the
569 University of Mississippi Law School; one (1) set each to the
570 Mississippi School for the Deaf and the Mississippi School for the
571 Blind; one (1) set each to the University of Mississippi,
572 Mississippi State University, Mississippi University for Women,
573 University of Southern Mississippi, Delta State University, Alcorn
574 State University, Jackson State University, Mississippi Valley
575 State University, and the Board of Trustees of State Institutions
576 of Higher Learning; and one (1) set to the Supreme Court judges'
577 conference room. In furtherance of the State Library's reciprocal
578 program of code exchange with libraries of the several states, the
579 joint committee shall, at the direction and only upon the written
580 request of the State Librarian, distribute or provide for the
581 distribution of sets of the code to such libraries.

582 One (1) set to each state junior or community college; three
583 (3) sets to the Department of Wildlife, Fisheries and Parks; two
584 (2) sets to the Department of Environmental Quality; two (2) sets



585 to the Department of Marine Resources; two (2) sets to the
586 Mississippi Ethics Commission; six (6) sets to the Mississippi
587 Workers' Compensation Commission; four (4) sets to the State
588 Department of Rehabilitation Services; and seven (7) sets to the
589 Department of Human Services. One (1) set to each of the
590 following: State Textbook Procurement Commission; University
591 Medical Center; State Library Commission; Department of
592 Agriculture and Commerce; Forestry Commission; and seventeen (17)
593 sets to the Department of Public Safety. Also, one (1) set to
594 each of the following: Adjutant General, Mississippi Development
595 Authority, Department of Banking and Consumer Finance, Bureau of
596 Building, Grounds and Real Property Management, the State
597 Educational Finance Commission, the Mississippi Board of
598 Vocational and Technical Education, Division of Medicaid, State
599 Board of Mental Health, and Department of Youth Services.

600 The joint committee is authorized to distribute or provide
601 for the distribution of additional sets of the Mississippi Code,
602 not to exceed three (3) sets, to the office of each district
603 attorney for the use of his assistants.

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

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

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

616 Before the joint committee delivers or provides for delivery
617 of a copy of the Mississippi Code of 1972 to an individual



618 officeholder, the joint committee shall prepare and submit a
619 written agreement to the officeholder. The agreement shall, among
620 other provisions, state that the code is the property of the State
621 of Mississippi, that it shall be transferred to the officeholder's
622 successor in office, that the officeholder has an obligation to
623 make such transfer and that the officeholder shall be responsible
624 for the failure to deliver the code and for any damage or
625 destruction to the code, normal wear and tear excepted. The joint
626 committee shall execute the agreement and forward it to the
627 officeholder for execution. The joint committee shall not deliver
628 or provide for delivery of the code to the officeholder until the
629 executed agreement is received by the committee. The joint
630 committee may include in the agreement such other provisions as it
631 may deem reasonable and necessary. In addition to damages or any
632 other remedy for not transferring a set of the code to his
633 successor, an officeholder who does not transfer his set of the
634 code shall be guilty of a misdemeanor and shall, upon conviction,
635 pay a fine of One Thousand Dollars (\$1,000.00). Upon request of
636 the joint committee, the Attorney General shall assist the joint
637 committee in taking such actions as necessary to require an
638 officeholder to transfer the set of code provided under this
639 section to his successor, or to the joint committee if there is no
640 successor, and to recover reimbursement or damages from any
641 officeholder for the loss of or damage or destruction to any
642 volumes of the set of the code provided under this section, other
643 than normal wear and tear.

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

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



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

656 **SECTION 8.** Section 25-41-3, Mississippi Code of 1972, is
657 amended as follows:

658 25-41-3. For purposes of this chapter, the following words
659 shall have the meaning ascribed herein, to wit:

660 (a) "Public body" means any executive or administrative
661 board, commission, authority, council, department, agency, bureau
662 or any other policy making entity, or committee thereof, of the
663 State of Mississippi, or any political subdivision or municipal
664 corporation of the state, whether such entity be created by
665 statute or executive order, which is supported wholly or in part
666 by public funds or expends public funds, and any standing, interim
667 or special committee of the Mississippi Legislature. There shall
668 be exempted from the provisions of this chapter:

669 (i) The judiciary, including all jury
670 deliberations;

671 (ii) Public and private hospital staffs, public and
672 private hospital boards and committees thereof;

673 (iii) Law enforcement officials;

674 (iv) The military;

675 (v) The State Probation and Parole Board;

676 (vi) The Workers' Compensation Commission;

677 (vii) Legislative subcommittees and legislative
678 conference committees;

679 (viii) The arbitration council established in
680 Section 69-3-19;

681 (ix) License revocation, suspension and
682 disciplinary proceedings held by the Mississippi State Board of
683 Dental Examiners; and



684 (x) Hearings and meetings of the Board of Tax
685 Appeals and of the hearing officers and the board of review of the
686 Department of Revenue as provided in Section 27-77-15.

687 (b) "Meeting" means an assemblage of members of a
688 public body at which official acts may be taken upon a matter over
689 which the public body has supervision, control, jurisdiction or
690 advisory power; "meeting" also means any such assemblage through
691 the use of video or teleconference devices.

692 **SECTION 9.** Section 27-3-1, Mississippi Code of 1972, is
693 amended as follows:

694 27-3-1. (1) There is hereby created a Department of
695 Revenue, the head of which shall be the Commissioner of
696 Revenue, * * * who shall be appointed by the Governor, * * * with
697 the advice and consent of the Senate. * * * Each term of office
698 of * * * the Commissioner of Revenue shall be for six (6) years,
699 or until his successor shall be appointed and qualified. The
700 Governor shall include in his appointment, * * * the expiration
701 date of the appointment. * * * Vacancies shall be filled by the
702 Governor for the unexpired portion of the term in which the
703 vacancy occurs.

704 (2) The Commissioner of Revenue shall be a qualified
705 elector, shall have at least a bachelors degree from an accredited
706 college or university, and shall possess a special knowledge of
707 taxation and revenue as pertaining to the State of Mississippi.
708 The Commissioner of Revenue shall be full time and shall not be
709 actively engaged in any other business or occupation. * * *

710 (3) The Commissioner of Revenue shall, before entering upon
711 the discharge of the duties of his office, take and subscribe to
712 the oath of office prescribed by the Constitution, shall file the
713 oath in the Office of the Secretary of State, and * * * shall
714 execute a bond in some surety company authorized to do business in
715 the state, to be approved by the Governor, and filed in the Office
716 of the Secretary of State in the penal sum of Two Hundred Fifty



717 Thousand Dollars (\$250,000.00), conditioned for the faithful and
718 impartial discharge of the duties of his office * * *. The
719 premium on the bond shall be paid as provided by law out of funds
720 appropriated to the Department of Revenue * * *.

721 (4) The Commissioner of Revenue is not subject to removal
722 from office other than by impeachment or by removal from office as
723 provided for under Section 25-5-1, except that in addition to
724 impeachment and removal, the Commissioner of Revenue may also be
725 removed from office for a criminal conviction for violating the
726 Internal Revenue Code.

727 * * *

728 **SECTION 10.** Section 27-3-2, Mississippi Code of 1972, is
729 amended as follows:

730 27-3-2. (1) No person appointed by the Governor as
731 Commissioner of Revenue under the terms of Section 27-3-1 shall be
732 eligible to take office unless his name shall have been submitted
733 to the Mississippi Senate for its advice and consent at least
734 thirty (30) days prior to the scheduled adjournment of the regular
735 session of the Legislature being held in the calendar year in
736 which the term of the office of the incumbent shall expire. * * *

737 (2) As to the appointment of the Commissioner of Revenue
738 under Section 27-3-1 for the term that begins on July 1, 2010, and
739 expires on June 30, 2016, for purposes of subsection (1) of this
740 section, the Chairman of the State Tax Commission whose term
741 expires on June 30, 2010, shall be deemed to be the incumbent of
742 this position and shall serve as the Commissioner of Revenue until
743 the person appointed by the Governor to fill this term has been
744 appointed and qualified.

745 (3) If for any reason an appointment by the Governor under
746 Section 27-3-1 is not given the advice and consent of the
747 Mississippi Senate prior to the adjournment of such regular
748 session, the Governor may submit another appointment at any time



749 to the Mississippi Senate for its advice and consent at a regular
750 or extraordinary session of the Legislature.

751 (4) The * * * prohibition contained in subsection (1) of
752 this section shall not apply when a vacancy shall occur by death
753 or resignation of the incumbent.

754 **SECTION 11.** Section 27-3-3, Mississippi Code of 1972, is
755 amended as follows:

756 27-3-3. The Commissioner of Revenue of the Department of
757 Revenue shall be the executive officer * * * of the Department of
758 Revenue. He shall have the power and authority to perform all
759 duties and powers prescribed by the laws of this state to be
760 performed by the Chairman of the State Tax Commission, the
761 Commissioner of Revenue, the State Tax Commission or the
762 Department of Revenue * * *. The commissioner shall have the
763 power and authority to enforce all rules and regulations
764 promulgated by him, the Chairman of the State Tax Commission or
765 the State Tax Commission.

766 **SECTION 12.** Section 27-3-9, Mississippi Code of 1972, is
767 amended as follows:

768 27-3-9. The Commissioner of Revenue shall receive an annual
769 salary fixed by the State Personnel Board. The actual traveling
770 expenses of the commissioners and of the employees of the
771 Department of Revenue incurred in the performance of their
772 official duties shall be allowed, and such salaries and expenses
773 shall be payable out of funds appropriated for the expenses of the
774 Department of Revenue. * * *

775 **SECTION 13.** Section 27-3-13, Mississippi Code of 1972, is
776 amended as follows:

777 27-3-13. The Commissioner of Revenue is * * * empowered to
778 employ * * * such accountants, appraisers, information systems
779 programmers, information systems technicians, information systems
780 managers, clerical help, stenographers, and such other assistants
781 and/or attorneys as he may deem necessary to the proper discharge



782 of the duties of the Department of Revenue, to prescribe their
783 duties and to fix the compensation of each employee within the
784 rules, regulations and guidelines of the State Personnel Board.
785 Such employees may be used interchangeably in the administration
786 of the various duties imposed by law upon the commissioner in the
787 several offices of the Department of Revenue. Further, the
788 Commissioner of Revenue may designate any ten (10) employees of
789 the commission to be law enforcement officers, as defined in
790 Section 45-6-3, with police powers to enforce any laws
791 administered by the Department of Revenue. Temporary
792 employees * * * may be employed as hereinabove, when in the
793 opinion of the commissioner a seasonal press of business requires,
794 except that such temporary employees shall be retained no longer
795 than is necessary to the discharge of the duties imposed by law
796 upon the department.

797 **SECTION 14.** Section 27-3-15, Mississippi Code of 1972, is
798 amended as follows:

799 27-3-15. The Commissioner of Revenue may require such of his
800 employees as authorized by this chapter to execute bonds in some
801 surety company authorized to do business in the State of
802 Mississippi in such sum as it may order not to exceed for any one
803 (1) employee the sum of Twenty-five Thousand Dollars (\$25,000.00),
804 and the premium on the bond shall be paid out of any money
805 appropriated for the general expenses of the Department of
806 Revenue.

807 **SECTION 15.** Section 27-3-17, Mississippi Code of 1972, is
808 amended as follows:

809 27-3-17. It is the duty of the Department of Finance and
810 Administration to provide suitable and adequate quarters and
811 equipment for the Department of Revenue, for its office force and
812 for filing its records, books, papers, and assessment rolls.

813 **SECTION 16.** Section 27-3-19, Mississippi Code of 1972, is
814 amended as follows:



815 27-3-19. (1) The Department of Revenue shall have a seal
816 which shall be in the form of a circle with the image of an eagle
817 in the center and around the margin the words: "Commissioner,
818 Mississippi Department of Revenue," and under the image of the
819 eagle the word: "Official." The seal, in the discretion of the
820 Commissioner of Revenue, may be of a raised or engraved design or
821 printed.

822 (2) The Commissioner of Revenue or any employee of the
823 Department of Revenue in the performance of duties assigned to the
824 Commissioner of Revenue or to the Department of Revenue shall
825 affix the seal prescribed in this section to every document
826 where * * * required by law, and to every certificate and other
827 official paper executed by the Commissioner of Revenue or in his
828 name under his authority where necessary or proper; and all
829 documents authenticated with the seal and signed by the
830 commissioner or issued under his name shall be received as
831 evidence in all courts, investigations, and proceedings authorized
832 by law, and may be recorded in the same manner and with like
833 effect as a deed; and all copies of papers in the office of the
834 Department of Revenue, certified by the Commissioner of Revenue
835 and authenticated by the seal, shall be accepted in all matters
836 equally and in like manner as the original.

837 **SECTION 17.** Section 27-3-23, Mississippi Code of 1972, is
838 amended as follows:

839 27-3-23. The Commissioner of Revenue may forthwith have
840 prepared a complete audit and survey of the books, records,
841 accounts, operations and affairs of the Department of Revenue to
842 the end of obtaining a comprehensive outline of the conditions
843 thereof, and of securing a more economical administration of the
844 business, duties and operations of the department. The expense
845 incident to such audit and survey shall be paid out of the
846 contingent fund of the department.



847 **SECTION 18.** Section 27-3-31, Mississippi Code of 1972, is
848 amended as follows:

849 27-3-31. (1) It shall specifically be the duty of the
850 Commissioner of Revenue, and he shall have power and authority:

851 (a) To adopt, amend or repeal those rules or
852 regulations necessary and proper to effectively administer the
853 Department of Revenue and implement the duties assigned to the
854 commissioner in this section and in any other statute as well as
855 any duties assigned to the Department of Revenue.

856 (b) To develop, implement and decide questions of
857 policy as it relates to the operation of the Department of Revenue
858 and/or any law which the commissioner or the Department of Revenue
859 is required to administer.

860 (c) To supervise and direct all administrative and
861 technical activities of the Department of Revenue.

862 (d) To organize the offices, bureaus and divisions of
863 the Department of Revenue.

864 (e) To coordinate the activities of the various
865 offices, bureaus and divisions of the Department of Revenue.

866 (f) To delegate such administrative functions, duties
867 or powers as he deems necessary to carry out the efficient
868 operation of the Department of Revenue.

869 (g) To make, execute and effectuate any and all
870 agreements or contracts, including contracts for the purchase of
871 goods and services, as are necessary.

872 (h) To enter into long-term or multiyear leases of real
873 property with other state agencies.

874 (i) To appeal any decision of the Board of Tax Appeals
875 that he determines should be appealed.

876 (j) To defend, pursue and/or appeal any suit or appeal
877 brought by or against the Department of Revenue and/or by or
878 against the Commissioner of Revenue in his official capacity.



879 (k) To confer with and advise assessing officers,
880 boards of supervisors and other county officers as to their duties
881 relative to ad valorem taxation under the law; and to advise them
882 in the collection, filing and preservation of data relative to
883 matters of assessment.

884 * * *

885 (l) To become familiar with property values and general
886 conditions in the counties of the state and to direct the
887 collection and preservation of data and information pertaining to
888 the quantity and value of property in each county in the state,
889 subject to assessment, necessary to enable the commissioner to
890 determine the assessed value of classes of property and whether
891 assessments comply with acceptable performance standards as
892 required by Section 27-35-113.

893 (m) To direct the collection, preparation and
894 preservation of data and information pertaining to the quantity,
895 value and location of property belonging to railroads, persons,
896 corporations and associations which is required to be assessed by
897 the commissioner.

898 (n) To supervise and direct the preparation of forms
899 for the assessment of property of railroads and public service
900 corporations assessed by the commissioner, and the filing of their
901 rolls or schedules of assessment.

902 (o) To determine the location of all property subject
903 to assessment by the commissioner in the various counties of the
904 state, the municipalities and taxing districts therein, and to
905 ascertain and report as far as practicable the value and ownership
906 of all such property.

907 (p) To keep informed of the work of the assessors and
908 supervisors of the various counties of the state as required by
909 Section 27-3-51, and to have charge of the details necessary to
910 the equalization by the commissioner of assessments among the
911 various counties pursuant to Section 27-35-113.



912 (q) To prepare all forms for tax lists, assessment
913 rolls and perform other duties relating thereto.

914 (r) To prepare data and statistics relating to property
915 assessments which are deemed advisable for publication or which
916 may be required by the Legislature.

917 (s) To confer with assessors, supervisors and other
918 local taxing officials who may have business with the Department
919 of Revenue.

920 (t) To consider and approve or disapprove all orders of
921 boards of supervisors * * * granting homestead exemptions.

922 * * *

923 (u) To administer and enforce the "Local Option
924 Alcoholic Beverage Control Law," being Section 67-1-1 et
925 seq. * * *

926 (t) To adopt and enforce rules and regulations
927 prescribing the manner and method by which tax returns and
928 documents may be filed with the Department of Revenue as provided
929 under Section 27-3-83.

930 (2) The Commissioner of Revenue and any agent duly
931 authorized by the commissioner are empowered to administer and
932 certify oaths.

933 **SECTION 19.** Section 27-3-33, Mississippi Code of 1972, is
934 amended as follows:

935 27-3-33. (1) The Commissioner of Revenue shall have the
936 power, authority and duty to direct that proceedings, actions and
937 prosecutions be instituted to enforce the laws relating to the
938 penalties, liabilities, and punishment of all persons, officers or
939 agents or corporations, or others required by law to make returns
940 of taxable property, for failure or neglect to comply with such
941 provisions of the tax law; and to cause complaints to be made
942 against assessors, boards of supervisors, and other officers,
943 whose duties concern assessments, in any court of competent



944 jurisdiction for their removal for official misconduct or neglect
945 of such duty, as provided by law in such cases.

946 (2) The Commissioner of Revenue shall have the power,
947 authority and duty to proceed by suit in the chancery court of the
948 residence of the taxpayer or, in the case of a nonresident, in the
949 Chancery Court of the First Judicial District of Hinds County,
950 against all persons, corporations, companies and associations of
951 persons for all past due and unpaid taxes, together with any
952 penalties, damages and interest due thereon, of any kind whatever,
953 either of the state or any county, municipality, drainage, levee,
954 or other taxing district, or any subdivision thereof, and for all
955 past due obligations and indebtedness of any character due and
956 owing to them or any of them; but not, however, including
957 penalties for the violation of the antitrust laws; and, provided
958 that the duty and obligation of the Commissioner of Revenue
959 hereunder accrues only at such time as the tax collector of the
960 county, municipality, drainage, levee, or other taxing district,
961 or any subdivision thereof, primarily responsible for the
962 collection of taxes for the district has exhausted all legal
963 remedies provided by the laws of this state.

964 (3) All suits by the Commissioner of Revenue under the
965 provisions of this section, or under the provisions of Section
966 27-3-37 or Section 27-3-39, shall be in his official capacity for
967 the use of the state, county, municipality, levee board or other
968 taxing district interested; and he shall not be liable for costs,
969 and may appeal without bond. Such suits may be tried at the
970 return term and shall take precedence over other suits.

971 (4) All warrants issued by the Commissioner of Revenue for
972 the collection of any taxes imposed by statute and collected by
973 the Department of Revenue shall be used to levy on salaries,
974 compensation or other monies due the delinquent taxpayer. The
975 warrants shall be served by mail or by delivery by an agent of the
976 Department of Revenue on the person or entity responsible or



977 liable for the payment of the monies to the delinquent taxpayer.
978 Once served, the employer or other person owing compensation due
979 the delinquent taxpayer shall pay the monies over to the
980 Department of Revenue in complete or partial satisfaction of the
981 tax liability. An answer shall be made within thirty (30) days
982 after service of the warrant in the form and manner determined
983 satisfactory by the commissioner. Failure to pay the money over
984 to the Department of Revenue as required by this section shall
985 result in the served party being personally liable for the full
986 amount of the monies owed and the levy and collection process may
987 be issued against the party in the same manner as other taxes.
988 Except as otherwise provided by this section, the answer, the
989 amount payable under the warrant and the obligation of the payor
990 to continue payment shall be governed by the garnishment laws of
991 this state but shall be payable to the Department of Revenue.

992 **SECTION 20.** Section 27-3-35, Mississippi Code of 1972, is
993 amended as follows:

994 27-3-35. In all cases of valuation or ownership of property
995 which has escaped taxation, the Commissioner of Revenue may have
996 subpoenaed witnesses to testify before any board of supervisors,
997 board of mayor and aldermen, or other municipal governing
998 authority, or before the commissioner himself, his designee or any
999 other lawful taxing authority.

1000 **SECTION 21.** Section 27-3-39, Mississippi Code of 1972, is
1001 amended as follows:

1002 27-3-39. The Commissioner of Revenue shall investigate and
1003 ascertain what property, if any, is escaping taxation or
1004 assessment. After the first day of February should the
1005 Commissioner of Revenue discover that any person, corporation,
1006 property, business, occupation or calling has escaped taxation for
1007 the previous calendar year or years by reason of not being
1008 assessed by either a county or municipality, it shall be his duty
1009 to give notice to the county or municipal tax assessor in writing,



1010 and the assessor shall, within ten (10) days thereafter, make the
1011 proper assessment by way of an additional assessment and file the
1012 assessment with the clerk of the board of supervisors or the clerk
1013 of the municipality, as the case may be, who shall enter the
1014 assessment on the last approved roll or rolls in his hands, and
1015 the clerk shall give ten-days' notice in writing to the person or
1016 corporation whose property is thus assessed, and all objections to
1017 the assessment shall be heard at the next meeting of the board of
1018 supervisors of the county or the governing authorities of the
1019 municipality. The board of supervisors or governing authorities
1020 of the municipality shall also be notified in writing by the
1021 assessor of the assessment, and the Commissioner of Revenue or his
1022 designee may appear at the meeting, and an appeal to the circuit
1023 court may be taken from the order of the board approving or
1024 disapproving the assessment by either party. If the assessment is
1025 approved and no appeal is taken, the clerk shall certify this to
1026 the Commissioner of Revenue and if the taxes are not * * * paid
1027 within thirty (30) days thereafter, the property, if it is real
1028 estate, shall be ordered sold as provided for by law, and if it is
1029 personal the Commissioner of Revenue shall proceed to collect by
1030 distress or otherwise. If the tax assessor * * * fails or refuses
1031 to make an assessment and report the assessment as * * * required
1032 by this section, he shall be liable on his bond for the amount of
1033 taxes properly collectible and ten percent (10%) damages thereon.

1034 **SECTION 22.** Section 27-3-41, Mississippi Code of 1972, is
1035 amended as follows:

1036 27-3-41. The power of the Commissioner of Revenue to
1037 institute proceedings for the assessment of property which has
1038 escaped taxation by reason of not being assessed shall expire at
1039 the end of seven (7) years from the date when his right so to do
1040 first accrued, and it shall bring all suits he is authorized to
1041 bring within six (6) years after the cause of action accrues and
1042 not thereafter.



1043 **SECTION 23.** Section 27-3-43, Mississippi Code of 1972, is
1044 amended as follows:

1045 27-3-43. When land is purchased by the Commissioner of
1046 Revenue as the successful bidder in accordance with Section
1047 27-7-63, 27-13-37 or 27-65-65, the Commissioner of Revenue may
1048 then sell the state's interest in the land at a public or private
1049 sale to the best interest of the state. If after such purchase,
1050 the Commissioner of Revenue determines that it is not in the best
1051 interest of the state for him to sell the state's interest in the
1052 land, he shall, after the expiration of any applicable redemption
1053 period, render a full description of the land to the land
1054 commissioner, and after such rendering, the land shall be
1055 registered at the land office and sold as other state lands. * * *

1056 **SECTION 24.** Section 27-3-45, Mississippi Code of 1972, is
1057 amended as follows:

1058 27-3-45. The Department of Revenue shall settle with the
1059 State Treasurer, and pay over daily to the State Treasurer all
1060 monies collected by it each day; and it shall make a report to the
1061 State Auditor at the end of the fiscal year, giving a full account
1062 of all collections by it under the provisions of Sections 27-3-33,
1063 27-3-37, 27-3-39, 27-3-43, 27-3-47 and 27-3-71 during the
1064 preceding fiscal year and of whom and on whose account collected.
1065 For a failure to render such account and settle and pay over all
1066 collections made by it, as required by law, the Commissioner of
1067 Revenue shall be suspended from office by the Governor in the same
1068 manner as in the case of a defaulting State Treasurer.

1069 **SECTION 25.** Section 27-3-47, Mississippi Code of 1972, is
1070 amended as follows:

1071 27-3-47. No county, municipality, drainage district, levee
1072 board, or other administrative body, shall be chargeable with any
1073 fees or expenses on account of any investigation, demand or suit
1074 made or instituted by the Commissioner of Revenue; nor shall any
1075 fees or commissions be deducted or retained from any funds



1076 collected for or belonging to the state, any county, municipality,
1077 drainage district, levee district or other political subdivision,
1078 from any state or any other subdivision or department thereof.
1079 Nothing in this section shall be construed, however, to prohibit
1080 the Commissioner of Revenue from expending funds appropriated for
1081 the support of the Department of Revenue in administering the
1082 provisions hereof, and in making investigations and demands and
1083 bringing and maintaining suits and other actions hereunder.

1084 **SECTION 26.** Section 27-3-49, Mississippi Code of 1972, is
1085 amended as follows:

1086 27-3-49. The Commissioner of Revenue shall investigate all
1087 matters of taxation and recommend to the Legislature, at each
1088 regular session, such changes and alterations in the tax laws of
1089 the state as in his judgment he may deem best to bring about a
1090 more perfect, equitable, adequate, just and thorough system of
1091 taxation and valuation of property for state and county taxation.

1092 **SECTION 27.** Section 27-3-51, Mississippi Code of 1972, is
1093 amended as follows:

1094 27-3-51. (1) In order that the Commissioner of Revenue may
1095 be familiar with the character and values of the several classes
1096 of property within each of the several counties of the state and
1097 of the economic conditions therein, and throughout the state, the
1098 Commissioner of Revenue, or his designees, shall annually visit
1099 each of the several counties of the state. In the course of his
1100 visitation within each county, the Commissioner of Revenue, or his
1101 designees, shall perform the duties enumerated in Sections 27-3-39
1102 and 27-3-53, and he shall investigate the work and methods adopted
1103 by the board of supervisors and county tax assessors and confer
1104 with such officers and other well-informed persons, ascertain
1105 wherein existing laws are defective or improperly or negligently
1106 administered and shall be authorized to exercise the authority
1107 granted under Sections 27-1-21 and 27-1-23. * * * However, * * *
1108 any language in Section 27-1-21 and Section 27-1-23 relative to



1109 the actual assessing or appraising of property by the county or
1110 municipal tax assessor is not granted to the Commissioner of
1111 Revenue. He shall report the results of his investigation and the
1112 facts ascertained to the Governor, from time to time, when
1113 required by him, and to each session of the Legislature.

1114 (2) The chancery clerk shall require that the current
1115 mailing address and current business or employment telephone
1116 number, if any, and current residential telephone number, if any,
1117 of each grantor and grantee be included on all deeds as a
1118 prerequisite for the deed to be filed for record after July 1,
1119 1987. If the residential telephone number is unlisted, the
1120 grantor or grantee shall include on the deed a telephone number
1121 where he or she can be reached during business hours. If the
1122 grantee may receive mail at the address of the property
1123 transferred, then the address of the transferred property shall be
1124 the mailing address of the grantee for the purposes of this
1125 section. The information provided by the grantor and grantee
1126 shall be true and correct and complete to the best of his or her
1127 knowledge and belief under penalty of perjury under Section
1128 97-9-61. The chancery clerk may refuse to accept delivery of any
1129 deed for filing that does not contain on the deed the information
1130 required in this section. The fact that the information provided
1131 by the grantor or grantee may be incorrect, incomplete or false,
1132 however, shall not invalidate the deed or the filing thereof for
1133 record. The Commissioner of Revenue shall annually audit the
1134 deeds filed with the chancery clerk of each county and assess a
1135 penalty of One Hundred Dollars (\$100.00) against the county for
1136 each deed filed in violation of this section, and the aggregate of
1137 such sum shall be withheld by the Commissioner of Revenue from the
1138 next installment of homestead exemption reimbursement due under
1139 Section 27-33-41.

1140 (3) The Commissioner of Revenue or his designees are hereby
1141 authorized to verify sales data regarding the transfer of real



1142 property by obtaining such information from the grantor or
1143 grantee. The information provided by the grantor or grantee to
1144 the Commissioner of Revenue or his designee shall be true, correct
1145 and complete to the best of his or her knowledge and belief under
1146 penalty of perjury under Section 97-9-61. Any information
1147 obtained in this manner shall be shared with the county tax
1148 assessors and used only for the purpose of valuing property.

1149 (4) The Commissioner of Revenue may request sales data of
1150 Class I and Class II property from the county tax assessors in
1151 order to develop sales ratios. If a county tax assessor fails to
1152 supply accurate information requested by the Commissioner of
1153 Revenue, the commissioner shall reject the county's tax roll. The
1154 avails of the one (1) mill levy as provided for in Section
1155 27-39-329(2) (b) shall not be expended until the county complies
1156 with such request.

1157 **SECTION 28.** Section 27-3-52, Mississippi Code of 1972, is
1158 amended as follows:

1159 27-3-52. (1) The Department of Revenue shall promulgate
1160 rules and regulations setting forth the minimum requirements for
1161 which tax assessors and/or their deputy assessors or assistants,
1162 appropriate state employees, employees of planning and development
1163 districts or other persons may attain certification as an
1164 appraiser. The Department of Revenue shall establish and conduct
1165 such educational and training programs as may be appropriate to
1166 assist such persons in attaining such certification.

1167 (2) Counties having not more than five thousand (5,000)
1168 applicants for homestead exemption shall have at least one (1)
1169 certified appraiser, and counties having more than five thousand
1170 (5,000) applicants for homestead exemption shall have at least two
1171 (2) certified appraisers; however, any county may employ any
1172 certified appraiser on a part-time basis.

1173 (3) When any tax assessor and/or his deputies or assistants
1174 travel outside of their county to attend an appraisal school,



1175 seminar or workshop approved by the Department of Revenue, such
1176 persons shall receive as reimbursement of expenses of such travel
1177 the same mileage and actual and necessary expenses for food,
1178 lodging and travel by public carrier or private motor vehicles as
1179 is allowed under Section 25-3-41. However, mileage shall not be
1180 authorized when such travel is done by a motor vehicle owned by
1181 the county.

1182 (4) The county board of supervisors shall reimburse the
1183 assessors, tax collectors and deputies for reasonable and
1184 necessary expenses sustained in attending annual conferences,
1185 regional conferences, schools and seminars. The Department of
1186 Revenue shall have the authority to prescribe forms and to
1187 promulgate rules and regulations necessary to implement the
1188 provisions of this section. No expenses authorized herein shall
1189 be reimbursed unless the expenses have been authorized or approved
1190 by an order of the board duly made and spread upon the minutes of
1191 such board.

1192 (5) When any tax assessor and/or his deputies or assistants
1193 attend and successfully complete all qualifications pursuant to
1194 the Mississippi Education and Certification Program and receive
1195 the certification level of Track II, Evaluator I, they shall
1196 receive an additional One Thousand Dollars (\$1,000.00) annually
1197 beginning the next fiscal year after completion.

1198 (6) When any tax assessor and/or his deputies or assistants
1199 attend and successfully complete all qualifications pursuant to
1200 the Mississippi Education and Certification Program and receive
1201 the certification level of Track II, Evaluator II, they shall
1202 receive an additional One Thousand Dollars (\$1,000.00) annually
1203 beginning the next fiscal year after completion.

1204 (7) When any tax assessor and/or his deputies or assistants
1205 attend and successfully complete all qualifications pursuant to
1206 the Mississippi Education and Certification Program and receive
1207 the certification level of Mississippi Assessment Evaluator (MAE),



1208 they shall receive an additional One Thousand Five Hundred Dollars
1209 (\$1,500.00) annually beginning the next fiscal year after
1210 completion.

1211 (8) When any deputy tax assessor successfully completes all
1212 qualifications to become a licensed certified residential real
1213 estate appraiser under Sections 73-34-1 through 73-34-63, on the
1214 recommendation of the tax assessor, the county board of
1215 supervisors may pay, in its discretion, an additional amount not
1216 to exceed Three Thousand Dollars (\$3,000.00) annually to the
1217 deputy beginning the next fiscal year after the completion of such
1218 qualifications.

1219 (9) When any deputy tax assessor successfully completes all
1220 qualifications to become a licensed certified general real estate
1221 appraiser under Sections 73-34-1 through 73-34-63, on the
1222 recommendation of the tax assessor, the county board of
1223 supervisors may pay, in its discretion, an additional amount not
1224 to exceed Five Thousand Dollars (\$5,000.00) annually to the deputy
1225 beginning the next fiscal year after the completion of such
1226 qualifications.

1227 (10) The accumulative total of all educational increases
1228 authorized under * * * subsections (5), (6), (7), (8) and (9) of
1229 this section shall not exceed Eight Thousand Five Hundred Dollars
1230 (\$8,500.00) and shall be paid out of the common county fund from
1231 proceeds of the one (1) mill ad valorem tax as provided in Section
1232 27-39-329.

1233 (11) In order to receive the additional annual payment or
1234 payments provided for in * * * subsections (5), (6), (7), (8) and
1235 (9) of this section, the tax assessor or deputies or assistants
1236 who completed the Mississippi Education and Certification Program
1237 and were certified as provided herein shall be personally involved
1238 in the conduct, administration and/or supervision of the appraisal
1239 of the property of the county and in the maintenance of such
1240 appraisal.



1241 **SECTION 29.** Section 27-3-53, Mississippi Code of 1972, is
1242 amended as follows:

1243 27-3-53. The Department of Revenue shall prepare and furnish
1244 forms for obtaining the information hereinafter provided for,
1245 whenever they may deem it necessary.

1246 (a) Amount of fire insurance carried on all buildings
1247 and on personal property of every description.

1248 (b) All individuals, firms, partnerships and
1249 corporations engaged wholly or in part in mercantile,
1250 manufacturing or any other business, (except banks and insurance
1251 companies) occupation or calling, shall, on demand by the
1252 Department of Revenue in writing, furnish a sworn statement of
1253 their taxable property, as of January first of each year; and of
1254 their assets and liabilities on that date. Any person or concern
1255 failing or refusing to furnish the information required within
1256 thirty (30) days after written notice so to do from the Department
1257 of Revenue shall be guilty of a misdemeanor, and on conviction
1258 shall be punished as for a misdemeanor. The information herein
1259 provided for shall be confidential, and shall not be given anyone
1260 by the Department of Revenue, except to county and municipal tax
1261 assessors. And for the illegal disclosure of any information
1262 provided for under this section, the injured party shall have a
1263 right of action against the Commissioner of Revenue or the
1264 assessor, on their or his official bond, for any actual damages
1265 sustained.

1266 **SECTION 30.** Section 27-3-57, Mississippi Code of 1972, is
1267 amended as follows:

1268 27-3-57. All funds collected by the Commissioner of Revenue
1269 and by the Department of Revenue under the provisions of any law
1270 are designated as public funds of the State of Mississippi. All
1271 such funds shall be deposited in the State Treasury on the same
1272 day in which the funds are collected, in accordance with Section
1273 7-9-21. The State Treasurer shall transfer such monies to



1274 municipalities, counties and other special accounts, as provided
1275 by law.

1276 The Commissioner of Revenue shall determine amounts due all
1277 municipalities, counties and such special funds as provided by law
1278 and shall certify to the State Treasurer at the end of each month
1279 the amount due each municipality, county or special fund. All tax
1280 collections to be apportioned by the Department of Revenue
1281 pursuant to Sections 27-65-75, 27-19-159, 27-5-101 and 27-5-103
1282 shall be distributed to the proper sources as provided by law by
1283 the State Treasurer upon the certification of apportionment by the
1284 Department of Revenue. The State Treasurer shall requisition
1285 monies from the Treasury in such amounts as determined and
1286 certified by the Department of Revenue. The Department of Finance
1287 and Administration shall deliver the warrant to the State
1288 Treasurer who shall transfer such funds to each municipality,
1289 county or other such special fund by warrant or by electronic
1290 funds transfer on the due date.

1291 Officers charged with the responsibility of handling such
1292 funds shall be required to provide fidelity bonds in the amount
1293 provided by law.

1294 **SECTION 31.** Section 27-3-58, Mississippi Code of 1972, is
1295 amended as follows:

1296 27-3-58. For any tax levied and collected under the
1297 authority of a local and private law of the State of Mississippi,
1298 and collected and paid to the Department of Revenue in the same or
1299 similar manner that state sales taxes are collected and paid, the
1300 Department of Revenue may retain three percent (3%) of the
1301 proceeds of such tax for the purpose of defraying the costs
1302 incurred by the Department of Revenue in the collection of the
1303 tax.

1304 **SECTION 32.** Section 27-3-59, Mississippi Code of 1972, is
1305 amended as follows:



1306 27-3-59. It shall be the duty of the Department of Revenue
1307 to call an annual conference of the county tax assessors and
1308 collectors. The meeting shall be held within the State of
1309 Mississippi for the purpose of giving systematic instruction in
1310 finding, listing and for the fair and just valuation and
1311 assessment of every kind of property subject to taxation under the
1312 laws of this state, and as to their practical duty in every step
1313 in connection therewith and for instruction in the administration
1314 of the Homestead Exemption Law. The conference shall continue not
1315 more than five (5) days. It shall be the duty of every county tax
1316 assessor and collector to attend and participate in the meeting
1317 and if by reason of illness or other unavoidable cause, any tax
1318 assessor or collector is unable to attend, he shall require one
1319 (1) of his deputies to attend and participate in his place. The
1320 Department of Revenue shall prepare, in advance, subjects for
1321 discussion by the conference, which shall include the revenue laws
1322 of the state, questions relating to matters of assessment of
1323 property for taxation and the duties of the tax assessors and
1324 collectors, and the Commissioner of Revenue or his designee shall
1325 preside as chairman of the conference and the secretary of the
1326 conference shall be appointed by the presiding chairman of the
1327 conference. The Department of Revenue may call regional
1328 conferences during the year for the aforesaid purposes and it
1329 shall be the duty of the tax assessors and collectors, or
1330 deputies, to attend and participate in these regional conferences
1331 and each tax assessor and collector, or his deputy, who attends
1332 and participates in these regional conferences shall be reimbursed
1333 for his expenses in the same manner as those attending the annual
1334 conference.

1335 Each tax assessor and collector attending and participating
1336 in the annual or regional conferences in person, or by deputy,
1337 shall be entitled to receive as expenses for attending the
1338 conferences, travel, meals, lodging and other necessary expenses



1339 at the rate provided for in Section 25-3-41, which expenses shall
1340 be paid from the county general fund or proceeds from the levy
1341 imposed for the maintenance of the reappraisal program in such
1342 county.

1343 The Department of Revenue shall have the authority to
1344 prescribe forms and to promulgate rules and regulations necessary
1345 to implement the provisions of this section.

1346 Forms to be used for payment and reimbursement of expenses
1347 and forms of certificate of attendance to be furnished the tax
1348 assessors and collectors by the Department of Revenue, requisition
1349 and expense vouchers to be made on the State Auditor, the entire
1350 expense to be paid from the county general fund. The requisition
1351 and voucher shall be supported by a certificate of attendance to
1352 the conferences from the Department of Revenue before any payment
1353 shall be made. A newly elected county tax assessor or collector
1354 who has not qualified and taken office shall be entitled to
1355 receive the same payment and reimbursement for expenses in
1356 attending the conferences as the retiring county tax assessor or
1357 collector is entitled to receive.

1358 **SECTION 33.** Section 27-3-61, Mississippi Code of 1972, is
1359 amended as follows:

1360 27-3-61. (1) The Department of Revenue and the Commissioner
1361 of Revenue shall file and preserve for the time specified by this
1362 section, and as required by any other laws of this state, complete
1363 and full records of their official acts with respect to the laws
1364 which the Department of Revenue and/or the Commissioner of Revenue
1365 are required to enforce and administer, including, but not limited
1366 to, copies or reproductions of such copies of the land and
1367 personal assessment rolls, and the assessment rolls of railroads
1368 and other persons, corporations and associations required to be
1369 assessed by the * * * Commissioner of Revenue as the state
1370 assessor of railroad * * *. The Department of Revenue and the
1371 Commissioner of Revenue shall preserve, in their office, copies or



1372 reproductions of such copies of the land assessment rolls of the
1373 counties in this state for ten (10) years, and copies or
1374 reproductions of such copies of the personal assessment rolls of
1375 the counties in this state for three (3) years, the time to begin
1376 on the first day of January of the year in which such assessment
1377 rolls were made, the assessment rolls of railroads, persons,
1378 corporations or associations assessed by the commissioner for ten
1379 (10) years, and all other records, documents and papers for three
1380 (3) years. The records and documents required by this subsection
1381 to be filed and preserved by the Department of Revenue and the
1382 Commissioner of Revenue may be preserved digitally and/or
1383 electronically * * *.

1384 (2) When the records, documents, rolls, or reproductions of
1385 such rolls, papers and correspondence have been preserved by the
1386 Department of Revenue and the Commissioner of Revenue for the
1387 period of time required by subsection (1) of this section, all of
1388 the records, or such parts thereof as may be considered useless,
1389 may be disposed of in accordance with approved records control
1390 schedules. No records, however, may be destroyed without the
1391 approval of the Director of the Department of Archives and
1392 History. Nothing in this subsection shall prevent the Department
1393 of Revenue and/or the Commissioner of Revenue from destroying the
1394 paper copy of any record or document after it has been preserved
1395 digitally or electronically.

1396 **SECTION 34.** Section 27-3-63, Mississippi Code of 1972, is
1397 amended as follows:

1398 27-3-63. When, in the judgment of the Department of Revenue,
1399 an audit, examination or inspection of the books, records,
1400 invoices, papers, memoranda or other data appears to be required
1401 or necessary to determine the assessment of a tax, or to establish
1402 a tax liability, or to verify a payment of a tax, under the
1403 income, any privilege, sales, and excise tax laws of any kind of
1404 this state, of a taxpayer doing business both within and without



1405 the state and maintaining his principal place of business outside
1406 the state; such audit, or examination, or inspection may be made
1407 at the principal place of business outside the state to the same
1408 extent and same effect as audits, examinations, or inspections are
1409 made of books, records, invoices, papers, memoranda or other data
1410 located in this state.

1411 The Department of Revenue, when directly charged with the
1412 duty of assessing and collecting any tax under any law which
1413 requires a taxpayer to keep adequate books, records, papers,
1414 invoices, memoranda or other data, at a place in this state,
1415 reflecting his liability for any tax due the state, and which
1416 taxpayer conducts his business both within and without
1417 Mississippi, and maintains his principal place of business outside
1418 this state at which his books, records, etc., are located; may
1419 elect to audit, examine or inspect all books, records, papers,
1420 invoices, memoranda or other data reflecting upon the Mississippi
1421 tax assessment and tax liability at the principal place of
1422 business of the taxpayer, rather than require the taxpayer to
1423 transport all of his books, records, papers, invoices, memoranda
1424 and other data to some place in this state.

1425 **SECTION 35.** Section 27-3-65, Mississippi Code of 1972, is
1426 amended as follows:

1427 27-3-65. When the Department of Revenue in the course of
1428 directly administering any of the tax laws enumerated in Section
1429 27-3-63 shall elect to audit, examine or inspect the books,
1430 records, papers, invoices, memoranda or other data of a taxpayer
1431 at his principal place of business outside this state, it shall
1432 designate, in writing, the agent or agents, employee or employees,
1433 to make the audit, examination or inspection at the principal
1434 place of business of the taxpayer, and shall state the kind of tax
1435 for which the audit, examination or inspection is thereby made,
1436 but for an inspection in regard to those taxes administered by the



1437 Department of Revenue there shall be no charge of any kind made
1438 against the taxpayer for the expenses of such inspection.

1439 **SECTION 36.** Section 27-3-73, Mississippi Code of 1972, is
1440 amended as follows:

1441 27-3-73. (1) Except in accordance with proper judicial
1442 order, it shall be unlawful for the Commissioner of Revenue, or
1443 any deputy, agent, clerk or other officer or employee of the
1444 Department of Revenue, to divulge or make known in any manner the
1445 amount of income or any particulars set forth or disclosed in any
1446 report or return required on any taxes collected by reports
1447 received by the Department of Revenue. This provision relates to
1448 all taxes collected by the * * * Department of Revenue and not
1449 referred to in Sections 27-7-83, 27-13-57 and 27-65-81, requiring
1450 confidentiality of income tax, franchise tax and sales tax
1451 returns. Nothing herein shall be construed to prohibit the
1452 publication of statistics, so classified as to prevent the
1453 identification of particular reports or returns and the items
1454 thereof, or the inspection by the Attorney General, or any other
1455 attorney representing the state, of the report or return of any
1456 taxpayer who shall bring action to set aside the tax thereon, or
1457 against whom an action or proceeding has been instituted to
1458 recover any tax or penalty imposed. Additionally, nothing herein
1459 shall prohibit the Commissioner of Revenue from making available
1460 information necessary to recover taxes owing the state pursuant to
1461 the authority granted in Section 27-75-16, Mississippi Code of
1462 1972.

1463 The term "proper judicial order" as used in this section
1464 shall not include subpoenas or subpoenas duces tecum but shall
1465 include only those orders entered by a court of record in this
1466 state after furnishing notice and a hearing to the taxpayer and
1467 the Department of Revenue. The court shall not authorize the
1468 furnishing of such information unless it is satisfied that the
1469 information is needed to pursue pending litigation wherein the



1470 return itself is in issue, or the judge is satisfied that the need
1471 for furnishing the information outweighs the rights of the
1472 taxpayer to have such information secreted.

1473 * * * However, * * * information relating to possible tax
1474 liability to other states or the federal government may be
1475 furnished to the revenue departments of those states or the
1476 federal government when the states or federal government grant a
1477 like comity to Mississippi.

1478 (2) The State Auditor and the employees of his office shall
1479 have the right to examine only such tax returns as are necessary
1480 for auditing the Department of Revenue, and the same prohibitions
1481 against disclosure which apply to the Department of Revenue shall
1482 apply to the State Auditor and his office.

1483 (3) Any person who violates the provisions of this section
1484 shall be guilty of a misdemeanor and on conviction thereof shall
1485 be fined not more than One Thousand Dollars (\$1,000.00) or
1486 imprisoned not more than six (6) months in the county jail, or
1487 both.

1488 **SECTION 37.** Section 27-3-79, Mississippi Code of 1972, is
1489 amended as follows:

1490 27-3-79. (1) The State Tax Commission shall develop and
1491 implement a tax amnesty program in accordance with the provisions
1492 of this section. The program shall begin on September 1, 2004,
1493 and end on December 31, 2004. The program shall apply to all
1494 taxes that are required to be collected by the State Tax
1495 Commission or commissioner and that were first due and payable for
1496 the year 1999 and after. Tax amnesty shall be available to any
1497 individuals or corporations who are liable for those taxes and who
1498 have failed to pay all or any portion of their taxes, failed to
1499 file returns or filed inaccurate returns; however, tax amnesty
1500 shall not be available to individuals or corporations subject to
1501 tax-related criminal investigations or prosecution, or where the
1502 taxes have been previously assessed by the commission, or to



1503 estimated tax payments required to be made under Section 27-7-319.
1504 All civil and criminal penalties for nonpayment of taxes,
1505 including the penalties set forth in subsection (2) of this
1506 section, shall be waived for any eligible individual or
1507 corporation who, during the tax amnesty period, makes total
1508 payment of the taxes due. The State Tax Commission is authorized
1509 to do all things necessary to carry out the tax amnesty programs
1510 that are not inconsistent with this section.

1511 (2) Any person eligible for the tax amnesty program and who
1512 fails to make total payment of the taxes due during the tax
1513 amnesty period, or any person who willfully attempts in any manner
1514 to evade or defeat any tax imposed by the State Tax Commission or
1515 the Department of Revenue, or assists in the evading of that tax
1516 or the payment thereof, including violations determined under
1517 Section 27-3-80, shall, in addition to other penalties provided by
1518 law, be guilty of a felony and, upon conviction thereof, shall be
1519 fined not more than One Hundred Thousand Dollars (\$100,000.00)
1520 and, in the case of a corporation, not more than Five Hundred
1521 Thousand Dollars (\$500,000.00), or imprisoned not more than five
1522 (5) years, or both.

1523 (3) Any prosecutions for tax evasion as described in this
1524 section shall be begun within six (6) years next after the
1525 statutory due date for the taxes in issue.

1526 **SECTION 38.** Section 27-3-80, Mississippi Code of 1972, is
1527 amended as follows:

1528 27-3-80. (1) The Attorney General, the Department of
1529 Revenue, the Department of Public Safety and the Bureau of
1530 Narcotics shall create a task force to facilitate the transfer of
1531 information from law enforcement agencies to the Attorney General
1532 indicating that an individual is a drug trafficking kingpin, is
1533 laundering money received from drug trafficking and is likely
1534 evading the income reporting requirements of state law. The
1535 Attorney General shall examine all relevant information to



1536 determine the probability that such violations of law exist. The
1537 Attorney General may enlist the aid of any other law enforcement
1538 agency in the state in an investigation under this section. If
1539 the Attorney General determines that tax evasion is probably
1540 occurring, he shall forward the information to the Department of
1541 Revenue with a request that the Department of Revenue perform a
1542 criminal tax evasion investigation. The Department of Revenue
1543 shall report its preliminary findings to the Attorney General
1544 within one hundred twenty (120) days after receiving the
1545 information.

1546 (2) If the * * * report of the Department of Revenue to the
1547 Attorney General indicates that the individual who is the subject
1548 of the investigation has failed to report income as required by
1549 law and such failure constitutes a criminal violation, the
1550 Attorney General is authorized to prosecute the individual for
1551 criminal tax violations. The Attorney General is authorized to
1552 file an ex parte petition for release of tax information to the
1553 Bureau of Narcotics for presentation to appropriate state or
1554 federal prosecutors for the prosecution of federal tax offenses or
1555 other applicable offenses.

1556 (3) Subject to available funding, the Department of Revenue
1557 is authorized to employ a criminal investigator to carry out the
1558 investigative and reporting requirements of this section.

1559 (4) Any information received by the Attorney General, the
1560 Department of Revenue, the Bureau of Narcotics or other law
1561 enforcement agency shall be confidential except to the extent that
1562 disclosure is necessary to pursue tax evasion or other criminal
1563 tax charges or unless a proper judicial order is obtained.
1564 Information received under this section is exempt from the
1565 Mississippi Public Records Act of 1983.

1566 (5) As used in this section:



1567 (a) "Drug trafficking kingpin" means an individual who
1568 directs or participates in directing the illegal activities of a
1569 kingpin organization.

1570 (b) "Kingpin organization" means a group of
1571 individuals, operating as a group either formally or informally,
1572 who sell, transport, manufacture and/or deliver controlled
1573 substances in felony violation of the Uniform Controlled
1574 Substances Law. To qualify as a kingpin organization, the group
1575 would either have to distribute major quantities of controlled
1576 substances, or their trafficking activities would have to occur in
1577 or affect more than one (1) circuit court district.

1578 **SECTION 39.** Section 27-3-81, Mississippi Code of 1972, is
1579 amended as follows:

1580 27-3-81. The Department of Revenue may require, consistent
1581 with the cash management policies of the State Treasurer, that any
1582 person owing Twenty Thousand Dollars (\$20,000.00) or more in
1583 connection with any return, report or other document to be filed
1584 with the Department of Revenue shall pay any such tax liability to
1585 the state no later than the date such payment is required by law
1586 to be made in funds which are immediately available to the state
1587 on the date of payment. Payment in immediately available funds
1588 may be made by wire transfers of funds through the Federal Reserve
1589 System or by any other means established by the Department of
1590 Revenue, with the approval of the State Treasurer, which ensures
1591 availability of such funds to the state on the date of payment.
1592 Evidence of such payment shall be furnished to the Department of
1593 Revenue on or before the due date of the tax as established by
1594 law. Failure to timely make such payment in immediately available
1595 funds or failure to provide such evidence of payment in a timely
1596 manner shall subject the taxpayer to penalty and interest as
1597 provided by law for delinquent or deficient tax payments. If
1598 payment is timely made in other than immediately available funds,
1599 penalty and interest shall be added to the amount of tax due from



1600 the due date of the tax payment to the date that the funds for the
1601 tax payment become available to the state.

1602 **SECTION 40.** Section 27-3-83, Mississippi Code of 1972, is
1603 amended as follows:

1604 27-3-83. (1) The Commissioner of Revenue may specify by
1605 rule or regulation the manner and method by which tax returns and
1606 other tax documents and information may be filed with the
1607 Department of Revenue. Such filings may be accomplished by
1608 submitting the forms or documents manually or by submitting them
1609 electronically.

1610 (2) The Commissioner of Revenue may specify by rule or
1611 regulation alternative forms of signature that may be allowed or
1612 required on tax returns and documents. Such alternative forms of
1613 signature shall have the same legal effect as that of a manual
1614 signature.

1615 (3) An electronic or paper reproduction of a form or
1616 document, or the reproduction of the information placed on
1617 computer storage devices by electronic means, shall be deemed to
1618 be an original of the form or document for all purposes and is
1619 admissible in evidence without further foundation in all courts
1620 and administrative hearings if the following certification by the
1621 Commissioner of Revenue, along with his official seal, is affixed
1622 to the reproduction:

1623 The Commissioner of Revenue, official custodian of all
1624 records of the * * * Department of Revenue, hereby certifies this
1625 document is a true reproduction of the information contained in
1626 the official records of this agency.

1627 (4) If a person fails to comply with the rules and
1628 regulations promulgated by the commissioner under the provisions
1629 of subsection (1) or (2) of this section, the commissioner may
1630 impose a penalty of Twenty-five Dollars (\$25.00) for each instance
1631 of noncompliance. Any penalty imposed under this section shall be
1632 collected in the same manner as that set forth for the collection



1633 of penalties under the Mississippi Sales Tax Law, being Section
1634 27-65-1 et seq.

1635 **SECTION 41.** Section 27-7-3, Mississippi Code of 1972, is
1636 amended as follows:

1637 27-7-3. When used in this article:

1638 (a) "Taxpayer" includes any individual, partnership,
1639 corporation, association, trust or estate, subject to a tax
1640 imposed hereunder, or whose income is, in whole or in part,
1641 subject to a tax imposed hereunder.

1642 (b) "Domestic," when applied to any corporation or
1643 association, including partnerships, means created or organized in
1644 the State of Mississippi.

1645 (c) "Foreign," when applied to any corporation or
1646 association, including partnerships, means created or organized
1647 outside the State of Mississippi.

1648 (d) "Fiduciary" means a guardian, trustee, executor,
1649 administrator, receiver, conservator, or any person, whether
1650 individual or corporate, acting in any fiduciary capacity, for any
1651 person, trust, or estate.

1652 (e) "Resident" means a natural person and includes, for
1653 the purpose of determining liability for the tax imposed by this
1654 article upon or with reference to the income of any taxable year,
1655 any person domiciled in the State of Mississippi and any other
1656 person who maintains a legal or actual residence within the state.

1657 (f) "Nonresident," when used in connection with this
1658 article, shall apply to any natural person whose domicile and
1659 place of abode is without the State of Mississippi.

1660 (g) "Foreign country" or "foreign government" means any
1661 jurisdiction other than the one embraced within the United States.
1662 The words "United States" includes the states, the District of
1663 Columbia, and the territorial possessions of the United States.

1664 (h) "State Tax Commission" or "Tax Commission" means
1665 the Department of Revenue. "Commission" or "department" also



1666 means the Department of Revenue except where such words are
1667 specifically given other meanings.

1668 (i) "Commissioner," "Chairman of the Mississippi State
1669 Tax Commission," "Chairman of the State Tax Commission," "chairman
1670 of the commission" or "chairman" means the Commissioner of Revenue
1671 of the Department of Revenue.

1672 (j) "Taxable year" means the calendar year, or fiscal
1673 year ending during such calendar year, upon the basis of which the
1674 net income is computed hereunder. "Fiscal year" means an
1675 accounting period of twelve (12) months, ending on the last day of
1676 any month other than December.

1677 (k) "Paid or accrued" means paid or accrued, or paid or
1678 incurred, and these terms, "paid or incurred" or "paid or
1679 accrued," shall be construed according to the method of accounting
1680 or the basis on which the net income is computed. The term
1681 "received for the purpose of computation of net income" means
1682 received or accrued, and the term "received or accrued" shall be
1683 construed according to the method of accounting or the basis on
1684 which the net income is computed.

1685 (l) "Dividend" means any distribution made by a
1686 corporation, association, trust or estate, to its shareholders or
1687 members, whether in cash, other property, or its own stock.

1688 **SECTION 42.** Section 27-7-45, Mississippi Code of 1972, is
1689 amended as follows:

1690 27-7-45. (1) The tax levied by this article shall be paid
1691 when the return is due except as hereinafter provided.

1692 (2) If any officer or employee of the State of Mississippi,
1693 or any political subdivision thereof, does not pay his state
1694 income tax on or before August 15 after such income tax becomes
1695 due and payable, or is in arrears in child support payments for
1696 thirty (30) days after such payments become due and payable, his
1697 wages, salary or other compensation shall be withheld and paid to
1698 the Tax Commission or the Department of Human Services, as the



1699 case may be, in satisfaction of such income tax, interest, and
1700 penalty, if any, and any child support arrearage until paid in
1701 full. This provision shall apply to any installments of income
1702 tax or child support due, after the first installment, to require
1703 payment of the entire balance of child support tax due, plus
1704 interest and penalty, if any, before an officer or employee of the
1705 State of Mississippi, or any political subdivision thereof, is
1706 eligible to draw any salary or other emoluments of office. The
1707 Commissioner of Revenue is required to furnish the State Fiscal
1708 Officer, chancery clerk, city clerk or other appropriate fiscal
1709 officer of a political subdivision, as the case may be, with
1710 notice that income taxes have not been paid. The Department of
1711 Human Services is required to furnish the officer's or the
1712 employee's employer, or other appropriate officer of the State of
1713 Mississippi or its political subdivision, as the case may be, with
1714 notice that child support payments have not been made. This
1715 notice shall serve as a lien or attachment upon any salary or
1716 compensation due any employee or officer, disregard of this notice
1717 creating personal liability against such officer for the full
1718 amount of the income tax due, plus interest and penalty. The
1719 Department of Revenue may, in its discretion * * *, waive the
1720 provisions of this subsection on behalf of any public officer or
1721 employee in the event of an extended personal illness, an extended
1722 illness in his immediate family or other emergency. Regardless of
1723 the amount designated in the Department of Human Service's notice
1724 for withholding and regardless of other fees imposed or amounts
1725 withheld pursuant to this section, the payor shall not deduct from
1726 the income of the officer or employee in excess of the amounts
1727 allowed under Section 303(b) of the Consumer Credit Protection
1728 Act, being 15 USCS 1673, as amended.

1729 (3) The tax or child support payment may be paid with
1730 uncertified check during such time and under such regulations as
1731 the commissioner or the Department of Human Services shall



1732 prescribe, but if the check so received is not paid by the bank on
1733 which it is drawn, the officer or employee for whom such check is
1734 tendered shall remain liable for the payment of the tax, child
1735 support payment and for all penalties, the same as if such check
1736 had not been tendered.

1737 (4) If a corporation is subject to LIFO recapture pursuant
1738 to Section 1363(d) of the Code, then:

1739 (a) Any increase in the tax imposed by Section 27-7-5
1740 by reason of the inclusion of the LIFO recapture amount in its
1741 income shall be payable in four (4) equal installments;

1742 (b) The first installment shall be paid on or before
1743 the due date (determined without regard to extensions) for filing
1744 the return for the first taxable year for which the corporation
1745 was subject to the LIFO recapture;

1746 (c) The three (3) succeeding installments shall be paid
1747 on or before the due date (determined without regard to
1748 extensions) for filing the corporation's return for the three (3)
1749 succeeding taxable years; and

1750 (d) For purposes of computing interest on
1751 underpayments, the last three (3) installments shall not be
1752 considered underpayments until after the payment due date
1753 specified above.

1754 (5) For purposes of this section, a political subdivision
1755 includes, but is not limited to, a county or separate school
1756 district, institution of higher learning, state college or
1757 university, or state community college.

1758 (6) The tax levied by this article and paid by a business
1759 enterprise located in a redevelopment project area under Sections
1760 57-91-1 through 57-91-11 shall be deposited into the Redevelopment
1761 Project Incentive Fund created in Section 57-91-9.

1762 **SECTION 43.** Section 27-7-51, Mississippi Code of 1972, is
1763 amended as follows:



1764 27-7-51. (1) If, upon examination of a return made under
1765 the provisions of this article, it appears that the correct amount
1766 of tax is greater or less than that shown in the return, the tax
1767 shall be recomputed. Any overpayment of tax so determined shall
1768 be credited or refunded to the taxpayer. If the correct amount of
1769 tax is greater than that shown in the return of the taxpayer, the
1770 commissioner shall make his assessment of additional tax due by
1771 mail or by personal delivery of the assessment to the taxpayer,
1772 which assessment shall constitute notice and demand for payment.
1773 The taxpayer shall be given a period of sixty (60) days from the
1774 date of the notice in which to pay the additional tax due,
1775 including penalty and interest as hereinafter provided, and if the
1776 sum is not paid within the period of sixty (60) days, the
1777 commissioner shall proceed to collect it under the provisions of
1778 Sections 27-7-55 through 27-7-67, provided that within the period
1779 of sixty (60) days the taxpayer may appeal to the board of review
1780 as provided by law.

1781 (2) In the case of an overpayment of tax, interest shall be
1782 computed under the provisions of Section 27-7-315. In the case of
1783 an underpayment of tax, interest at the rate of one percent (1%)
1784 per month from the due date of the return may be added or assessed
1785 in addition to the additional tax due as hereinabove provided in
1786 subsection (1) of this section.

1787 (3) In case of failure to pay any additional taxes as
1788 assessed under this section, there may be added to the additional
1789 amount assessed a penalty of one-half of one percent (1/2 of 1%)
1790 of the amount of the additional tax if the failure is for not more
1791 than one (1) month, with an additional one-half of one percent
1792 (1/2 of 1%) for each additional month or fraction thereof during
1793 which the failure continues, not to exceed twenty-five percent
1794 (25%) in the aggregate.

1795 (4) Where the reported net income of a taxpayer is increased
1796 by the Internal Revenue Service, a taxpayer who, without action by



1797 the commissioner, amends a return filed under this article on the
1798 basis of a change in taxable income made by the Internal Revenue
1799 Service, and pays the additional tax due within thirty (30) days
1800 after agreeing to the federal change (and has received statement
1801 of the federal changes to which agreement has been made or payment
1802 thereof), shall add interest to the additional tax at the rate of
1803 one percent (1%) per month from due date of the original return.
1804 If the additional tax, based on changes in taxable income by the
1805 Internal Revenue Service, is assessed by the commissioner under
1806 subsection (1) of this section, in addition to the interest there
1807 may be added a penalty of one-half of one percent (1/2 of 1%) of
1808 the additional tax due if the failure is for not more than one (1)
1809 month, with an additional one-half of one percent (1/2 of 1%) for
1810 each additional month or fraction thereof during which the failure
1811 to pay continues, not to exceed twenty-five percent (25%) in the
1812 aggregate, unless it is shown that the failure is due to
1813 reasonable cause and not due to willful neglect.

1814 (5) In the case of a taxpayer who files a bond when
1815 appealing the decision of the Board of Tax Appeals instead of
1816 paying the amount of the additional tax found to be due by the
1817 Board of Tax Appeals, and the tax assessment or a part of the
1818 assessment is upheld by the chancery court and/or the Supreme
1819 Court, the assessment shall bear interest at the rate of one
1820 percent (1%) per month from the due date until paid.

1821 (6) (a) Nothing in this section shall be construed as
1822 authorizing a refund of taxes for claims pursuant to the United
1823 States Supreme Court decision of Davis v. Michigan Department of
1824 Treasury, 109 S.Ct. 1500 (1989). These taxes were not incorrectly
1825 and/or erroneously collected as contemplated by this chapter.

1826 (b) In the event a court of final jurisdiction
1827 determines the above provision to be void for any reason, it is
1828 hereby declared the intent of the Legislature that affected



1829 taxpayers shall be allowed a credit against future income tax
1830 liability as opposed to a tax refund.

1831 **SECTION 44.** Section 27-7-53, Mississippi Code of 1972, is
1832 amended as follows:

1833 27-7-53. (1) (a) Except as otherwise provided in this
1834 section, if a return is timely filed by the taxpayer but the tax
1835 due is not paid, the commissioner shall make his assessment of tax
1836 due by mail or by personal delivery of the assessment to the
1837 taxpayer, which assessment shall constitute notice and demand for
1838 payment. The taxpayer shall be given a period of sixty (60) days
1839 from the date of the notice in which to pay the tax due, including
1840 penalty and interest as hereinafter provided, and if the sum is
1841 not paid within the period of sixty (60) days, the commissioner
1842 shall proceed to collect it under the provisions of Sections
1843 27-7-55 through 27-7-67 of this article; provided that within the
1844 period of sixty (60) days the taxpayer may appeal to the board of
1845 review as provided by law.

1846 (b) (i) If an individual return is timely filed by the
1847 taxpayer and the amount of tax liability (determined without
1848 regard to interest, penalties, additions to the tax and additional
1849 amounts) of the taxpayer exceeds Seventy-five Dollars (\$75.00) but
1850 does not exceed Three Thousand Dollars (\$3,000.00), the taxpayer
1851 may request to pay the tax liability through an installment
1852 agreement. The taxpayer must file such a request with the return
1853 and must provide all information required by the commissioner. If
1854 the commissioner determines a taxpayer is financially unable to
1855 pay the tax liability, the commissioner may enter into an
1856 agreement to accept payment of the tax liability in installments
1857 if:

1858 1. The taxpayer (and the taxpayer's spouse if
1859 the tax liability relates to a joint return), during any of the
1860 preceding five (5) years, has not:



1861 a. Failed to file any return required by
1862 this chapter,
1863 b. Failed to pay any tax required by
1864 this chapter, or
1865 c. Entered into an installment agreement
1866 under this paragraph (b);
1867 2. The agreement requires full payment of the
1868 tax liability in equal installments within twelve (12) months from
1869 the date the return was filed; and
1870 3. The taxpayer agrees to comply with the
1871 terms of the agreement.
1872 (ii) Payments made through an installment
1873 agreement shall be subject to the interest provisions of
1874 subsection (3) of this section.
1875 (iii) The commissioner may terminate an
1876 installment agreement entered into under this paragraph (b) if he
1877 determines the taxpayer provided inaccurate or incomplete
1878 information before the agreement was entered into or he believes
1879 the collection of the tax to which the agreement relates is in
1880 jeopardy.
1881 (iv) The commissioner may modify or terminate an
1882 installment agreement entered into under this paragraph (b) if the
1883 taxpayer fails to:
1884 1. Pay any installment due under the
1885 agreement;
1886 2. Pay any other tax liability due under this
1887 chapter when the liability is due; or
1888 3. Provide a statement of financial condition
1889 required by the commissioner.
1890 (2) If no return is made by a taxpayer required by this
1891 chapter to make a return, the commissioner shall determine the
1892 taxpayer's liability from the best information available, which
1893 determination shall be prima facie correct for the purpose of this



1894 article, and the commissioner shall forthwith make an assessment
1895 of the tax so determined to be due by mail or by personal delivery
1896 of the assessment to the taxpayer, which assessment shall
1897 constitute notice and demand for payment. The taxpayer shall be
1898 given a period of sixty (60) days from the date of the notice in
1899 which to pay the tax due, including penalty and interest as
1900 hereinafter provided, and if the sum is not paid within the period
1901 of sixty (60) days, the commissioner shall proceed to collect it
1902 under the provisions of Sections 27-7-55 through 27-7-67 of this
1903 article; provided that within the period of sixty (60) days the
1904 taxpayer may appeal to the board of review as provided by law.

1905 (3) Interest at the rate of one percent (1%) per month from
1906 the due date of the return may be added or assessed in addition to
1907 the tax due as provided in subsections (1) and (2) of this
1908 section.

1909 (4) In case of failure to file a return as required by this
1910 chapter, there may be added to the amount required to be shown as
1911 tax on the return a penalty of five percent (5%) of the amount of
1912 the tax if the failure is for not more than one (1) month, with an
1913 additional five percent (5%) for each additional month or fraction
1914 thereof during which the failure continues, not to exceed
1915 twenty-five percent (25%) in the aggregate. The failure to file a
1916 return penalty shall not be less than One Hundred Dollars
1917 (\$100.00).

1918 (5) In case of failure to pay the amount shown as tax on any
1919 return specified in subsections (1) and (2) of this section on or
1920 before the date prescribed for payment of the tax, determined with
1921 regard to any extension of time for payment or installment
1922 agreement, or both, there may be added to the amount shown as tax
1923 on the return one-half of one percent (1/2 of 1%) of the amount of
1924 the tax if the failure is for not more than one (1) month, with an
1925 additional one-half of one percent (1/2 of 1%) for each additional



1926 month or fraction thereof during which the failure continues, not
1927 to exceed twenty-five percent (25%) in the aggregate.

1928 **SECTION 45.** Section 27-7-303, Mississippi Code of 1972, is
1929 amended as follows:

1930 27-7-303. As used in this article:

1931 (a) "Commissioner" means the Commissioner of Revenue of
1932 the Department of Revenue.

1933 (b) "Commission," "State Tax Commission," "Tax
1934 Commission" or "department" means the Department of Revenue of the
1935 State of Mississippi.

1936 (c) "Employee" means any individual subject to the
1937 provisions of Article 1 of this chapter, who performs or performed
1938 services for an employer as defined herein and receives wages
1939 therefor.

1940 (d) "Employer" means a person doing business in, or
1941 deriving income from sources within, the state, who has control of
1942 the payment of wages to an individual for services performed, or a
1943 person who is the officer or agent of the person having control of
1944 the payment of wages.

1945 (e) "Estimated tax" means the amount by which the tax
1946 liability of the taxpayer under Article 1 of this chapter can
1947 reasonably be expected to exceed the amount withheld from wages of
1948 the taxpayer pursuant to this article during the income year.

1949 (f) "Income year" means the calendar or fiscal year
1950 upon the basis of which the net income of the taxpayer is computed
1951 under the provisions of Article 1 of this chapter; if no fiscal
1952 year has been established, it means the calendar year.

1953 (g) "Payroll period" means a period for which a payment
1954 of wages is made to the employee by the employer.

1955 (h) "Person" means and includes individuals,
1956 fiduciaries, corporations, partnerships, associations, the state
1957 and its political subdivisions, and the federal government, its
1958 agencies and instrumentalities.



1959 (i) "Taxpayer" means and includes any individual,
1960 fiduciary, corporation or other legal entity subject to the tax
1961 imposed by the provisions of Article 1 of this chapter.

1962 (j) "Wages" means remuneration in cash or any other
1963 form for services performed by an employee for an employer, except
1964 that it shall not include remuneration paid:

1965 (i) For domestic service in a private home, local
1966 college club, or local chapter of a college fraternity or
1967 sorority; or

1968 (ii) For services performed by an employee in
1969 connection with farming activities; or

1970 (iii) For services not in the course of the
1971 employer's trade or business performed by an employee in any
1972 calendar quarter; or

1973 (iv) For services performed by a duly ordained,
1974 commissioned or licensed minister of a church in the exercise of
1975 his ministry, or by a member of a religious order performing
1976 duties required by the order.

1977 (k) "Transient employer" means an employer who is not a
1978 resident of this state and who temporarily engages in any activity
1979 within the state for the production of income. Without intending
1980 to exclude others who may come within the foregoing definition,
1981 any nonresident employer engaging in any such activity within the
1982 state which, as of any date, cannot be reasonably expected to
1983 continue for a period of eighteen (18) consecutive months, shall
1984 be deemed to be temporarily engaged in such activity.

1985 (l) "Calendar quarter" means the period of three (3)
1986 consecutive months ending on March 31, June 30, September 30 or
1987 December 31.

1988 **SECTION 46.** Section 27-7-503, Mississippi Code of 1972, is
1989 amended as follows:

1990 27-7-503. As used in this article, unless the context
1991 requires otherwise:



1992 (a) "Claimant agency" means the State Department of
1993 Public Welfare with respect to the collection of debts due and
1994 owing for the care, support or maintenance of a child.

1995 (b) "Commission," "State Tax Commission," "Tax
1996 Commission" or "department" means the Department of Revenue of the
1997 State of Mississippi.

1998 (c) "Debtor" means any individual owing overdue support
1999 for a child as defined by federal regulations.

2000 (d) "Debt" means any overdue support for a child as
2001 defined by federal regulations.

2002 (e) "Refund" means the Mississippi income tax refund
2003 which the commission determines to be due any individual taxpayer.

2004 **SECTION 47.** Section 27-7-601, Mississippi Code of 1972, is
2005 amended as follows:

2006 27-7-601. As used in this act:

2007 (a) "Debt" means a past due, legally enforceable state
2008 or federal income tax obligation, unless otherwise indicated.

2009 (b) "Debtor" means a person who owes a state or federal
2010 income tax obligation.

2011 (c) "Past due, legally enforceable obligation" means a
2012 debt resulting from:

2013 (i) A judgment rendered by a court of competent
2014 jurisdiction which has determined an amount of income tax to be
2015 due;

2016 (ii) A determination after an administrative
2017 hearing which has determined an amount of income tax to be due and
2018 which is no longer subject to judicial review; or

2019 (iii) An income tax assessment, including
2020 self-assessments, which has become final in accordance with law,
2021 but which has not been collected.

2022 (d) "State" means the State of Mississippi acting
2023 through the Department of Revenue.



2024 (e) "State Tax Commission" or "department" means the
2025 Department of Revenue.

2026 (f) "Federal government" means the United States
2027 Department of the Treasury or any agency under its administration.

2028 (g) "Tax refund offset" means withholding or reducing a
2029 tax refund overpayment by an amount necessary to satisfy a debt
2030 owed by the payee.

2031 (h) "Tax refund payment" means any overpayment of taxes
2032 to be refunded to the person making the overpayment.

2033 **SECTION 48.** Section 27-7-701, Mississippi Code of 1972, is
2034 amended as follows:

2035 27-7-701. For the purposes of this article, the following
2036 terms shall have the respective meanings ascribed by this section:

2037 (a) "Claimant agency" means the Board of Trustees of
2038 State Institutions of Higher Learning or any institution under the
2039 jurisdiction thereof, the Mississippi Guarantee Student Loan
2040 Agency, the Mississippi Post-Secondary Education Assistance Board,
2041 or any state agency which has loaned money to an individual for
2042 educational purposes.

2043 (b) "Debtor" means any individual owing money or having
2044 a delinquent account with any claimant agency, which obligation
2045 has not been adjudicated satisfied by court order, set aside by
2046 court order, or discharged in bankruptcy.

2047 (c) "Debt" means any liquidated sum due and owing any
2048 claimant agency which has accrued through contract, subrogation,
2049 tort or operation of law, regardless of whether there is an
2050 outstanding judgment for that sum.

2051 (d) "Commission," "State Tax Commission" or
2052 "department" means the Department of Revenue of the State of
2053 Mississippi.

2054 (e) "Refund" means the Mississippi income tax refund
2055 which the commission determines to be due any individual taxpayer.



2056 **SECTION 49.** Section 27-9-3, Mississippi Code of 1972, is
2057 amended as follows:

2058 27-9-3. When used in reference to the estate tax in this
2059 chapter:

2060 (a) "Commission," "State Tax Commission" or
2061 "department" means the Department of Revenue of the State of
2062 Mississippi.

2063 (b) * * * "Commissioner," "Chairman of the State Tax
2064 Commission" or "chairman of the commission" means the Commissioner
2065 of Revenue of the Department of Revenue, or any agent appointed by
2066 law under him.

2067 (c) * * * "Executor" means the executor or
2068 administrator of the decedent, or, if there is no executor or
2069 administrator, any person who takes possession of any property of
2070 the decedent.

2071 (d) * * * "Person" means persons, corporations,
2072 associations, joint stock companies and business trusts.

2073 (e) * * * "Transfer" shall be taken to include the
2074 passing of property or any interest therein, in possession or
2075 enjoyment, present or future, by inheritance, descent, devise,
2076 succession, bequest, grant, deed, bargain, sale, gift, or
2077 appointment in the manner herein described.

2078 (f) * * * "Decedent" shall include the testator,
2079 intestate, grantor, bargainor, vendor or donor.

2080 (g) * * * "Resident" means natural persons and includes
2081 for the purpose of determining liability for the tax imposed, any
2082 person domiciled in the State of Mississippi and any other person
2083 who maintains a permanent place of abode within the state and
2084 spends in the aggregate, more than six (6) months of the taxable
2085 year within the state.

2086 (h) * * * "Nonresident" shall apply to any natural
2087 person whose domicile is without the State of Mississippi or who
2088 maintains a place of abode without the state, and spends in the



2089 aggregate, more than six (6) months of the taxable year without
2090 the state.

2091 **SECTION 50.** Section 27-9-43, Mississippi Code of 1972, is
2092 amended as follows:

2093 27-9-43. (1) As soon as practicable after the return is
2094 filed, the commissioner shall examine it, if it then appears that
2095 the correct amount of tax is greater or less than that shown in
2096 the return, the tax shall be recomputed. If the amount already
2097 paid exceeds that which should have been paid on the basis of the
2098 return so recomputed, the excess so paid shall be credited or
2099 refunded to the taxpayer in accordance with the provisions of this
2100 chapter.

2101 (2) If the amount already paid is less than the amount which
2102 should have been paid, the difference, together with interest
2103 thereon at the rate of one-half of one percent (1/2 of 1%) per
2104 month from the time the tax was due, shall be paid within sixty
2105 (60) days upon written notice and demand by the commissioner. The
2106 department, for good reason shown, may waive all or any part of
2107 the interest imposed pursuant to this subsection.

2108 (3) If any part of the deficiency is due to negligence or
2109 intentional disregard to authorized rules and regulations with
2110 knowledge thereof but without intent to defraud, there shall be
2111 added as damages ten percent (10%) of the total amount of the
2112 deficiency in the tax, and interest in such a case shall be
2113 collected at the rate of one percent (1%) per month on the amount
2114 of such deficiency in the tax from the time it was due, which
2115 interest and damages shall become due and payable upon notice and
2116 demand by the commissioner and such executor shall be liable to
2117 the estate personally and on his official bond, if any, for any
2118 damages accruing under the above provisions through his negligence
2119 or willful neglect.

2120 **SECTION 51.** Section 27-9-45, Mississippi Code of 1972, is
2121 amended as follows:



2122 27-9-45. If no return is made by an executor required to
2123 make returns, as provided herein, the commissioner shall give
2124 written notice by mail to such executor to make such returns
2125 within thirty (30) days from the date of such notice and if such
2126 executor shall fail or refuse to make such returns as he may be
2127 required to make in such notice, then such return shall be made by
2128 the commissioner from the best information available and such
2129 return shall be prima facie correct for the purposes of this
2130 chapter, and the amount of tax shown due thereby shall be a lien
2131 against all the property of the decedent until discharged by
2132 payment and if any payment be not made within sixty (60) days
2133 after the demand therefor by the commissioner, there shall be
2134 added fifty percent (50%) as damages, together with interest at
2135 the rate of one percent (1%) per month on the tax from the time
2136 such tax was due. If such tax be paid within sixty (60) days
2137 after notice by the commissioner, then there shall be added ten
2138 percent (10%) as damages and interest at the rate of one percent
2139 (1%) from the time such tax was due until paid; * * * however, in
2140 the event the executor in answer to the notice from the
2141 commissioner shall state that he is not required under the law to
2142 make such returns, the commissioner shall investigate that
2143 question fully before proceeding further under this section.

2144 The commissioner's authority to make collection of estate tax
2145 shall be determined at the end of four (4) years from the date of
2146 filing of estate tax return, but in the event that no return is
2147 filed, the commissioner's authority to make a return from any
2148 information available at that time shall be terminated at the end
2149 of ten (10) years from the due date of the return.

2150 In the event the federal estate tax or any part thereof is
2151 being contested with the federal government, the commissioner's
2152 right to make an additional assessment based on final
2153 determination of the federal estate tax assessment shall be in
2154 force for a period of two (2) years after the determination.



2155 **SECTION 52.** Section 27-13-1, Mississippi Code of 1972, is
2156 amended as follows:

2157 27-13-1. The words, terms and phrases when used in this
2158 chapter shall have the following meanings ascribed to them:

2159 (a) "Commission," "State Tax Commission," "Tax
2160 Commission" or "department" means the Department of Revenue of the
2161 State of Mississippi.

2162 (b) "Commissioner," "Chairman of the State Tax
2163 Commission," "chairman of the commission" or "chairman" means the
2164 Commissioner of Revenue of the Department of Revenue.

2165 (c) "Taxpayer" means any corporation, association or
2166 joint-stock company liable for or having paid any tax to the State
2167 of Mississippi under the provisions of this chapter or any
2168 corporation, association or joint-stock company subject to the
2169 provisions of this chapter.

2170 (d) "Domestic," when applied to a corporation or
2171 association, means created or organized under the laws of the
2172 State of Mississippi.

2173 (e) "Foreign," when applied to a corporation or
2174 association, means created or organized under some authority other
2175 than the laws of the State of Mississippi.

2176 (f) "Accounting period" or "accounting year" means a
2177 period of twelve (12) months ending on the last day of the month
2178 of December, known as a calendar year, or a period of twelve (12)
2179 months ending on the last day of any month other than December,
2180 known as a fiscal year.

2181 (g) "Corporation," "association" or "joint-stock
2182 company" means and includes each and every form of organization
2183 for pecuniary gain, having authorized capital stock, whether with
2184 or without par value, having privileges not possessed by
2185 individuals or partnerships; and whether organized with or without
2186 statutory authority; and may be referred to as "organizations."
2187 When any form of organization is treated as a corporation for



2188 federal income tax purposes it shall be treated as a corporation
2189 for purposes of this chapter.

2190 (h) "Doing business" means and includes each and every
2191 act, power or privilege, including any income-producing
2192 activities, exercised or enjoyed in this state as an incident to,
2193 or by virtue of, the powers and privileges acquired by the nature
2194 of such organization, whether the form of existence be corporate,
2195 associate, joint-stock company or common law trust. An entity
2196 that is required to file and report for federal income tax
2197 purposes the activity conducted in Mississippi of a qualified
2198 subchapter S subsidiary shall be considered to be doing business
2199 in this state for purposes of this chapter. An entity that is
2200 required to file and report for federal income tax purposes on the
2201 activity conducted in Mississippi of a single member limited
2202 liability company which is not classified as a corporation, and
2203 thus disregarded, shall be considered to be doing business in this
2204 state for purposes of this chapter.

2205 (i) "Holding corporation" means a corporation,
2206 association or joint-stock company: (i) owning capital stock of
2207 one or more other corporations, associations or joint-stock
2208 companies, which stock ownership represents at least eighty
2209 percent (80%) of the value and at least eighty percent (80%) of
2210 the combined voting power of all classes of issued and outstanding
2211 capital stock of such other corporation, association or
2212 joint-stock company; except that for purposes of this definition
2213 the term "stock" does not include nonvoting stock which is limited
2214 and preferred as to dividends; and (ii) deriving at least
2215 ninety-five percent (95%) of its gross receipts from dividends,
2216 interest, royalties, rents, services provided to members of an
2217 affiliated group (as defined in Section 27-7-37(2)(d)) to the
2218 extent of the cost of providing such services, and from such
2219 additional sources as the commissioner may specify by regulation.
2220 The definition of the various sources of gross receipts referred



2221 to herein shall be governed by applicable provisions of Chapter 7,
2222 Title 27, Mississippi Code of 1972, and regulations thereunder and
2223 shall include only passive categories of receipts in the
2224 computation of gross receipts.

2225 (j) "Subsidiary corporation" means a corporation,
2226 association or joint-stock company of which at least eighty
2227 percent (80%) of the value and at least eighty percent (80%) of
2228 the combined voting power of all classes of its issued and
2229 outstanding capital stock is owned by a holding corporation,
2230 except that for purposes of this definition the term "stock" does
2231 not include nonvoting stock which is limited and preferred as to
2232 dividends.

2233 (k) "Stock or securities" means any share of stock,
2234 certificate of stock, or interest in a corporation, note, bond,
2235 debenture, or evidence of indebtedness, or any evidence of an
2236 interest in or right to subscribe to or purchase any of the
2237 foregoing.

2238 **SECTION 53.** Section 27-13-23, Mississippi Code of 1972, is
2239 amended as follows:

2240 27-13-23. (1) If a return is timely filed by the taxpayer
2241 but the tax is not paid, the commissioner shall make his
2242 assessment of tax due by mail or by personal delivery of the
2243 assessment to the taxpayer, which assessment shall constitute
2244 notice and demand for payment. The taxpayer shall be given a
2245 period of sixty (60) days from the date of the notice in which to
2246 pay the tax due, including penalty and interest as provided in
2247 this section, and if the sum is not paid within the sixty-day
2248 period, the commissioner shall proceed to collect it under the
2249 provisions of Sections 27-13-29 through 27-13-41 of this chapter;
2250 provided that within the sixty-day period the taxpayer may appeal
2251 to the board of review as provided by law.

2252 (2) If no return is made by a taxpayer required by this
2253 chapter to make a return, the commissioner shall determine the



2254 taxpayer's liability from the best information available, which
2255 determination shall be prima facie correct for the purpose of this
2256 chapter, and the commissioner shall forthwith make an assessment
2257 of the tax so determined to be due by mail or by personal delivery
2258 of the assessment to the taxpayer, which assessment shall
2259 constitute notice and demand for payment. The taxpayer shall be
2260 given a period of sixty (60) days from the date of the notice in
2261 which to pay the tax due, including penalty and interest as
2262 provided in this section, and if the sum is not paid within the
2263 sixty-day period, the commissioner shall proceed to collect it
2264 under the provisions of Sections 27-13-29 through 27-13-41 of this
2265 chapter; provided that within the sixty-day period the taxpayer
2266 may appeal to the board of review as provided by law.

2267 (3) Interest at the rate of one percent (1%) per month from
2268 the due date of the return shall be added or assessed in addition
2269 to the tax due as provided in subsections (1) and (2) of this
2270 section.

2271 (4) In case of failure to file a return as required by this
2272 chapter, unless it can be shown that the failure is due to
2273 reasonable cause and not due to willful neglect, there shall be
2274 added to the amount required to be shown as tax on the return a
2275 penalty of five percent (5%) of the amount of the tax if the
2276 failure is for not more than one (1) month, with an additional
2277 five percent (5%) for each additional month or fraction thereof
2278 during which the failure continues, not to exceed twenty-five
2279 percent (25%) in the aggregate.

2280 (5) In case of failure to pay the amount shown as tax on any
2281 return specified in subsections (1) and (2) of this section on or
2282 before the date prescribed for payment of the tax, determined with
2283 regard to any extension of time for payment, unless it is shown
2284 that the failure is due to reasonable cause and not due to willful
2285 neglect, there shall be added to the amount shown as tax on the
2286 return one-half of one percent (1/2 of 1%) of the amount of the



2287 tax if the failure is for not more than one (1) month, with an
2288 additional one-half of one percent (1/2 of 1%) for each additional
2289 month or fraction thereof during which the failure continues, not
2290 to exceed twenty-five percent (25%) in the aggregate.

2291 **SECTION 54.** Section 27-13-25, Mississippi Code of 1972, is
2292 amended as follows:

2293 27-13-25. (1) If, upon examination of a return made under
2294 the provisions of this chapter, it appears that the correct amount
2295 of tax is greater or less than that shown in the return, the tax
2296 shall be recomputed. Any overpayment of tax so determined shall
2297 be credited or refunded to the taxpayer. If the correct amount of
2298 tax is greater than that shown in the return of the taxpayer, the
2299 commissioner shall make his assessment of additional tax due
2300 by * * * mail or by personal delivery of the assessment to the
2301 taxpayer, which assessment shall constitute notice and demand for
2302 payment. The taxpayer shall be given a period of sixty (60) days
2303 from the date of the notice in which to pay the additional tax
2304 due, including penalty and interest as provided in this section,
2305 and if the sum is not paid within the sixty-day period, the
2306 commissioner shall proceed to collect it under the provisions of
2307 Sections 27-13-29 through 27-13-41, provided that within the
2308 sixty-day period the taxpayer may appeal to the board of review as
2309 provided by law.

2310 (2) In the case of an overpayment of tax, interest shall be
2311 computed under the provisions of Section 27-7-315. In the case of
2312 an underpayment of tax, interest at the rate of one percent (1%)
2313 per month from the due date of the return shall be added or
2314 assessed in addition to the additional tax due as provided in
2315 subsection (1) of this section.

2316 (3) In case of failure to pay any additional taxes as
2317 assessed under this section, unless it is shown that the failure
2318 is due to reasonable cause and not due to willful neglect, there
2319 shall be added to the additional amount assessed a penalty of



2320 one-half of one percent (1/2 of 1%) of the amount of the
2321 additional tax if the failure is for not more than one (1) month,
2322 with an additional one-half of one percent (1/2 of 1%) for each
2323 additional month or fraction thereof during which the failure
2324 continues, not to exceed twenty-five percent (25%) in the
2325 aggregate.

2326 **SECTION 55.** Section 27-15-3, Mississippi Code of 1972, is
2327 amended as follows:

2328 27-15-3. As used in this chapter:

2329 (a) * * * "Population" means the population as shown by
2330 the last census made by the United States; provided, that when any
2331 municipality makes and certifies an enumeration, as provided by
2332 law, it shall mean the population shown by such enumeration.

2333 (b) * * * "Person" or "company," herein used
2334 interchangeably, shall be taken to include any individual, firm,
2335 partnership, joint adventure, association, corporation, estate,
2336 trust, or any other group or combination acting as a unit, and
2337 includes the plural as well as the singular number, unless the
2338 intention to give a more limited meaning is disclosed by the
2339 context.

2340 (c) * * * "Year" and "annually" means either the
2341 calendar year, or a period of twelve (12) calendar months.

2342 (d) * * * "Capacity," when used with reference to
2343 manufacturing establishments, means and shall be determined from
2344 the rated capacity of the machinery installed by the manufacturer
2345 thereof.

2346 (e) * * * "Business" shall include all activities or
2347 acts personal, professional, or corporate, engaged in or caused to
2348 be engaged in with the object of gain, profit, benefit, or
2349 advantage, either direct or indirect, or following or engaging in
2350 any trade, calling or profession, and all things which occupy the
2351 time, attention and labor of men for the purpose of a livelihood
2352 or profit.



2353 (f) * * * "Place of business" means a store, shop,
2354 counting room, office, factory, or other location or locations
2355 whether in a building, enclosed space, or in any undefined place
2356 or places where any business as herein defined is done, conducted,
2357 or carried on.

2358 (g) * * * "State-wide license" means a license issued
2359 by the Commissioner of Revenue, Commissioner of Insurance, or
2360 other officer required to collect the tax usable, good and valid,
2361 in each and every county in the state, unless otherwise limited
2362 and it shall be the authority of the licensee to engage in the
2363 business designated for the period of time under the conditions
2364 specified therein, and at the place or places stated, if the
2365 business carried on be at a definite place.

2366 (h) * * * "State-wide tax" means the tax paid or
2367 imposed for a state-wide license.

2368 (i) * * * "Officer" or "collector" when used with
2369 reference to officers whose duty it is to collect privilege taxes,
2370 means and includes every officer of the state of Mississippi,
2371 subdivisions or departments thereof whose duty it is to collect
2372 privilege taxes as by law provided.

2373 (j) "Commission," "State Tax Commission" or "Tax
2374 Commission" means the Department of Revenue.

2375 (k) * * * "Tax commissioner," "State Tax Commissioner,"
2376 "Chairman of the State Tax Commission," "chairman" or
2377 "commissioner" means the Commissioner of Revenue of the Department
2378 of Revenue.

2379 (l) * * * "Taxpayer" means any person liable for any
2380 tax hereunder in addition to the usual meaning of such word.

2381 **SECTION 56.** Section 27-15-205, Mississippi Code of 1972, is
2382 amended as follows:

2383 27-15-205. Upon the receipt of the application herein
2384 required, and payment of the amount shown thereby to be due for
2385 the privilege to be exercised, the officer to whom the application



2386 is made shall determine if the application is in proper form, and
2387 if the correct amount be tendered, and may require the applicant
2388 to furnish such other and further information as in his opinion is
2389 necessary to ascertain the correct amount of tax due. When the
2390 correct amount of the tax has been so ascertained, the * * *
2391 officer shall issue to the applicant taxpayer a privilege license
2392 according to such application, and shall date the same as of the
2393 first day of the month of its issuance. The officer issuing the
2394 license shall countersign the same when issued by him, and he
2395 shall enter the same in the register prescribed by law therefor.
2396 The license issued by collectors as herein provided shall be
2397 executed in duplicate, the original shall be delivered to the
2398 licensee by the officer, and the duplicate shall be attached to
2399 the application therefor, and preserved by the officer as a public
2400 record.

2401 If, however, such officer, shall, before issuing the * * *
2402 license, or at any time thereafter, have reason to believe that
2403 the statements of the business contained in the application are
2404 incorrect or false in any material particular, the * * * officer
2405 shall duly notify the applicant wherein the supposed discrepancy
2406 lies, and he is hereby empowered to require the applicant to
2407 render such other information as will enable him to determine the
2408 proper tax due. After making such determination of the proper tax
2409 due, if the license has not been issued, the officer shall
2410 forthwith proceed to collect the amount of tax due; and if the
2411 license shall have been issued under the original application, he
2412 shall collect the difference between the sum shown to be properly
2413 due, and the sum paid with the original application, and shall
2414 issue an additional license therefor which shall expire at the
2415 same time as the original. If the additional tax is paid within
2416 sixty (60) days after the determination by the office of the
2417 proper amount due, no penalty shall be applied. If the taxpayer
2418 shall willfully fail or refuse to furnish the information



2419 requested by such officer, he shall be liable for damages as in
2420 other cases of payment of an insufficient privilege tax, and may
2421 be proceeded against civilly or criminally as otherwise provided
2422 herein, and shall suffer the penalties provided herein therefor.

2423 The license issued pursuant to this section shall be good,
2424 usable, and valid for one (1) year after the date thereof, or for
2425 such other period as is fixed by law for the privilege, which
2426 period shall be so designated in the license. All statewide
2427 licenses shall be issued for a period no longer than one (1) year.

2428 The officer issuing the license shall be authorized to
2429 suspend any license issued to any person pursuant to this section
2430 for being out of compliance with an order for support, as defined
2431 in 93-11-153. The procedure for suspension of a license for being
2432 out of compliance with an order for support, and the procedure for
2433 the reissuance or reinstatement of a license suspended for that
2434 purpose, and the payment of any fees for the reissuance or
2435 reinstatement of a license suspended for that purpose, shall be
2436 governed by Section 93-11-157 or Section 93-11-163, as the case
2437 may be. If there is any conflict between any provision of Section
2438 93-11-157 or Section 93-11-163 and any provision of this chapter,
2439 the provisions of Section 93-11-157 or Section 93-11-163, as the
2440 case may be, shall control.

2441 **SECTION 57.** Section 27-19-1, Mississippi Code of 1972, is
2442 amended as follows:

2443 27-19-1. The Department of Revenue, hereinafter called the
2444 "commission" or the "State Tax Commission," is hereby vested with
2445 the sole power and authority, and is charged with the duty of
2446 administering and enforcing the terms and provisions of this
2447 article. As used in this article, the term "commissioner,"
2448 "Chairman of the State Tax Commission" or "chairman" means the
2449 Commissioner of Revenue of the Department of Revenue.

2450 **SECTION 58.** Section 27-19-3, Mississippi Code of 1972, is
2451 amended as follows:



2452 27-19-3. (a) The following words and phrases when used in
2453 this article for the purpose of this article have the meanings
2454 respectively ascribed to them in this section, except in those
2455 instances where the context clearly describes and indicates a
2456 different meaning:

2457 (1) "Vehicle" means every device in, upon or by which
2458 any person or property is or may be transported or drawn upon a
2459 public highway, except devices moved by muscular power or used
2460 exclusively upon stationary rails or tracks.

2461 (2) "Commercial vehicle" means every vehicle used or
2462 operated upon the public roads, highways or bridges in connection
2463 with any business function.

2464 (3) "Motor vehicle" means every vehicle as defined in
2465 this section which is self-propelled, including trackless street
2466 or trolley cars. The term "motor vehicle" shall not include
2467 electric personal assistive mobility devices as defined in Section
2468 63-3-103.

2469 (4) "Tractor" means every vehicle designed, constructed
2470 or used for drawing other vehicles.

2471 (5) "Motorcycle" means every vehicle designed to travel
2472 on not more than three (3) wheels in contact with the ground,
2473 except vehicles included within the term "tractor" as herein
2474 classified and defined.

2475 (6) "Truck tractor" means every motor vehicle designed
2476 and used for drawing other vehicles and so constructed as to carry
2477 a load other than a part of the weight of the vehicle and load so
2478 drawn and has a gross vehicle weight (GVW) in excess of ten
2479 thousand (10,000) pounds.

2480 (7) "Trailer" means every vehicle without motive power,
2481 designed to carry property or passengers wholly on its structure
2482 and which is drawn by a motor vehicle.

2483 (8) "Semitrailer" means every vehicle (of the trailer
2484 type) so designed and used in conjunction with a truck tractor.



2485 (9) "Foreign vehicle" means every motor vehicle,
2486 trailer or semitrailer, which shall be brought into the state
2487 otherwise than by or through a manufacturer or dealer for resale
2488 and which has not been registered in this state.

2489 (10) "Pneumatic tires" means all tires inflated with
2490 compressed air.

2491 (11) "Solid rubber tires" means every tire made of
2492 rubber other than pneumatic tires.

2493 (12) "Solid tires" means all tires, the surface of
2494 which in contact with the highway is wholly or partly of metal or
2495 other hard, nonresilient material.

2496 (13) "Person" means every natural person, firm,
2497 copartnership, corporation, joint-stock or other association or
2498 organization.

2499 (14) "Owner" means a person who holds the legal title
2500 of a vehicle or in the event a vehicle is the subject of an
2501 agreement for the conditional sale, lease or transfer of the
2502 possession, the person with the right of purchase upon performance
2503 of conditions stated in the agreement, and with an immediate right
2504 of possession vested in the conditional vendee, lessee, possessor
2505 or in the event such or similar transaction is had by means of a
2506 mortgage, and the mortgagor of a vehicle is entitled to
2507 possession, then such conditional vendee, lessee, possessor or
2508 mortgagor shall be deemed the owner for the purposes of this
2509 article.

2510 (15) "School bus" means every motor vehicle engaged
2511 solely in transporting school children or school children and
2512 teachers to and from schools; however, such vehicles may transport
2513 passengers on weekends and legal holidays and during summer months
2514 between the terms of school for compensation when the
2515 transportation of passengers is over a route of which not more
2516 than fifty percent (50%) traverses the route of a common carrier



2517 of passengers by motor vehicle and when no passengers are picked
2518 up on the route of any such carrier.

2519 (16) "Dealer" means every person engaged regularly in
2520 the business of buying, selling or exchanging motor vehicles,
2521 trailers, semitrailers, trucks, tractors or other character of
2522 commercial or industrial motor vehicles in this state, and having
2523 an established place of business in this state.

2524 (17) "Highway" means and includes every way or place of
2525 whatever nature, including public roads, streets and alleys of
2526 this state generally open to the use of the public or to be opened
2527 or reopened to the use of the public for the purpose of vehicular
2528 travel, and notwithstanding that the same may be temporarily
2529 closed for the purpose of construction, reconstruction,
2530 maintenance or repair.

2531 (18) "State Tax Commission," "commission" or
2532 "department" means the Commissioner of Revenue of the Department
2533 of Revenue of this state, acting directly or through his duly
2534 authorized officers, agents, representatives and employees.

2535 (19) "Common carrier by motor vehicle" means any person
2536 who or which undertakes, whether directly or by a lease or any
2537 other arrangement, to transport passengers or property or any
2538 class or classes of property for the general public in interstate
2539 or intrastate commerce on the public highways of this state by
2540 motor vehicles for compensation, whether over regular or irregular
2541 routes. The term "common carrier by motor vehicle" shall not
2542 include passenger buses operating within the corporate limits of a
2543 municipality in this state or not exceeding five (5) miles beyond
2544 the corporate limits of the municipality, and hearses, ambulances,
2545 school buses as such. In addition, this definition shall not
2546 include taxicabs.

2547 (20) "Contract carrier by motor vehicle" means any
2548 person who or which under the special and individual contract or
2549 agreements, and whether directly or by a lease or any other



2550 arrangement, transports passengers or property in interstate or
2551 intrastate commerce on the public highways of this state by motor
2552 vehicle for compensation. The term "contract carrier by motor
2553 vehicle" shall not include passenger buses operating wholly within
2554 the corporate limits of a municipality in this state or not
2555 exceeding five (5) miles beyond the corporate limits of the
2556 municipality, and hearses, ambulances, school buses as such. In
2557 addition, this definition shall not include taxicabs.

2558 (21) "Private commercial and noncommercial carrier of
2559 property by motor vehicle" means any person not included in the
2560 terms "common carrier by motor vehicle" or "contract carrier by
2561 motor vehicle," who or which transports in interstate or
2562 intrastate commerce on the public highways of this state by motor
2563 vehicle, property of which such person is the owner, lessee, or
2564 bailee, other than for hire. The term "private commercial and
2565 noncommercial carrier of private property by motor vehicle" shall
2566 not include passenger buses operated wholly within the corporate
2567 limits of a municipality of this state, or not exceeding five (5)
2568 miles beyond the corporate limits of the municipality, and
2569 hearses, ambulances, school buses as such. In addition, this
2570 definition shall not include taxicabs.

2571 Haulers of fertilizer shall be classified as private
2572 commercial carriers of property by motor vehicle.

2573 (22) "Private carrier of passengers" means all other
2574 passenger motor vehicle carriers not included in the above
2575 definitions. The term "private carrier of passengers" shall not
2576 include passenger buses operating wholly within the corporate
2577 limits of a municipality in this state, or not exceeding five (5)
2578 miles beyond the corporate limits of the municipality, and
2579 hearses, ambulances, and school buses as such. In addition, this
2580 definition shall not include taxicabs.

2581 (23) "Operator" means any person, partnership,
2582 joint-stock company or corporation operating on the public



2583 highways of the state one or more motor vehicles as the beneficial
2584 owner or lessee.

2585 (24) "Driver" means the person actually driving or
2586 operating such motor vehicle at any given time.

2587 (25) "Private carrier of property" means any person
2588 transporting property on the highways of this state as defined
2589 below:

2590 (a) Any person, or any employee of such person,
2591 transporting farm products, farm supplies, materials and/or
2592 equipment used in the growing or production of his own
2593 agricultural products in his own truck.

2594 (b) Any person transporting his own fish,
2595 including shellfish, in his own truck.

2596 (c) Any person, or any employee of such person,
2597 transporting unprocessed forest products, or timber harvesting
2598 equipment wherein ownership remains the same, in his own truck.

2599 (26) "Taxicab" means any passenger motor vehicle for
2600 hire with a seating capacity not greater than ten (10) passengers.
2601 For purposes of this paragraph (26), seating capacity shall be
2602 determined according to the manufacturer's suggested seating
2603 capacity for a vehicle. If there is no manufacturer's suggested
2604 seating capacity for a vehicle, the seating capacity for the
2605 vehicle shall be determined according to regulations established
2606 by the Department of Revenue.

2607 (27) "Passenger coach" means any passenger motor
2608 vehicle with a seating capacity greater than ten (10) passengers,
2609 operating wholly within the corporate limits of a municipality of
2610 this state or within five (5) miles of the corporate limits of the
2611 municipality, or motor vehicles substituted for abandoned electric
2612 railway systems in or between municipalities. For purposes of
2613 this paragraph (27), seating capacity shall be determined
2614 according to the manufacturer's suggested seating capacity for a
2615 vehicle. If there is no manufacturer's suggested seating capacity



2616 for a vehicle, the seating capacity for the vehicle shall be
2617 determined according to regulations established by the Department
2618 of Revenue.

2619 (28) "Empty weight" means the actual weight of a
2620 vehicle including fixtures and equipment necessary for the
2621 transportation of load hauled or to be hauled.

2622 (29) "Gross weight" means the empty weight of the
2623 vehicle, as defined herein, plus any load being transported or to
2624 be transported.

2625 (30) "Ambulance and hearse" shall have the meaning
2626 generally ascribed to them. A hearse or funeral coach shall be
2627 classified as a light carrier of property, as defined in Section
2628 27-51-101.

2629 (31) "Regular seats" means each seat ordinarily and
2630 customarily used by one (1) passenger, including all temporary,
2631 emergency, and collapsible seats. Where any seats are not
2632 distinguished or separated by separate cushions and backs, a seat
2633 shall be counted for each eighteen (18) inches of space on such
2634 seats or major fraction thereof. In the case of a regular
2635 passenger-type automobile which is used as a common or contract
2636 carrier of passengers, three (3) seats shall be counted for the
2637 rear seat of such automobile and one (1) seat shall be counted for
2638 the front seat of such automobile.

2639 (32) "Ton" means two thousand (2,000) pounds
2640 avoirdupois.

2641 (33) "Bus" means any passenger vehicle with a seating
2642 capacity of more than ten (10) but shall not include "private
2643 carrier of passengers" and "school bus" as defined in paragraphs
2644 (15) and (22) of this section. For purposes of this paragraph
2645 (33), seating capacity shall be determined according to the
2646 manufacturer's suggested seating capacity for a vehicle. If there
2647 is no manufacturer's suggested seating capacity for a vehicle, the



2648 seating capacity for the vehicle shall be determined according to
2649 regulations established by the Department of Revenue.

2650 (34) "Corporate fleet" means a group of two hundred
2651 (200) or more marked private carriers of passengers or light
2652 carriers of property, as defined in Section 27-51-101, trailers,
2653 semitrailers, or motor vehicles in excess of ten thousand (10,000)
2654 pounds gross vehicle weight, except for those vehicles registered
2655 for interstate travel, owned or leased on a long-term basis by a
2656 corporation or other legal entity. In order to be considered
2657 marked, the motor vehicle must have a name, trademark or logo
2658 located either on the sides or the rear of the vehicle in sharp
2659 contrast to the background, and of a size, shape and color that is
2660 legible during daylight hours from a distance of fifty (50) feet.

2661 (35) "Individual fleet" means a group of five (5) or
2662 more private carriers of passengers or light carriers of property,
2663 as defined in Section 27-51-101, owned or leased by the same
2664 person and principally garaged in the same county.

2665 (b) (1) No lease shall be recognized under the provisions
2666 of this article unless it shall be in writing and shall fully
2667 define a bona fide relationship of lessor and lessee, signed by
2668 both parties, dated and be in the possession of the driver of the
2669 leased vehicle at all times.

2670 (2) Leased vehicles shall be considered as domiciled at
2671 the place in the State of Mississippi from which they operate in
2672 interstate or intrastate commerce, and for the purposes of this
2673 article shall be considered as owned by the lessee, who shall
2674 furnish all insurance on the vehicles and the driver of the
2675 vehicles shall be considered as an agent of the lessee for all
2676 purposes of this article.

2677 **SECTION 59.** Section 27-19-303, Mississippi Code of 1972, is
2678 amended as follows:



2679 27-19-303. The following words and phrases, when used in
2680 this article, shall for purposes thereof have the meaning
2681 respectively ascribed thereto as follows:

2682 (a) "Motor vehicle" shall mean every vehicle intended
2683 primarily for use and operation on the public highways, which is
2684 self-propelled and every vehicle intended primarily for operation
2685 on the public highways, which is not driven or propelled by its
2686 own power, but which is designed either to be attached to and
2687 become a part of or to be drawn by a self-propelled vehicle, but
2688 not including farm tractors and other machines and tools used in
2689 production, harvesting and care of farm products.

2690 (b) "Person" shall mean every natural person, firm,
2691 copartnership, association or corporation.

2692 (c) "Motor vehicle dealer" shall mean any business
2693 engaged in the selling or exchanging of new or new and used motor
2694 vehicles or used vehicles; and, which has an established place of
2695 business open for inspection at any time by any peace officer or
2696 the Commissioner of Revenue of the Department of Revenue or one
2697 (1) of his authorized representatives during reasonable hours;
2698 and, which buys and sells or exchanges at least twenty-four (24)
2699 motor vehicles per year that are the same motor vehicle type for
2700 which distinguishing number tags are being sought under this
2701 article. For purposes of this paragraph each of the following
2702 categories shall be considered a different motor vehicle type:

2703 (i) Motor vehicles (as defined under Section
2704 27-19-3) with a gross vehicle weight (as defined under Section
2705 27-19-3) of less than sixteen thousand (16,000) pounds, not
2706 including motorcycles;

2707 (ii) Motorcycles;

2708 (iii) Trailers, semitrailers and house trailers;

2709 and

2710 (iv) Motor vehicles not included in subparagraphs
2711 (i), (ii) and (iii) of this paragraph.



2712 (d) "Dealer" shall mean such of the principal officers
2713 of a corporation registered as a motor vehicle dealer, and such of
2714 the partners of a copartnership registered as a motor vehicle
2715 dealer as are actively and principally engaged in the motor
2716 vehicle business. The term "dealer" shall not include:

2717 (i) Directors, stockholders or inactive partners;

2718 or

2719 (ii) Receivers, trustees, administrators,
2720 executors, guardians, or other persons appointed by or acting
2721 under any judgment or order of any court, whether state or
2722 federal; or

2723 (iii) Public officers while performing their
2724 official duties; or

2725 (iv) Persons disposing of motor vehicles acquired
2726 for their own use and actually so used when the same shall have
2727 been used, so acquired in good faith, and not for the purpose of
2728 avoiding the provisions of this article; or

2729 (v) Persons who shall sell motor vehicles as an
2730 incident to their principal business but who are not engaged
2731 primarily in selling motor vehicles. The foregoing shall include
2732 only finance companies or banks which sell repossessed motor
2733 vehicles, and insurance companies which sell motor vehicles which
2734 they have taken into their possession as an incident of payment
2735 made under policies of insurance, and which do not maintain a used
2736 car lot or building with one (1) or more employed motor vehicle
2737 salesmen.

2738 (e) "New motor vehicle dealer" shall mean a business
2739 dealing in new motor vehicles, tractors, trailers or semitrailers,
2740 or new and used motor vehicles, tractors, trailers or
2741 semitrailers.

2742 (f) "Used motor vehicle dealer" shall mean a business
2743 dealing in used motor vehicles, tractors, trailers or



2744 semitrailers. "Automobile dismantlers" shall also be classified
2745 as used motor vehicle dealers.

2746 (g) "Established place of business" shall mean any
2747 place owned or leased and regularly occupied by any person for the
2748 primary and principal purpose of engaging in selling, buying,
2749 bartering, exchanging or dealing in motor vehicles, tractors,
2750 trailers or semitrailers, whether same may be displayed or offered
2751 for sale and where the books and records required of the conduct
2752 of such business are maintained and kept. Established places of
2753 business shall be open for inspection at any time by any peace
2754 officer or employee of the Department of Revenue during reasonable
2755 hours. To constitute a place of business, it shall be apparent
2756 that there is a holding out to the general public that an
2757 establishment is offering motor vehicles, tractors, trailers and
2758 semitrailers for sale. There shall be an office separate from and
2759 not in conjunction with or related to any other business for the
2760 purpose of transacting the business of offering motor vehicles,
2761 tractors, trailers or semitrailers for sale, or in lieu of such
2762 office there shall be an adequate display of identification as a
2763 motor vehicle dealer as specified by the Commissioner of Revenue
2764 of the Department of Revenue.

2765 (h) "Automobile dismantler" shall mean any person who
2766 maintains an established place of business and who is engaged in
2767 the business of buying, selling or exchanging used motor vehicles,
2768 mobile homes or house trailers for the purpose of remodeling,
2769 taking apart or rebuilding same or buying and selling of parts of
2770 used motor vehicles and shall be classified as a used motor
2771 vehicle dealer.

2772 (i) "Automobile auction" shall mean any person, firm,
2773 association, corporation or trust, resident or nonresident, acting
2774 as an agent for the purchaser or seller of motor vehicles.

2775 (j) "Department" or "commission" shall mean the
2776 Commissioner of Revenue of the Department of Revenue.



2777 (k) "Limited motor vehicle dealer" or "limited dealer"
2778 shall mean any business engaged in the selling or exchanging of
2779 new or used motor vehicles, or both, which buys and sells or
2780 exchanges fewer than the number of motor vehicles required to be
2781 sold or exchanged in order to fall within the definition of the
2782 term "motor vehicle dealer" and is granted a limited license at
2783 the discretion of the Commissioner of Revenue of the Department of
2784 Revenue. Such limited dealer shall be awarded all privileges of a
2785 "motor vehicle dealer," except for the purchase and use of
2786 distinguishing number tags. A limited dealer shall abide by all
2787 provisions and requirements of this article associated with a
2788 "motor vehicle dealer."

2789 (l) "Wholesale motor vehicle dealer" or "wholesale
2790 dealer" shall mean any business engaged in the selling or
2791 exchanging of new or used motor vehicles, or both, strictly on a
2792 wholesale basis with no inventory being maintained which is
2793 granted a wholesale license at the discretion of the Commissioner
2794 of Revenue of the Department of Revenue. Such wholesale dealer
2795 shall be awarded all privileges of a "motor vehicle dealer,"
2796 except for the purchase and use of distinguishing number tags. A
2797 wholesale dealer shall abide by all provisions and requirements of
2798 this article associated with a "motor vehicle dealer," except for
2799 the requirement of the "established place of business" and the
2800 requirement to buy, sell or exchange a certain number of motor
2801 vehicles per year.

2802 **SECTION 60.** Section 27-21-1, Mississippi Code of 1972, is
2803 amended as follows:

2804 27-21-1. The administration of this chapter is vested in and
2805 shall be exercised by the Commissioner of Revenue of the
2806 Department of Revenue, hereinafter referred to as commissioner,
2807 and who may do any act required in the administration of the law
2808 by and through his duly appointed and constituted deputies or
2809 agents, who shall serve under him, and shall perform such duties



2810 as may be required by the commissioner, including the signing of
2811 notices, warrants and such other documents as may be specifically
2812 designated by the commissioner, not inconsistent with this
2813 chapter. The Commissioner of Revenue of the Department of
2814 Revenue, as commissioner, may require the assistance of and act
2815 through the Attorney General, prosecuting attorney of any county,
2816 or any district attorney, or any attorney for the department.
2817 The * * * commissioner may, with the assent of the Governor,
2818 employ special counsel in any county to aid the prosecuting
2819 attorney of such county or the Attorney General or district
2820 attorney, and the compensation of such special counsel shall be
2821 fixed by and paid only upon the approval of the Governor; but the
2822 Attorney General, district attorney or prosecuting attorney of any
2823 county shall receive no fees or compensation for services rendered
2824 in enforcing this chapter in addition to the salary paid such
2825 officer.

2826 **SECTION 61.** Section 27-25-3, Mississippi Code of 1972, is
2827 amended as follows:

2828 27-25-3. The following words, terms and phrases, when used
2829 in this article, shall have the meanings as defined in this
2830 section, except where the context clearly indicates otherwise:

2831 (a) "Commissioner," "State Tax Commissioner" or "Tax
2832 Commissioner" means the Commissioner of Revenue of the Department
2833 of Revenue.

2834 (b) "Grower" means any person owning or leasing lands
2835 on which timber or timber products are grown or produced.

2836 (c) "Logs" means stems or trunks of trees cut into
2837 convenient lengths for the manufacture of lumber or other timber
2838 products.

2839 (d) "Lumber" means products sawed or hewed from logs,
2840 and shall be measured by actual board measure in units of board
2841 feet, but does not mean other products manufactured from logs such



2842 as veneer sheets, tight or slack cooperage, hardwood shuttle
2843 blocks, hickory, furniture or handle dimension blanks.

2844 (e) "Person" means any individual, firm, copartnership,
2845 association, corporation, receiver, trustee or any other group or
2846 combination acting as a unit, and the plural as well as the
2847 singular.

2848 (f) "Producer" means any person engaging in or
2849 continuing to engage in this state in the business of severing or
2850 purchasing timber or timber products from the soil or water.

2851 (g) "Pulpwood" means any timber or timber products
2852 severed, produced or used by the manufacturers in the production
2853 of pulp and pulp products and shall be measured in units of cords
2854 four (4) feet high, four (4) feet wide, and eight (8) feet long,
2855 containing one hundred twenty-eight (128) cubic feet, and shall be
2856 measured green with bark, as at the date of severance.

2857 (h) "Sever" means to cut, fell, or otherwise separate
2858 or produce from the soil or water any timber or timber products.

2859 (i) "Timber" means timber after severance or
2860 production.

2861 (j) "Timber products" means timber of all kinds,
2862 species, or sizes, after severance, including logs, lumber, poles,
2863 piling, posts, blocks, bolts, cordwood, and pulpwood, pine
2864 stumpwood, pine knots or other distillate wood, crossties,
2865 turpentine (crude gum), and all other products derived from timber
2866 which have a sale or commercial value.

2867 **SECTION 62.** Section 27-25-303, Mississippi Code of 1972, is
2868 amended as follows:

2869 27-25-303. The words, terms and phrases used in this article
2870 shall have the meanings ascribed to them herein.

2871 (a) "Tax commission," State Tax Commission or
2872 "department" means the Department of Revenue of the State of
2873 Mississippi.



2874 (b) "Commissioner" or "Chairman of the State Tax
2875 Commission" means the Commissioner of Revenue of the Department of
2876 Revenue.

2877 (c) "Person" means and includes any individual, firm,
2878 copartnership, joint venture, association, corporation, estate,
2879 trust or other group or combination acting as a unit, and includes
2880 the plural as well as the singular in number.

2881 (d) "Taxpayer" means any person liable for or having
2882 paid any tax to the State of Mississippi under the provisions of
2883 this article.

2884 (e) "Producer" means any person who produces or severs
2885 or who is responsible for the production of salt from the earth or
2886 water for sale, profit or commercial use.

2887 (f) "Production" means the total amount or quantity of
2888 marketable salt produced by whatever measurement used.

2889 (g) "Value" means and includes the purchase price or
2890 royalty, cost, and any other expense as determined by generally
2891 accepted accounting principles of underground mining and handling
2892 of production to the point where processing begins.

2893 (h) "Processing" means an activity of an industrial or
2894 commercial nature wherein labor or skill is applied, by hand or
2895 machinery, to raw materials so that a more useful product or
2896 substance of trade or commerce is produced for sale.

2897 (i) "Engaging in business" means any act or acts
2898 engaged in by producers, or parties at interest which results in
2899 the production of salt from the soil or water, for storage,
2900 transport or further processing.

2901 (j) "Salt" means a substance which is chemically
2902 classified as sodium chloride.

2903 **SECTION 63.** Section 27-25-501, Mississippi Code of 1972, is
2904 amended as follows:

2905 27-25-501. Whenever used in this article, the following
2906 words and terms shall have the definition and meaning ascribed to



2907 them in this section, unless the intention to give a more limited
2908 meaning is disclosed by the context:

2909 (a) "Tax commission" or "department" means the
2910 Department of Revenue of the State of Mississippi.

2911 (b) "Commissioner" means the Commissioner of Revenue of
2912 the Department of Revenue.

2913 (c) "Annual" means the calendar year or the taxpayer's
2914 fiscal year when permission is obtained from the commissioner to
2915 use a fiscal year as a tax period in lieu of a calendar year.

2916 (d) "Value" means the sale price, or market value, at
2917 the mouth of the well. If the oil is exchanged for something
2918 other than cash, or if there is no sale at the time of severance,
2919 or if the relation between the buyer and the seller is such that
2920 the consideration paid, if any, is not indicative of the true
2921 value or market price, then the commissioner shall determine the
2922 value of the oil subject to tax, considering the sale price for
2923 cash of oil of like quality. With respect to salvaged crude oil
2924 as hereinafter defined, the term "value" shall mean the sale price
2925 or market value of such salvaged crude oil at the time of its sale
2926 after such salvaged crude oil has been processed or treated so as
2927 to render it marketable.

2928 (e) "Taxpayer" means any person liable for the tax
2929 imposed by this article. With respect to the tax imposed upon
2930 salvaged crude oil as hereafter defined, the term "taxpayer" shall
2931 mean the person having title to the salvaged crude oil at the time
2932 it is being processed or treated so as to render it marketable.

2933 (f) "Oil" means petroleum, other crude oil, natural
2934 gasoline, distillate, condensate, casinghead gasoline, asphalt or
2935 other mineral oil which is mined, or produced, or withdrawn from
2936 below the surface of the soil or water, in this state. Any type
2937 of salvaged crude oil which, after any treatment, becomes
2938 marketable shall be defined as crude oil which has been severed
2939 from the soil or water.



2940 (g) "Severed" means the extraction or withdrawing from
2941 below the surface of the soil or water of any oil, whether such
2942 extraction or withdrawal shall be by natural flow, mechanically
2943 enforced flow, pumping or any other means employed to get the oil
2944 from below the surface of the soil or water, and shall include the
2945 withdrawing by any means whatsoever of oil upon which the tax has
2946 not been paid, from any surface reservoir, natural or artificial,
2947 or from a water surface. Provided, however, that in the case of
2948 salvaged crude oil, "severed" means the process of treating such
2949 oil so that it will become marketable and the time of severance
2950 shall occur upon completion of the treatment.

2951 (h) "Person" means any natural person, firm,
2952 copartnership, joint venture, association, corporation, estate,
2953 trust or any other group, or combination acting as a unit, and the
2954 plural as well as the singular number.

2955 (i) "Producer" means any person owning, controlling,
2956 managing or leasing any oil property, or oil well, and any person
2957 who produces in any manner any oil by taking it from the earth or
2958 water in this state, and shall include any person owning any
2959 royalty or other interest in any oil or its value, whether
2960 produced by him, or by some other person on his behalf, either by
2961 lease contract or otherwise.

2962 (j) "Engaging in business" means any act or acts
2963 engaged in (personal or corporate) by producers, or parties at
2964 interest, the result of which, oil is severed from the soil or
2965 water, for storage, transport or manufacture, or by which there is
2966 an exchange of money, or goods, or thing of value, for oil which
2967 has been or is in process of being severed, from the soil or
2968 water.

2969 (k) "Barrel" for oil measurement, means a barrel of
2970 forty-two (42) United States gallons of two hundred thirty-one
2971 (231) cubic inches per gallon, computed at a temperature of sixty
2972 (60) degrees Fahrenheit.



2973 (1) "Production" means the total gross amount of oil
2974 produced, including all royalty or other interest; that is, the
2975 amount for the purpose of the tax imposed by this article shall be
2976 measured or determined by tank tables compiled to show one hundred
2977 percent (100%) of the full capacity of tanks without deduction for
2978 overage or losses in handling. Allowance for any reasonable and
2979 bona fide deduction for basic sediment and water, and for
2980 correction of temperature to sixty (60) degrees Fahrenheit will be
2981 allowed. If the amount of oil produced has been measured or
2982 determined by tank tables compiled to show less than one hundred
2983 percent (100%) of the full capacity of tanks, then such amount
2984 shall be raised to a basis by one hundred percent (100%) for the
2985 purpose of the tax imposed by this article.

2986 (m) "Gathering system" means the pipelines, pumps and
2987 other property used in gathering oil from the property on which it
2988 is produced, the tanks used for storage at a central place,
2989 loading racks and equipment for loading oil into tank cars or
2990 other transporting media, and all other equipment and
2991 appurtenances necessary to a gathering system for transferring oil
2992 into trunk pipelines.

2993 (n) "Discovery well" means any well producing oil from
2994 a single pool in which a well has not been previously produced in
2995 paying quantities after testing.

2996 (o) "Development wells" means all oil producing wells
2997 other than discovery wells and replacement wells.

2998 (p) "Replacement well" means a well drilled on a
2999 drilling and/or production unit to replace another well which is
3000 drilled in the same unit and completed in the same pool.

3001 (q) "Three-dimensional seismic" means data which is
3002 regularly organized in three (3) orthogonal directions and thus
3003 suitable for interpretation with a three-dimensional software
3004 package on an interactive work station.



3005 (r) "Two-year inactive well" means any oil or gas well
3006 certified by the State Oil and Gas Board as having not produced
3007 oil or gas in more than a total of thirty (30) days during a
3008 twelve (12) consecutive month period in the two (2) years before
3009 the date of certification.

3010 **SECTION 64.** Section 27-25-701, Mississippi Code of 1972, is
3011 amended as follows:

3012 27-25-701. Whenever used in this article, the following
3013 words and terms shall have the definition and meaning ascribed to
3014 them in this section, unless the intention to give a more limited
3015 meaning is disclosed by the context:

3016 (a) "Tax commission" or "department" means the
3017 Department of Revenue of the State of Mississippi.

3018 (b) "Commissioner" means the Commissioner of Revenue of
3019 the Department of Revenue.

3020 (c) "Annual" means the calendar year or the taxpayer's
3021 fiscal year when permission is obtained from the commissioner to
3022 use a fiscal year as a tax period in lieu of a calendar year.

3023 (d) "Value" means the sale price, or market value, at
3024 the mouth of the well. If the gas is exchanged for something
3025 other than cash, or if there is no sale at the time of severance,
3026 or if the relation between the buyer and the seller is such that
3027 the consideration paid, if any, is not indicative of the true
3028 value or market price, then the commissioner shall determine the
3029 value of the gas subject to tax, considering the sale price for
3030 cash of gas of like quality in the same or nearest gas-producing
3031 field.

3032 (e) "Taxpayer" means any person liable for the tax
3033 imposed by this article.

3034 (f) "Gas" means natural and casinghead gas and any gas
3035 or vapor taken from below the surface of the soil or water in this
3036 state, regardless of whether produced from a gas well or from a



3037 well also productive of oil or any other product; provided,
3038 however, the term "gas" shall not include carbon dioxide.

3039 (g) "Casinghead gas" means any gas or vapor indigenous
3040 to an oil stratum and produced from such stratum with oil.

3041 (h) "Severed" means the extraction or withdrawing by
3042 any means whatsoever, from below the surface of the soil or water,
3043 of any gas.

3044 (i) "Person" means any natural person, firm,
3045 copartnership, joint venture, association, corporation, estate,
3046 trust, or any other group, or combination acting as a unit, and
3047 the plural as well as the singular number.

3048 (j) "Producer" means any person owning, controlling,
3049 managing or leasing any oil or gas property, or oil or gas well,
3050 and any person who produces in any manner any gas by taking it
3051 from the earth or water in this state, and shall include any
3052 person owning any royalty or other interest in any gas or its
3053 value, whether produced by him, or by some other person on his
3054 behalf, either by lease contract or otherwise.

3055 (k) "Engaging in business" means any act or acts
3056 engaged in (personal or corporate) by producers, or parties at
3057 interest, the result of which gas is severed from the soil or
3058 water, for storage, transport or manufacture, or by which there is
3059 an exchange of money, or goods, or thing of value, for gas which
3060 has been or is in process of being severed from the soil or water.

3061 (l) "Production" means the total gross amount of gas
3062 produced, including all royalty or other interest; that is, the
3063 amount for the purpose of the tax imposed by this article shall be
3064 measured or determined by meter readings showing one hundred
3065 percent (100%) of the full volume expressed in cubic feet at a
3066 standard base and flowing temperature of sixty (60) degrees
3067 Fahrenheit and at the absolute pressure at which the gas is sold
3068 and purchased; correction to be made for pressure according to
3069 Boyle's law, and for specific gravity according to the gravity at



3070 which the gas is sold and purchased or if not so specified,
3071 according to test made by the balance method.

3072 (m) "Gathering system" means the pipelines,
3073 compressors, pumps, regulators, separators, dehydrators, meters,
3074 metering installations and all other property used in gathering
3075 gas from the well from which it is produced if such properties are
3076 owned by other than the operator, and all such properties, if
3077 owned by the operator, beyond the first metering installation that
3078 is nearest the well.

3079 (n) "Discovery well" means any well producing gas from
3080 a single pool in which a well has not been previously produced in
3081 paying quantities after testing.

3082 (o) "Development wells" means all gas producing wells
3083 other than discovery wells and replacement wells.

3084 (p) "Replacement well" means a well drilled on a
3085 drilling and/or production unit to replace another well which is
3086 drilled in the same unit and completed in the same pool.

3087 (q) "Three-dimensional seismic" means data which is
3088 regularly organized in three (3) orthogonal directions and thus
3089 suitable for interpretation with a three-dimensional software
3090 package on an interactive work station.

3091 (r) "Two-year inactive well" means any oil or gas well
3092 certified by the State Oil and Gas Board as having not produced
3093 oil or gas in more than a total of thirty (30) days during a
3094 twelve (12) consecutive month period in the two (2) years before
3095 the date of certification.

3096 **SECTION 65.** Section 27-33-11, Mississippi Code of 1972, is
3097 amended as follows:

3098 27-33-11. The subject words and terms of this section, for
3099 the purpose of this article, shall have meaning as follows:

3100 (a) "Tax loss" means the exemption from ad valorem
3101 taxes allowed homeowners in this article. "Reimbursement of tax



3102 loss" means the amount of tax losses to be reimbursed to each
3103 taxing unit as determined by Sections 27-33-77 and 27-33-79.

3104 (b) "Taxing unit" means (i) any county, (ii) any
3105 special municipal separate school district with or without added
3106 territory, (iii) any municipal separate school district with or
3107 without added territory, and (iv) any municipality.

3108 (c) "Added territory" means territory or land lying
3109 outside of a municipality, added or annexed to and being a part of
3110 a municipal separate school district and subject to the tax
3111 permitted to be imposed by the district for school purposes as
3112 provided by Chapter 57, Title 37, Mississippi Code of 1972.

3113 (d) "Municipality" means a city, town or village which
3114 is legally incorporated and which has not been automatically
3115 abolished according to the provisions of Sections 21-1-49 and
3116 21-1-51 or by other lawful process, and in which taxes are
3117 assessed, levied and collected.

3118 (e) "Depository" means the bank or institution and
3119 place officially designated as the depository for funds of a
3120 county.

3121 (f) "Apartment" means rooms in an eligible dwelling
3122 with space and facilities for sleeping and with space and
3123 facilities, or equipment, for preparing and serving meals, which
3124 equipment is supplied by the owner or tenant, or both: (1) in a
3125 building constructed as a dwelling for two (2) or more families,
3126 or (2) in an ordinary dwelling, consisting of three (3) or more
3127 rooms, exclusive of a bathroom; in either case rented or leased or
3128 available for rent or lease, or occupied by a family group other
3129 than the owner. One (1) or two (2) rooms rented and used for
3130 housekeeping shall be counted as rented rooms.

3131 (g) "Commission," "Tax Commission" or "department"
3132 means the Department of Revenue of the State of Mississippi.

3133 (h) "Auditor" means the Auditor of Public Accounts of
3134 the State of Mississippi.



3135 (i) "Treasurer" means the Treasurer of the State of
3136 Mississippi.

3137 (j) "Officer or officers" includes the county tax
3138 assessor, the members of the county board of supervisors, the
3139 clerk of the board of supervisors, the chancery clerk, the county
3140 tax collector, and the legally authorized deputies of each.

3141 (k) "Eligible" when used in this article, (1) with
3142 reference to persons means those persons who are eligible under
3143 the terms of this article for homestead exemption, or (2) with
3144 reference to property means the real property eligible for
3145 exemption as a homestead under the terms of this article as to
3146 title, quantity, occupancy, use to which put, and other conditions
3147 required by this article, or (3) with reference to title or
3148 ownership means title to or ownership of real property as defined
3149 in Section 27-33-17.

3150 (l) "He" and other pronouns in the masculine gender
3151 embrace a female as well as a male, unless a contrary intention is
3152 disclosed by the context.

3153 (m) "Adjoining land, or land actually joined" means two
3154 (2) separately described tracts of land having at one or more
3155 points a common boundary, or where the corners of the two (2)
3156 tracts actually touch, but two (2) tracts connected by an easement
3157 or by a narrow strip of land as a right-of-way for ingress and
3158 egress shall not be treated as adjoining, or actually joined.

3159 (n) "Supplemental roll" means a list containing the
3160 amount of the assessment of all lands and buildings which are all,
3161 or a part, of exempt homesteads, and a list of the homeowners to
3162 whom a homestead exemption has been allowed by the board for the
3163 current year, and showing in strict alphabetical order the names
3164 of all applicants to whom the exemption was granted, and in
3165 vertical columns the amount of the assessment, the assessed value
3166 of the exempted land and buildings, the assessed value of the land
3167 and buildings not exempted, the page and line number of the



3168 regular land roll where entered, the number of acres exempted, the
3169 dollar amount of exemption allowed and such other information as
3170 the Department of Revenue may require. The department shall
3171 prescribe the form of the supplemental roll and may require such
3172 rolls to be prepared and maintained on electronic media. The
3173 supplemental roll, as herein defined, is hereby made a legal
3174 supplement to and a part of the complete land assessment roll of
3175 the county or municipality and shall be subject to all laws
3176 relating to assessment rolls and particularly Sections 27-35-117,
3177 27-35-123 and 27-35-125 as far as applicable and not inconsistent
3178 with the provisions of this article.

3179 The supplemental roll, when certified by the clerk of the
3180 board of supervisors and delivered to the tax collector, shall be
3181 his warrant to allow the amount of the tax exemption to each
3182 person as a credit on or deduction from the gross amount of the
3183 taxes charged to that person on the assessment roll.

3184 (o) "Ad valorem tax" means any tax where the amount
3185 levied is based upon or determined by the value of the property
3186 subject to the tax.

3187 **SECTION 66.** Section 27-33-37, Mississippi Code of 1972, is
3188 amended as follows:

3189 27-33-37. The board of supervisors shall perform the duties
3190 imposed by this article on the members, the president, and the
3191 board as a unit, with the powers and authority granted and as
3192 necessary for the proper administration of the article, and
3193 specifically as set out in this section.

3194 (a) At each regular monthly meeting the president of
3195 the board shall require of and receive from the clerk of the board
3196 all applications for homestead exemption having come into his
3197 hands as provided in Section 27-33-35 of this article.

3198 (b) As soon as practicable after convening, at each
3199 regular monthly meeting, the board, in the light of public
3200 records, personal knowledge, information given by the assessor,



3201 and any other reliable source of information that may be
3202 available, shall examine each application which has been delivered
3203 to the clerk by the tax assessor, and pass upon its correctness
3204 and the eligibility of the property and of the person, under the
3205 law, as fully as may be done before final approval, after the land
3206 roll has been finally approved of minute record; and the board
3207 shall carefully consider and construe the relationship between
3208 buyers and sellers of property on which homestead exemption is
3209 sought, and the terms, conditions, rate of interest, payments made
3210 and to be made, of all conveyances doubtful in such respect. One
3211 (1) member of the board shall check each application prior to the
3212 time for final approval, and shall indicate if it should be
3213 approved, disapproved, or if it requires further investigation.

3214 (c) If any application be found incorrect or incomplete
3215 in any particular required by law, or deficient in any respect,
3216 the board shall give notice immediately to the applicant, in
3217 writing, by mail, advising the applicant of the defect and the
3218 nature thereof, so that the applicant may correct it, if it can be
3219 corrected, before the time for final action by the board.

3220 (d) The year in which the land roll is made, at the
3221 meeting of the board of supervisors at which the certificate of
3222 the department finally approving the land assessment roll is
3223 received and entered in its minutes, and at the September meeting
3224 the board of supervisors shall complete the consideration of each
3225 and every application for homestead exemption; and all
3226 applications, or claims, not clearly within the provisions and
3227 requirements of this article shall be disallowed by the board.
3228 Where it appears to the board, in a case or cases involving
3229 transactions completed after July 1, 1938, that conveyances have
3230 been made without bona fide consideration, and liens taken with
3231 questionable consideration or values, or where the payments on the
3232 principal have not been made as required, or there is evidence of
3233 any kind that the transactions were not bona fide in every



3234 particular, and were entered into for the purpose of obtaining a
3235 homestead exemption contrary to the letter and spirit of law, the
3236 application shall be disallowed.

3237 (e) Each application shall be plainly endorsed
3238 "allowed" or "disallowed" as the case may be, over the date, and
3239 the signature of the president of the board, who may use a
3240 facsimile stamp for the purposes; and, in the space provided on
3241 the application for that purpose, there shall be entered for each
3242 assessment, (1) the page and line number of the assessment on the
3243 land roll, (2) the total number of acres, (3) the total assessed
3244 value of the land, (4) the assessed value of the buildings, (5)
3245 the total assessed value of the exempted land and buildings, (6)
3246 the assessed value of the land and buildings not exempted, (7) the
3247 name of the road district, if any, in which the property lies, and
3248 (8) the name of the school district in which the property lies.

3249 (f) All applicants, whose applications are finally
3250 disallowed by the board, shall be given notice immediately by the
3251 board, in writing, by mail. Petitions and objections by
3252 applicants for correction or amendment shall be heard by the board
3253 at the next regular meeting of the board after notice that the
3254 application was finally disallowed.

3255 (g) It shall not be necessary that an order be entered
3256 on the minutes of the board which allows or disallows an
3257 application as provided by paragraph (f) of this section, unless
3258 there be a division among the board members, then an order shall
3259 be entered on the minutes recording the aye and nay vote.

3260 (h) The board of supervisors shall have, and is hereby
3261 given, the power and authority to summon and examine witnesses
3262 under oath, to examine records, and to do any and all other things
3263 necessary and proper to ascertain the facts with respect to any
3264 application, or claim, for homestead exemption presented to it.
3265 The board shall disallow any application for homestead exemption
3266 when it is found that the person or the property was ineligible,



3267 after the supplemental roll is approved and within one (1) year
3268 after that in which the application was executed; and it shall
3269 correct, likewise, any and all errors found in the supplemental
3270 roll. When an application is disallowed by the board after the
3271 supplemental roll has been approved, it shall give notice and
3272 proceed as in the case of a rejection by the department. A
3273 certified copy of the order finally disallowing an application,
3274 and making a correction in the supplemental roll must be adopted
3275 before the last Monday of August and shall be received by the
3276 department no later than September 15 of the year following the
3277 year in which the supplemental roll was made.

3278 (i) At the first regular or special meeting of the
3279 board of supervisors held after the supplemental roll, required by
3280 Section 27-33-35 of this article, has been made, it shall examine
3281 the * * * roll, and if found correct shall enter in the minutes an
3282 order approving the roll; and the applications disallowed shall be
3283 listed in the minutes by name and amount, with the reason for
3284 disallowance. A copy of the order shall be attached to the
3285 supplemental roll and sent to the department.

3286 (j) All applicants whose applications are rejected for
3287 reimbursement of tax loss by the department, after having been
3288 allowed by the board, shall be given notice immediately by the
3289 board, in writing, by mail, with the reasons for the rejection by
3290 the department, and the applicants shall have thirty (30) days in
3291 which to file objections thereto, which objections shall be heard
3292 by the board at the same or the next regular meeting after
3293 objections are filed by the applicant. If the board finds that in
3294 its opinion the application should be allowed, it shall continue
3295 the matter in its record, and present its objection to the
3296 rejection, with evidence in support of it, to the department. All
3297 applications finally rejected by the department or by the Board of
3298 Tax Appeals shall be disallowed by the board, and entered of
3299 minute record.



3300 (k) When the board shall receive notice from the
3301 department that an application for homestead exemption has been
3302 rejected by the department for reimbursement of tax loss, the
3303 board shall proceed in the manner prescribed in paragraph (j) of
3304 this section. Upon the hearing of objections of the applicant, if
3305 the board finds that the application should be disallowed, it
3306 shall so order and notify the department that its rejection has
3307 been "accepted." If the board is of the opinion that the
3308 application should be allowed, it shall notify the department that
3309 it objects to the rejection of the application, and shall submit,
3310 in writing, its reasons for the "objection." All such matters
3311 between the board and the department may be concluded by
3312 correspondence, or by personal appearance of the board, or one or
3313 more of its members, the clerk, or the assessor, or by a
3314 representative of the department present at any meeting of the
3315 board. If upon consideration of the objection, the department
3316 determines that the application for homestead exemption should be
3317 allowed; it will reverse the adjustment resulting from the
3318 department's rejection of the application and advise the board of
3319 this reversal. If upon consideration of the objection, the
3320 department determines that it had properly rejected the
3321 application for homestead exemption; it shall advise the board
3322 that its objection has been denied by the department. Within
3323 thirty (30) days from the date of the notice from the department
3324 advising the board that its objection had been denied, the board
3325 can appeal this denial of the objection by the department to the
3326 Board of Tax Appeals. The decision of the Board of Tax Appeals on
3327 the appeal by the board from the denial by the department of the
3328 board's objection to the department's rejection of an application
3329 for reimbursement of the tax loss shall be final, and the board
3330 and the department will either allow or disallow the application
3331 based on the decision of the Board of Tax Appeals * * *.



3332 (1) It shall be the duty of the board, and it is hereby
3333 given the power to order the tax collector, by an order entered on
3334 its minutes, to reassess, and list as subject to all taxes, the
3335 property described in an application for homestead exemption and
3336 as entered on the regular land assessment roll, under the
3337 following circumstances:

3338 (i) When an application for homestead exemption is
3339 finally rejected by the department for reimbursement of tax loss
3340 which has been regularly approved by the board and entered on the
3341 supplemental roll; or

3342 (ii) Where an application has been wrongfully
3343 allowed by the board.

3344 When any property has been reassessed as herein provided, all
3345 additional taxes due as a result of such reassessment shall become
3346 due and be payable on or before the first day of February of the
3347 year following that in which notice to make the reassessment is
3348 issued; and if not paid, the tax collector shall proceed to sell
3349 the property for the additional taxes in the same manner and at
3350 the same time other property is sold for the current year's taxes,
3351 or he may collect the taxes by all methods by which other taxes on
3352 real estate may be collected. Provided, no penalty or interest
3353 shall be applied for any period prior to February 1 of the year
3354 following that in which the reassessment is made, and provided
3355 further, that such reassessment shall not take effect or become a
3356 lien on the property of bona fide purchasers or encumbrancers for
3357 value without notice thereof, unless there shall have been filed
3358 prior to their attaining such status a notice of rejection in the
3359 chancery clerk's office in the county in which the property is
3360 located, which notice shall be recorded and indexed as are deeds;
3361 but the applicant shall in all cases remain personally liable for
3362 such reassessment.

3363 (m) The board of supervisors may employ the clerk of
3364 the board to collect and assemble data and information and to



3365 perform the services required of the board by paragraph (e) of
3366 this section and to make investigations required in connection
3367 with the duties of the board in determining the eligibility of
3368 homestead exemptions and to perform all other ministerial duties
3369 required of the board in connection with administering the
3370 Homestead Exemption Law and as directed by the board. If the
3371 board employs the clerk, he shall be paid out of the general
3372 county fund as follows: for the first two thousand (2,000)
3373 applications he may, in the discretion of the board, be paid not
3374 exceeding One Dollar (\$1.00) each, for the next two thousand
3375 (2,000) applications he may be paid not exceeding Seventy-five
3376 Cents (75¢) each, for the next two thousand (2,000) applications
3377 he may be paid not exceeding Fifty Cents (50¢) each, for the next
3378 two thousand (2,000) applications he may be paid not exceeding
3379 Thirty-five Cents (35¢) each, all over the above number he shall
3380 be paid not exceeding Twenty-five Cents (25¢) each. The board
3381 shall require the assessor to correctly describe all lands
3382 included in any applications for homestead exemption, and to
3383 assess all such lands on the land assessment roll, separately from
3384 other lands, as required by this article; and to present to the
3385 board all proper and necessary notices for the correction of land
3386 descriptions on the roll, changes in ownership, and for increases
3387 and decreases in the assessments of exempt homes.

3388 **SECTION 67.** Section 27-33-41, Mississippi Code of 1972, is
3389 amended as follows:

3390 27-33-41. The administration of this article is hereby
3391 vested in the Department of Revenue, and it shall have the power
3392 and the authority necessary to secure compliance with its
3393 provisions uniformly throughout the state. The department shall,
3394 in addition to its general duties of administration of the
3395 article, do the specific things set out in this section:

3396 (a) It shall adopt and issue to tax assessors, clerks,
3397 boards of supervisors, and all other officers or offices to which



3398 this article applies, rules and regulations, not inconsistent with
3399 the provisions of the article, affecting the applications and all
3400 proceedings, records, hearings and other pertinent subjects,
3401 relating to property for which a homestead exemption is claimed;
3402 and such rules and regulations shall be observed by such officers,
3403 boards and offices, in all respects, and in the performance of any
3404 and all duties imposed and powers granted by this article.

3405 (b) It shall prescribe the form of and furnish suitable
3406 application forms, or blanks, for the purpose of carrying out the
3407 provisions of this article, and shall deliver to each assessor a
3408 sufficient number of such blanks for the use of homeowners.

3409 (c) It shall have authority and it shall be its duty to
3410 examine all applications for homestead exemption allowed under
3411 this article, to determine if the provisions of the article have
3412 been complied with by the applicant, the tax assessor, the board
3413 of supervisors, the clerk, and all others, and if the exemptions
3414 have been lawfully allowed; and it shall reject for reimbursement
3415 of tax loss any exemption allowed by the board which does not
3416 conform to the requirements of law in every substantial particular
3417 or for which no application has been sent to the department as
3418 required in Section 27-33-35(a), and shall correct or have
3419 corrected any errors; and the tax loss to be reimbursed shall be
3420 adjusted to accord with the findings of the department.

3421 When an application is rejected, notice thereof shall be
3422 given as provided by this section, and the acceptance or objection
3423 by the board shall be determined as provided by Section
3424 27-33-37(k).

3425 (d) It shall have authority to examine the assessment
3426 rolls, any account register, file, document, record or paper
3427 relating to receipts and disbursements of the taxing unit or any
3428 and all matters relating to homestead exemptions allowed and tax
3429 losses to be reimbursed. It shall also have the authority to



3430 examine any report or return received by the department to verify
3431 any claims made on homestead exemption applications.

3432 (e) It shall have the authority to summon and examine
3433 under oath any officer or other person with respect to any matter
3434 bearing upon the exemption of a home or homes, and to do any and
3435 all other things necessary and proper to ascertain the facts with
3436 respect to any application or claim for homestead exemption; and
3437 it may require the board to furnish any information or document
3438 necessary to the performance of its duties or the correct
3439 determination of any question before it to which the board is a
3440 party.

3441 (f) The reimbursement for the annual tax loss to the
3442 taxing units shall be due and payable in two (2) installments; the
3443 first on March 1 and the second on September 1 of each year. The
3444 clerk's certificate of tax loss when in accord with the
3445 supplemental roll and the applications as filed with the
3446 department shall constitute a request by the board for
3447 reimbursement of the tax loss.

3448 (g) It shall, on or before the first day of March each
3449 year, certify to the Department of Finance and Administration the
3450 amount of the first installment to be paid to each taxing unit in
3451 the state, which shall be one-half (1/2) of the amount due, with
3452 adjustments, which is the amount of the first installment less any
3453 charges against the account and plus any credits by reason of
3454 previous charges which have been cancelled. However, if the copy
3455 of the county land roll, the supplemental roll and the clerk's
3456 certificate of tax loss have not been filed with and approved by
3457 the department by February 1, the department shall be allowed
3458 thirty (30) days after the filing of the rolls and the said
3459 certificate in which to perform the duties hereby imposed.

3460 (h) It shall, on or before the first day of September
3461 each year, certify to the Department of Finance and Administration
3462 the amount of the second installment to be paid to each taxing



3463 unit in the state, which shall be the remainder of the amount due
3464 with adjustments, which is an amount equal to the first
3465 installment less any charges against the account and plus any
3466 credits by reason of previous charges which have been cancelled.
3467 Adjustments, either charges or credits, against the amount of tax
3468 loss to any taxing unit may be made at any time as provided in
3469 subsection (j) of this section.

3470 (i) In the event an adjustment in the amount of the tax
3471 loss has been determined by the department, it shall give notice,
3472 in writing, to the board of supervisors, which notice shall be
3473 considered by the board at its next meeting, regular, adjourned or
3474 special. If the board accepts the adjustment, it shall promptly
3475 so advise the department, using such form as may be prescribed and
3476 furnished by the department. If the board objects to the
3477 adjustment, it shall promptly so advise the department, using such
3478 forms as may be prescribed and furnished by the department,
3479 stating in detail the grounds for its objection and providing any
3480 supporting documentation for its objection. Upon receipt of the
3481 board's objection, the department will consider same and determine
3482 whether or not the objection is valid. All such matters between
3483 the board and the department on this objection may be concluded by
3484 correspondence, or by personal appearance of the board, or one or
3485 more of its members, the clerk, or the assessor, or by a
3486 representative of the department present at any meeting of the
3487 board. If upon consideration of the objection, the department
3488 determines that the application for homestead exemption should be
3489 allowed; it will reverse the adjustment resulting from the
3490 department's rejection of the application and advise the board of
3491 this reversal. If upon consideration of the objection, the
3492 department determines that it had properly rejected the
3493 application for homestead exemption; it shall advise the board
3494 that its objection has been denied by the department. Within
3495 thirty (30) days from the date of the notice from the department



3496 advising the board that its objection had been denied, the board
3497 can appeal this denial of the objection by the department to the
3498 Board of Tax Appeals. At any hearing on the appeal by the board
3499 to the Board of Tax Appeals on the department's denial of the
3500 board's objection to the department's rejection of an application
3501 for homestead exemption, the decision of the department to reject
3502 the homestead exemption application shall be prima facie correct.

3503 (j) It shall be the duty of the department and it shall
3504 have authority to charge the account of any taxing unit with
3505 amounts of homestead exemption tax loss claimed by the taxing unit
3506 in the certificate of tax loss and the supplemental roll and to
3507 deduct the amount from subsequent installments, either first or
3508 second. Such charges shall be made when homestead exemption
3509 applications are rejected in whole or in part for reimbursement of
3510 tax loss or when errors are discovered in the supplemental roll or
3511 clerk's certificate of tax loss.

3512 (k) The authority of the department to reject an
3513 application for reimbursement of tax loss shall not be exercised
3514 later than one (1) year after the first day of January of the year
3515 next following that in which the application was filed by the
3516 applicant; but this limitation shall not apply in cases of fraud,
3517 nor where the same person was granted exemption on two (2)
3518 separate homes.

3519 Notice of adjustments in tax loss payments and notice of
3520 applications rejected shall be given by mail, addressed to the
3521 clerk of the board, and the notice directed to the president of
3522 the board of supervisors of the county. The date of mailing shall
3523 be the date of the notice.

3524 (l) The department shall file and preserve full,
3525 complete and accurate records of all tax loss payments and
3526 adjustments in tax loss payments made under the provisions of this
3527 article, including the certificates of tax loss for a period of
3528 three (3) years from the date thereof. The department shall file



3529 and preserve for a period of three (3) years all applications for
3530 homestead exemption filed with it and copies of all supplemental
3531 rolls, counting from the first day of January of the year in which
3532 they are required to be executed or made. All records enumerated
3533 may be destroyed by the department, when kept for the time
3534 required. All other documents, records, papers and correspondence
3535 may be destroyed in accordance with approved record retention
3536 schedules.

3537 (m) The department shall, on or before June 1 of any
3538 year, pay the second installment, or a part thereof, to any school
3539 taxing unit upon submission to the department of proof, in the
3540 form of a certificate of necessity, executed by the county
3541 superintendent of education for the county general school fund, or
3542 for a county school district fund, and by the city superintendent
3543 of schools for a municipal separate school district, that there is
3544 not sufficient money in the maintenance fund of the taxing unit to
3545 pay the salaries of teachers and school bus drivers for the
3546 current school term. Such payment shall be made as provided in
3547 paragraph (h) of this section.

3548 (n) The county tax collectors shall enter, or cause to
3549 be entered, all transactions regarding the titling or registration
3550 of vehicles into the statewide telecommunications system in
3551 compliance with the provisions of Section 63-21-18. Failure of
3552 any tax collector to comply with the provisions of this paragraph
3553 shall subject the county to the withholding of reimbursements of
3554 homestead exemption tax loss as provided under Section 63-21-18.

3555 **SECTION 68.** Section 27-35-81, Mississippi Code of 1972, is
3556 amended as follows:

3557 27-35-81. (1) If the assessment is conducted by or under
3558 the direction of the assessor, the assessor shall complete the
3559 assessment of both real and personal property and file the roll or
3560 rolls with the clerk of the board of supervisors on or before the
3561 first Monday in July of each year. He shall make an affidavit and



3562 append it to each roll, showing that he has faithfully endeavored
3563 to ascertain and assess all the persons and property in his
3564 county, that he has not omitted any person or thing, or placed
3565 upon, or accepted an under valuation of any property, through
3566 fear, favor or partiality, and that he has required every taxpayer
3567 to make the oath required to be taken by the person rendering a
3568 list of his taxable property wherever possible. The assessor
3569 shall file with the roll or rolls, under oath, a list showing the
3570 name of every taxpayer who has failed or refused to make oath to
3571 his tax lists.

3572 (2) If the roll or rolls are not filed as required by this
3573 section on or before the first Monday in July of each year, the
3574 board of supervisors at its July meeting shall adopt an order
3575 showing the failure of the roll or rolls to be filed and shall
3576 certify to the Department of Revenue a statement showing such
3577 failure and the time necessary to complete the roll or rolls.

3578 (3) Upon receipt of such certificate from the board of
3579 supervisors of any county, the Department of Revenue shall * * *
3580 provide when such roll shall be completed and filed, and the date
3581 when the board of supervisors shall meet to equalize the roll or
3582 rolls, and the time when objections to the assessments contained
3583 in such roll or rolls, shall be heard by the board of supervisors,
3584 provided that not less than ten-days' notice shall be given prior
3585 to the hearing of such objections. When such roll or rolls shall
3586 be filed, they shall be dealt with in all respects as now provided
3587 by law except as to the time.

3588 **SECTION 69.** Section 27-35-113, Mississippi Code of 1972, is
3589 amended as follows:

3590 27-35-113. (1) It shall be the duty of the Department of
3591 Revenue to carefully examine the recapitulations of the assessment
3592 rolls of the counties, when received, to compare the assessed
3593 valuation of the various classes of property in the respective
3594 counties, to investigate and determine if the assessed valuation



3595 of any classes of property in any one or more counties of the
3596 state is not equal and uniform with the assessed values fixed upon
3597 the same classes of property in other counties of the state, and
3598 to ascertain if any class of property in any one or more counties
3599 is assessed contrary to law.

3600 (2) The department shall, by regulation, establish
3601 performance standards and acceptable parameters for evaluation of
3602 the accuracy of assessments. These standards shall include, but
3603 not be limited to, the following:

3604 (a) Assessment level: The ratio of assessments to
3605 current true value or market value;

3606 (b) Assessment uniformity: The test of uniformity or
3607 fairness of individual assessments; and

3608 (c) Assessment equity: The test of price-related bias.

3609 (3) To perform its examination of the recapitulations of the
3610 assessment rolls of the counties, the department shall annually
3611 conduct assessment/ratio studies of each county or utilize other
3612 means, as determined appropriate by the department, to determine
3613 if each county's assessment records comply with acceptable
3614 performance standards. The department shall send notice of the
3615 results of this examination to the assessor and the board of
3616 supervisors of each county no later than thirty (30) days after
3617 receipt of the board of supervisors' recapitulation. Any county
3618 not in compliance with the acceptable performance standards shall,
3619 within ninety (90) days from the date of the notice concerning the
3620 department's examination of the county's assessments records,
3621 adopt and submit to the department for approval a plan for
3622 achieving compliance and begin the implementation of the plan so
3623 that compliance can be achieved by the second succeeding year's
3624 assessment roll after the tax year for which the department's
3625 notice of noncompliance with performance standards was issued.

3626 Failure to adopt and submit an approved plan for achieving
3627 compliance or failure to properly implement and follow an approved



3628 plan shall cause the department to withhold the county's homestead
3629 exemption reimbursement monies until such time as the county has
3630 complied with this provision. In the event the county has not
3631 complied with this provision by the end of the state's fiscal
3632 year, then the department shall place the funds so held in a
3633 special escrow account. All interest shall accrue to the benefit
3634 of the county on this account.

3635 (4) The department shall approve the recapitulation of the
3636 assessment rolls and the property tax rolls of any county
3637 operating under a supervised plan to achieve compliance within the
3638 first two (2) roll years as provided for in the paragraph above,
3639 notwithstanding that the county may be failing a test or tests of
3640 the accuracy or equity of assessment.

3641 (5) Any county failing to achieve such compliance for the
3642 second succeeding year's assessment roll as outlined above shall
3643 be subject to the following restrictions until such time as said
3644 tax rolls come into compliance:

3645 (a) The department shall place into escrow all
3646 homestead exemption reimbursements;

3647 (b) The county shall levy and pay over to the
3648 department, for purposes of being placed in the escrow account,
3649 the proceeds of the one (1) mill levy provided for in Section
3650 27-39-329(1)(b). All interest shall accrue to the benefit of the
3651 county on any funds placed in an escrow account; and

3652 (c) The department shall identify the class or classes
3653 of property whose assessment level is not in conformity with the
3654 regulation of the department governing same, and shall have the
3655 authority to adjust and equalize that class or classes of property
3656 by, either requiring a fixed percent (1) to be added to the
3657 assessed valuation of any class of property in any county found
3658 too low; or (2) to be deducted from the assessed valuation of any
3659 class of property found too high; in order that the class or



3660 classes of property are being assessed in conformity with the
3661 department's regulation.

3662 (6) Once the county achieves compliance with the standard of
3663 performance as to assessment level, uniformity and equity as
3664 established by the rules and regulations of the Department of
3665 Revenue, the department shall release to the county all funds held
3666 in escrow on its behalf during the period of noncompliance.

3667 (7) The board of supervisors of any county aggrieved by the
3668 decision of the department regarding the department's examination
3669 of the recapitulations of its assessment rolls may appeal such
3670 decision to the Board of Tax Appeals within thirty (30) days from
3671 the date of the notice from the department advising the county of
3672 the results of the department's examination of the recapitulation
3673 of the assessment rolls of the county. The Board of Tax Appeals
3674 shall hear the objections by the board of supervisors and grant
3675 whatever relief it deems appropriate; however, the Board of Tax
3676 Appeals shall not have the authority to grant relief which is
3677 inconsistent with this section. The decision of the Board of Tax
3678 Appeals shall be final.

3679 (8) It is the intent of this section and that of this
3680 chapter to vest the Department of Revenue with authority to
3681 investigate and determine the assessed valuation of classes of
3682 property, and to further establish and/or clarify that tax
3683 assessors and the boards of supervisors are vested with the
3684 absolute authority to investigate and determine the assessed
3685 valuations of individual parcels of property located in their
3686 particular county in a manner consistent with the laws of this
3687 state.

3688 **SECTION 70.** Section 27-35-115, Mississippi Code of 1972, is
3689 amended as follows:

3690 27-35-115. When the Department of Revenue has completed its
3691 examination of the recapitulations, and within thirty (30) days
3692 after the receipt of recapitulations from each of the counties of



3693 the state, it shall * * * direct what action the county must take
3694 in order to comply with the provisions of Section 27-35-113. On
3695 the other hand, if the department finds that the assessment of any
3696 county or counties is reasonably equal and uniform with the
3697 assessment of other counties, and in proportion to the true value
3698 of the property and does not require an increase or decrease in
3699 the assessment of any class of property, in order to secure such
3700 equality and uniformity, the department, shall * * * approve
3701 the * * * assessment roll or rolls, or reproductions thereof, and
3702 direct the board of supervisors thereof, to have copies of
3703 the * * * rolls made as required by law. Like determinations
3704 shall be made by the department with respect to the
3705 recapitulations of all the remaining counties as they are received
3706 by the department. The department shall send notice of the
3707 results of its examination of the recapitulation of the assessment
3708 rolls and the action taken in regard the recapitulation by United
3709 States mail to the president of the board of supervisors * * * of
3710 the county whose recapitulation was examined.

3711 **SECTION 71.** Section 27-35-117, Mississippi Code of 1972, is
3712 amended as follows:

3713 27-35-117. When the president of the board of supervisors
3714 shall receive notice from the Department of Revenue concerning the
3715 results of the examination and action taken by the department in
3716 regard to the recapitulation of the assessment rolls of his
3717 county, he shall immediately call a meeting of the board of
3718 supervisors of his county and shall give notice thereof by
3719 publication, five (5) days before the date of the meeting and
3720 shall set forth in the notice the purpose of the meeting and
3721 notifying all taxpayers that at the * * * meeting the board of
3722 supervisors will carry out the instructions of the department and
3723 that any taxpayer aggrieved by the action of the board may present
3724 objections to that action. When the board of supervisors convenes
3725 pursuant to the * * * call and notice of the president, it shall



3726 proceed to consider the instructions of the Department of Revenue,
3727 and if the board be dissatisfied with the decision of the
3728 Department of Revenue, the board may, by order, appeal the
3729 decision of the department as provided in Section 27-35-113. The
3730 members of the board, its attorney, tax assessor and chancery
3731 clerk may appear before the Board of Tax Appeals and give evidence
3732 with reference to the * * * decision of the department. In its
3733 aforesaid order, the board may fix a day for its meeting for the
3734 further performance of its duties required under this section.
3735 The * * * witnesses shall appear before the Board of Tax Appeals
3736 at the location set by the Board of Tax Appeals for the hearing on
3737 the board's appeal at the time established by the Board of Tax
3738 Appeals, or they shall lose their right to be heard. The
3739 compensation and expenses, if any, shall be paid by the board of
3740 supervisors of the county affected. The Board of Tax Appeals
3741 shall hear the complaints and objections of any board of
3742 supervisors and witnesses and may adopt an order modifying or
3743 rescinding the decision of the department as the evidence so
3744 requires but not inconsistent with the provisions of Section
3745 27-35-113. Unless appealed, the decision of the department when
3746 made shall be final and it shall be the duty of the board of
3747 supervisors to immediately take the appropriate action in
3748 accordance with the instructions of the department. If the
3749 department's decision is appealed, the decision of the Board of
3750 Tax Appeals shall be final and it shall be the duty of the board
3751 of supervisors to immediately take the appropriate action in
3752 accordance with the decision of the Board of Tax Appeals.

3753 **SECTION 72.** Section 27-35-129, Mississippi Code of 1972, is
3754 amended as follows:

3755 27-35-129. The board of supervisors, at its July meeting,
3756 shall carefully examine the assessment roll, or rolls, returned by
3757 the tax assessor and shall then decide if a new assessment be
3758 necessary. If it be found that the assessor is incapable, or that



3759 his assessment is so imperfect that it ought not to be approved,
3760 even if objections be not filed, the board may appoint some
3761 suitable person to proceed immediately to make the assessment.
3762 The board of supervisors shall in such case adopt an order setting
3763 forth the true facts and conditions and the time necessary for
3764 making of a new assessment roll, or rolls, and shall certify the
3765 order to the Department of Revenue. The Department of Revenue
3766 shall, upon receipt of the certificate from the board of
3767 supervisors, determine and notify the board of supervisors when
3768 the roll, or rolls, shall be filed, the time for equalization by
3769 the board of supervisors, the giving of notice to taxpayers and
3770 the time when objections to the roll, or rolls, shall be heard and
3771 determined by the board of supervisors. The person appointed to
3772 make the assessment shall proceed immediately to make the
3773 assessment in the same manner and with the same powers of the tax
3774 assessor when assessments are made at the time provided by law,
3775 and shall prepare and file the assessment roll, or rolls, within
3776 the time prescribed by the order of the department. The person so
3777 appointed and discharging the duty shall be allowed the
3778 compensation allowed by law to the assessor for like services, and
3779 shall have the same deputies allowed by law to the tax assessor.
3780 The board of supervisors shall require of the persons appointed
3781 the same bond as is required of the tax assessor. The roll, or
3782 rolls, made under the provisions of this section shall be the
3783 legal assessment roll and the old one shall be thereby annulled.

3784 **SECTION 73.** Section 27-35-163, Mississippi Code of 1972, is
3785 amended as follows:

3786 27-35-163. (1) Except as otherwise provided in subsection
3787 (2) of this section, any person, firm or corporation aggrieved by
3788 an order of the Board of Tax Appeals affirming, in whole or in
3789 part, the assessment of property by the Department of Revenue for
3790 the purpose of ad valorem taxation may, within thirty (30) days
3791 from the date of this order, appeal with supersedeas as to the



3792 amount of taxes in controversy to the Circuit Court of the First
3793 Judicial District of Hinds County, or to the circuit court of any
3794 county in which the property, or any part thereof, is located, or
3795 to the circuit court of any county in which such person, firm or
3796 corporation whose property is assessed resides, upon giving bond
3797 with sufficient sureties, to be approved by the clerk of such
3798 court, in a sum equal to the amount of taxes due on the contested
3799 value of such property as affirmed by the Board of Tax Appeals,
3800 but never less than One Hundred Dollars (\$100.00), payable to the
3801 state and conditioned to perform the judgment of the circuit
3802 court. The ad valorem taxes due on the uncontested portion of the
3803 value as determined by the Board of Tax Appeals shall be due and
3804 payable at the same time as all other ad valorem taxes are for
3805 real and personal property. The person, firm or corporation who
3806 appeals shall file with the clerk of the circuit court a petition
3807 for appeal and review, together with the bond herein provided for,
3808 and the clerk shall thereupon give notice to the Department of
3809 Revenue, who will be the appellee in the appeal, and to the Board
3810 of Tax Appeals. The Department of Revenue shall file with the
3811 clerk of the circuit court where the petition is pending a
3812 certified copy of * * * the assessment in issue and the Board of
3813 Tax Appeals shall file a certified copy of its order or orders in
3814 regard to this assessment. The assessment by the Department of
3815 Revenue and the order or orders of the Board of Tax Appeals are to
3816 be filed with the circuit clerk within thirty (30) days from the
3817 date that each respective agency and board received the notice
3818 from the clerk of the circuit court concerning the filing of the
3819 appeal. * * * The matter of assessing such property shall be
3820 heard de novo by the circuit court at the first term of the court
3821 thereafter, or by the judge of the circuit court in vacation, by
3822 agreement of the parties, without a jury, and such proceeding
3823 shall be given preference over other pending matters in the court.
3824 After hearing the evidence, the circuit court, or the judge



3825 thereof in vacation, shall make an order setting aside, modifying
3826 or affirming the order of the Board of Tax Appeals. A copy of
3827 such order shall be certified by the clerk of the court to the
3828 Department of Revenue, which shall conform thereto.

3829 If the order of the Board of Tax Appeals * * * is affirmed,
3830 then the person, firm or corporation who appealed, and the
3831 sureties on the appeal bond, shall be liable to the state for
3832 damages at the rate of ten percent (10%) on the amount of taxes in
3833 controversy, and all cost of such appeal.

3834 If the Department of Revenue shall be aggrieved by an order
3835 of the Board of Tax Appeals regarding an assessment by the
3836 department for ad valorem tax purposes, the department may, within
3837 thirty (30) days from the date of the order of the Board of Tax
3838 Appeals regarding this assessment, appeal to the circuit court of
3839 any county in which the property being assessed, or any part
3840 thereof, is located or of any county in which the taxpayer
3841 resides, in like manner as in the case of any person, firm or
3842 corporation aggrieved as provided in this subsection, except no
3843 bonds shall be required of the Department of Revenue. Upon the
3844 filing of a petition for appeal or review as provided in this
3845 subsection, the clerk of the court in which the petition is filed
3846 shall thereupon issue process to the person, firm or corporation
3847 whose property is assessed, and such person, firm or corporation
3848 shall plead to the petition within thirty (30) days after the
3849 receipt of the notice.

3850 If the state shall be aggrieved by an assessment for ad
3851 valorem tax purposes by the Department of Revenue or by an order
3852 of the Board of Tax Appeals regarding an assessment by the
3853 Department of Revenue for ad valorem taxes purposes, the Attorney
3854 General or the district attorney, if all the property sought to be
3855 taxed is located within the judicial district for which such
3856 district attorney is elected, may, within thirty (30) days from
3857 the date of the notice from the Department of Revenue to the tax



3858 assessor or tax assessors in the county or counties where the
3859 property being assessed is located of the amount of the final
3860 assessment, appeal to the circuit court of any county in which the
3861 property, or any part thereof, is located or of any county in
3862 which the taxpayer resides, in like manner as in the case of any
3863 person, firm or corporation aggrieved as hereinbefore provided,
3864 except no bonds shall be required of the Attorney General or
3865 district attorney who may appeal. Upon the filing of a petition
3866 for appeal or review as herein provided, the clerk of the court in
3867 which the petition is filed shall thereupon issue process to the
3868 person, firm or corporation whose property is assessed, and such
3869 person, firm or corporation shall plead to the petition within
3870 twenty (20) days after the receipt of the notice.

3871 In the event more than one (1) person appeals an assessment
3872 by the Department of Revenue for ad valorem tax purposes or an
3873 order of the Board of Tax Appeals regarding an assessment by the
3874 Department of Revenue for ad valorem tax purposes under this
3875 section, * * * the matter shall be heard by the circuit court of
3876 the county in which the petition for appeal was first filed,
3877 unless otherwise agreed by the parties.

3878 Any taxpayer aggrieved by an order of the circuit court may
3879 appeal, with supersedeas, to the Supreme Court by giving bond in
3880 the amount and conditioned as provided in the preceding paragraphs
3881 of this section.

3882 The officer who appealed the matter from the ad valorem
3883 assessment of the Department of Revenue or from the order of the
3884 Board of Tax Appeals concerning an ad valorem assessment by the
3885 Department of Revenue may have an appeal to the Supreme Court
3886 without bond.

3887 If the Department of Revenue appeals the matter from the
3888 order of the Board of Tax Appeals concerning an assessment by the
3889 Department of Revenue for ad valorem tax purposes, it may have an
3890 appeal to the Supreme Court without bond.



3891 In the event the appeal by the taxpayer delays the collection
3892 of the tax due by him, then the taxpayer shall be liable for and
3893 shall pay, at the time the taxes are paid to the tax collector
3894 whose duty it is to collect the taxes, interest at the rate of
3895 twelve percent (12%) per annum from the date the taxes were due
3896 until paid.

3897 (2) Any telephone company operating in more than six (6)
3898 counties, which is aggrieved by an assessment by the Department of
3899 Revenue for ad valorem tax purposes, may, within thirty (30) days
3900 from the date of the order of the Board of Tax Appeals regarding
3901 this assessment, appeal without bond as to the amount of taxes in
3902 controversy to the Circuit Court of the First Judicial District of
3903 Hinds County, or to the circuit court of any county in which the
3904 property, or any part thereof, is located, or to the circuit court
3905 of any county in which such telephone company resides.
3906 Notwithstanding such appeal, all of the ad valorem taxes due on
3907 the value as set by the Department of Revenue as adjusted by the
3908 Board of Tax Appeals shall be due and payable at the same time as
3909 all other ad valorem taxes are for real and personal property;
3910 provided, however, that the ad valorem taxes due on the contested
3911 portion of such value shall be paid under protest. Such telephone
3912 company shall file with the clerk of the circuit court a petition
3913 for appeal and review and the clerk shall thereupon give notice to
3914 the Department of Revenue, who will be the appellee in the appeal,
3915 and to the Board of Tax Appeals. The Department of Revenue shall
3916 file with the clerk of the circuit court where the petition is
3917 pending a certified copy of the assessment in issue and the Board
3918 of Tax Appeals shall file a certified copy of its order or orders
3919 in regard to this assessment. The assessment by the Department of
3920 Revenue and the order or orders of the Board of Tax Appeals are to
3921 be filed with the circuit clerk within thirty (30) days from the
3922 date that each respective agency and board received the notice
3923 from the clerk of the circuit court concerning the filing of the



3924 appeal. * * * The matter of assessing such property shall be
3925 heard de novo by the circuit court at the first term of the court
3926 thereafter, or by the judge of the circuit court in vacation, by
3927 agreement of the parties, without a jury, and such proceeding
3928 shall be given preference over other pending matters in the court.
3929 After hearing the evidence, the circuit court, or the judge
3930 thereof in vacation, shall make an order setting aside, modifying
3931 or affirming the order of the Board of Tax Appeals. A copy of
3932 such order shall be certified by the clerk of the court to the
3933 Department of Revenue, which shall conform thereto.

3934 If the Department of Revenue shall be aggrieved by an order
3935 of the Board of Tax Appeals regarding an assessment by the
3936 department for ad valorem tax purposes, the department may, within
3937 thirty (30) days from the date of the order of the Board of Tax
3938 Appeals regarding this assessment, appeal to the circuit court of
3939 any county in which the property being assessed, or any part
3940 thereof, is located or of any county in which the taxpayer
3941 resides, in like manner as in the case of any person, firm or
3942 corporation aggrieved as provided in this subsection, except no
3943 bonds shall be required of the Department of Revenue. Upon the
3944 filing of a petition for appeal or review as provided in this
3945 subsection, the clerk of the court in which the petition is filed
3946 shall thereupon issue process to the person, firm or corporation
3947 whose property is assessed, and such person, firm or corporation
3948 shall plead to the petition within thirty (30) days after the
3949 receipt of the notice.

3950 If the state shall be aggrieved by an assessment for ad
3951 valorem purposes by the Department of Revenue or by an order of
3952 the Board of Tax Appeals regarding an assessment by the Department
3953 of Revenue for ad valorem tax purposes, the Attorney General or
3954 the district attorney, if all the property sought to be taxed is
3955 located within the judicial district for which such district
3956 attorney is elected, may, within thirty (30) days from the date of



3957 the notice from the Department of Revenue to the tax assessor or
3958 tax assessors in the county or counties where the property being
3959 assessed is located of the amount of the final assessment, appeal
3960 without bond to the circuit court of any county in which the
3961 property, or any part thereof, is located or of any county in
3962 which such telephone company resides. Upon the filing of a
3963 petition for appeal or review as herein provided, the clerk of the
3964 court in which the petition is filed shall thereupon issue process
3965 to such telephone company, and such telephone company shall plead
3966 to the petition within thirty (30) days after the receipt of the
3967 notice.

3968 In the event more than one (1) person appeals an assessment
3969 of a telephone company by the Department of Revenue for ad valorem
3970 tax purposes or an order of the Board of Tax Appeals regarding an
3971 assessment of a telephone company by the Department of Revenue for
3972 ad valorem tax purpose, * * * the matter shall be heard by the
3973 circuit court of the county in which the petition for appeal was
3974 first filed, unless otherwise agreed by the parties.

3975 Any such telephone company aggrieved by an order of the
3976 circuit court may appeal without bond to the Supreme Court.

3977 The officer who appealed the matter from ad valorem
3978 assessment of the Department of Revenue of a telephone company or
3979 from the order of the Board of Tax Appeals concerning an ad
3980 valorem tax assessment by the Department of Revenue of a telephone
3981 company may have an appeal to the Supreme Court without bond.

3982 If the Department of Revenue appeals the matter from the
3983 order of the Board of Tax Appeals concerning an assessment of a
3984 telephone company by the Department of Revenue for ad valorem tax
3985 purposes, it may have an appeal to the Supreme Court without bond.

3986 If the value as set by the final assessment of the Department
3987 of Revenue of the telephone company, including any adjustment
3988 ordered by the Board of Tax Appeals, is reduced by the courts as a
3989 result of appeals filed by such telephone company, the ad valorem



3990 taxes attributable to such reduction shall be disposed of by each
3991 affected local taxing district in the following manner:

3992 (a) (i) Such local telephone company shall be entitled
3993 to a refund equal to the amount of ad valorem taxes paid by such
3994 company to the taxing district which are attributable to such
3995 reduction in value, less the portion of any refunds previously
3996 received by such telephone company pursuant to Section 27-38-5,
3997 which are attributable to such reduction in value.

3998 (ii) If the taxing district has not paid the full
3999 amount of the refund required by this subsection by the time that
4000 ad valorem taxes become due and payable by such telephone company
4001 to such taxing district for any subsequent year or years, such
4002 telephone company shall be entitled to take a credit against the
4003 ad valorem tax liability for such subsequent year or years up to
4004 the total amount of the refund owed to such telephone company
4005 pursuant to this paragraph (a).

4006 (b) (i) The remaining portion of the ad valorem taxes
4007 attributable to such reduction shall be paid by the taxing
4008 district to the state, and such amount shall be credited to the
4009 Telecommunications Ad Valorem Tax Reduction Fund.

4010 (ii) To the extent that the taxing district has
4011 not fully paid to the state the amount required by this
4012 subsection, any monies due by the state to such local taxing
4013 jurisdiction shall be offset until such amount is fully paid.

4014 **SECTION 74.** Section 27-35-309, Mississippi Code of 1972, is
4015 amended as follows:

4016 27-35-309. (1) The Department of Revenue shall, if
4017 practicable, on or before the first Monday of June of each year,
4018 make out for each person, firm, company or corporation listed in
4019 Section 27-35-303, Mississippi Code of 1972, an assessment of the
4020 company's property, both real and personal, tangible and
4021 intangible. The Department of Revenue shall apportion the
4022 assessment of value of each company's property according to the



4023 provisions of this article, except as provided in subsection (3)
4024 of this section, as follows:

4025 (a) When the property of such public service company is
4026 located in more than one (1) county in this state, the Department
4027 of Revenue shall direct the company to apportion the assessed
4028 value between the counties and municipalities and all other taxing
4029 districts therein, in the proportion which the property located
4030 therein bears to the entire value of the property of such company
4031 as valued by the department, so that to each county, municipality
4032 and taxing district therein, there shall be apportioned such part
4033 of the entire valuation as will fairly equalize the relative value
4034 of the property therein located to the whole value thereof.

4035 (b) When the property of such public utility required
4036 to be assessed by the provisions of this article is located in
4037 more than one (1) state, the assessed value thereof shall be
4038 apportioned by the Department of Revenue in such manner as will
4039 fairly and equitably determine the principal sum for the value
4040 thereof in this state, and after ascertaining such value it shall
4041 be apportioned by them as herein provided.

4042 The assessment roll shall contain all the property of any
4043 such public service company, railroad, person, firm or corporation
4044 and the value thereof, and so made that each county, municipality,
4045 and taxing district shall receive its just share of taxes
4046 proportionately to the amount of property therein situated.

4047 (2) (a) The assessment when made shall remain open for
4048 thirty (30) days in the office of the Department of Revenue, and
4049 be for such time subject to the objections thereto which may be
4050 filed with the Executive Director of the Board of Tax Appeals; but
4051 real estate belonging to railroads and which forms no part of the
4052 road, and is wholly disconnected from its railroad business, shall
4053 not be assessed by the Department of Revenue, but shall be
4054 assessed as other real estate is assessed by the tax assessor of
4055 the county where situated.



4056 (b) The apportionment of the assessed value as required
4057 by this section shall be filed with the Department of Revenue by
4058 such public service company on or before the first day of August
4059 in each year. If such company shall fail, refuse or neglect to
4060 render the apportionment of assessed value as required by this
4061 section, such company shall be subject to the penalties provided
4062 for in Section 27-35-305. The filing of an objection by such
4063 public service company shall not preclude such company from filing
4064 the property apportionment as required by this section.

4065 (3) Any nuclear generating plant which is located in the
4066 state, which is owned or operated by a public utility rendering
4067 electric service within the state and not exempt from ad valorem
4068 taxation under any other statute and which is not owned or
4069 operated by an instrumentality of the federal government shall be
4070 exempt from county, municipal and district ad valorem taxes. In
4071 lieu of the payment of county, municipal and district ad valorem
4072 taxes, such public utility shall pay to the Department of Revenue
4073 a sum based on the assessed value of such nuclear generating plant
4074 in an amount to be determined and distributed as follows:

4075 (a) The Department of Revenue shall annually assign an
4076 assessed value to any nuclear generating plant described in this
4077 subsection in the same manner as for ad valorem tax purposes by
4078 using accepted industry methods for appraising and assessing
4079 public utility property. The assessed value assigned shall be
4080 used for the purpose of determining the in-lieu tax due under this
4081 section and shall not be included on the ad valorem tax rolls of
4082 the situs taxing authority nor be subject to ad valorem taxation
4083 by the situs taxing authority nor shall the assessed value
4084 assigned be used in determining the debt limit of the situs taxing
4085 authority. However, the assessed value so assigned may be used by
4086 the situs taxing authority for the purpose of determining salaries
4087 of its public officials.



4088 (b) On or before February 1, 1987, for the 1986 taxable
4089 year and on or before February 1 of each year through the 1989
4090 taxable year, such utility shall pay to the Department of Revenue
4091 a sum equal to two percent (2%) of the assessed value as
4092 ascertained by the Department of Revenue, but such payment shall
4093 not be less than Sixteen Million Dollars (\$16,000,000.00) for any
4094 of the four (4) taxable years; all such payments in excess of
4095 Sixteen Million Dollars (\$16,000,000.00) for these four (4)
4096 taxable years shall be paid into the General Fund of the state.
4097 On or before February 1, 1991, for the 1990 taxable year and on or
4098 before February 1 of each year thereafter, such utility shall pay
4099 to the Department of Revenue a sum equal to two percent (2%) of
4100 the assessed value as ascertained by the Department of Revenue,
4101 but such payment shall not be less than Twenty Million Dollars
4102 (\$20,000,000.00) for any taxable year for as long as such nuclear
4103 power plant is licensed to operate and is not being permanently
4104 decommissioned; all such payments in excess of Sixteen Million
4105 Dollars (\$16,000,000.00) for taxable years 1990 and thereafter
4106 shall be paid as follows:

4107 (i) An amount of Three Million Forty Thousand
4108 Dollars (\$3,040,000.00) annually, beginning with fiscal year 1991,
4109 shall be transferred by the Department of Revenue to Claiborne
4110 County. Such payments may be expended by the Board of Supervisors
4111 of Claiborne County for any purpose for which a county is
4112 authorized by law to levy an ad valorem tax and shall not be
4113 included or considered as proceeds of ad valorem taxes for the
4114 purposes of the growth limitation on ad valorem taxes under
4115 Sections 27-39-305 and 27-39-321. * * * However, should the Board
4116 of Supervisors of Claiborne County withdraw its support of the
4117 Grand Gulf Nuclear Station off-site emergency plan or otherwise
4118 fail to satisfy its off-site emergency plan commitments as
4119 determined by the Mississippi Emergency Management Agency and the
4120 Federal Emergency Management Agency, Five Hundred Thousand Dollars



4121 (\$500,000.00) annually of the funds designated for Claiborne
4122 County as described by this subsection (i) shall be deposited in
4123 the Grand Gulf Disaster Assistance Fund as provided in Section
4124 33-15-51.

4125 (ii) An amount of One Hundred Sixty Thousand
4126 Dollars (\$160,000.00) annually, beginning with fiscal year 1991,
4127 shall be transferred by the Department of Revenue to the City of
4128 Port Gibson, Mississippi. Such payments may be expended by the
4129 Board of Aldermen of the City of Port Gibson for any purpose for
4130 which a municipality is authorized by law to levy an ad valorem
4131 tax and shall not be included or considered as proceeds of ad
4132 valorem taxes for the purposes of the growth limitation on ad
4133 valorem taxes under Sections 27-39-305 and 27-39-321. * * *
4134 However, should the Board of Aldermen of the City of Port Gibson
4135 withdraw its support of the Grand Gulf Nuclear Station off-site
4136 emergency plan or otherwise fail to satisfy its off-site emergency
4137 plan commitment, as determined by the Mississippi Emergency
4138 Management Agency and the Federal Emergency Management Agency,
4139 Fifty Thousand Dollars (\$50,000.00) annually of the funds
4140 designated for the City of Port Gibson as described by this
4141 subsection (ii) shall be deposited in the Grand Gulf Disaster
4142 Assistance Fund as provided in Section 33-15-51.

4143 (iii) The remaining balance of the payments in
4144 excess of Sixteen Million Dollars (\$16,000,000.00) annually, less
4145 amounts transferred under (i) and (ii) of this subsection,
4146 beginning with fiscal year 1991, shall be allocated in accordance
4147 with subsection (3) (f) of this section.

4148 (c) Pursuant to certification by the Attorney General
4149 to the State Treasurer and the State Tax Commission that the suit
4150 against the State of Mississippi pending on the effective date of
4151 House Bill 8, First Extraordinary Session of 1990, [Laws, 1990 Ex
4152 Session, Ch. 12, eff June 26, 1990], in the Chancery Court for the
4153 First Judicial District of Hinds County, Mississippi, styled



4154 Albert Butler et al v. the Mississippi State Tax Commission et al,
4155 has been voluntarily dismissed with prejudice as to all plaintiffs
4156 at the request of the complainants and that no attorney's fees or
4157 court costs have been assessed against the state and each of the
4158 parties, including Claiborne County and each municipality and
4159 school district located in the county, have signed and delivered
4160 to the Attorney General a full and complete release in favor of
4161 the State of Mississippi and its elected officials of all claims
4162 that have been asserted or may be asserted in the suit pending on
4163 the effective date of House Bill 8, First Extraordinary Session of
4164 1990, [Laws, 1990 Ex Session, Ch. 12, eff June 26, 1990], in the
4165 Chancery Court for the First Judicial District of Hinds County,
4166 Mississippi, styled Albert Butler et al v. the Mississippi State
4167 Tax Commission et al, and the deposit into the State General Fund
4168 of in-lieu payments and interest thereon due the state under
4169 subsection (3)(b) of this section but placed in escrow because of
4170 the lawsuit described above, the state shall promptly transfer to
4171 the Board of Supervisors of Claiborne County out of the State
4172 General Fund an amount of Two Million Dollars (\$2,000,000.00)
4173 which shall be a one-time distribution to Claiborne County from
4174 the state. Such payment may be expended by the Board of
4175 Supervisors of Claiborne County for any purposes for which a
4176 county is authorized by law to levy an ad valorem tax and shall
4177 not be included or considered as proceeds of ad valorem taxes for
4178 the purposes of the growth limitation on ad valorem taxes for the
4179 1991 fiscal year under Sections 27-39-321 and 27-39-305.

4180 (d) After distribution of the one-time payment to
4181 Claiborne County as set forth in subsection (3)(c) of this
4182 section, the Department of Revenue upon certification that the
4183 pending lawsuit as described in subsection (3)(c) of this section
4184 has been voluntarily dismissed shall promptly deposit an amount of
4185 Five Hundred Thousand Dollars (\$500,000.00) into the Grand Gulf
4186 Disaster Assistance Trust Fund as provided for in Section



4187 33-15-51, which shall be a one-time payment, to be utilized in
4188 accordance with the provisions of such section.

4189 (e) After distribution of the one-time payment to
4190 Claiborne County as set forth in subsection (3)(c) of this section
4191 and the payment to the Grand Gulf Disaster Assistance Trust Fund
4192 as set forth in subsection (3)(d) of this section, the Department
4193 of Revenue upon certification that the pending lawsuit as
4194 described in subsection (3)(c) of this section has been
4195 voluntarily dismissed shall promptly distribute ten percent (10%)
4196 of the remainder of the prior payments remaining in escrow to the
4197 General Fund of the state and the balance of the prior payments
4198 remaining in escrow shall be distributed to the counties and
4199 municipalities in this state wherein such public utility has
4200 rendered electric service in the proportion that the amount of
4201 electric energy consumed by the retail customers of such public
4202 utility in each county, excluding municipalities therein, and in
4203 each municipality, for the next preceding fiscal year bears to the
4204 total amount of electric energy consumed by all retail customers
4205 of such public utility in the State of Mississippi for the next
4206 preceding fiscal year. The payments distributed to the counties
4207 and municipalities under this paragraph (e) may be expended by
4208 such counties and municipalities for any lawful purpose and shall
4209 not be included or considered as proceeds of ad valorem taxes for
4210 the purposes of the growth limitation on ad valorem taxes under
4211 Sections 27-39-321 and 27-39-305.

4212 (f) After distribution of the payments for fiscal year
4213 1991 as set forth in Section 19-9-151 and distribution of the
4214 payments as provided for in subsection (3)(b) of this section, the
4215 Department of Revenue shall distribute ten percent (10%) of the
4216 remainder of the payments to the General Fund of the state and the
4217 balance to the counties and municipalities in this state wherein
4218 such public utility renders electric service in the proportion
4219 that the amount of electric energy consumed by the retail



4220 customers of such public utility in each county, excluding
4221 municipalities therein, and in each municipality for the next
4222 preceding fiscal year bears to the total amount of electric energy
4223 consumed by all retail customers of such public utility in the
4224 State of Mississippi for the next preceding fiscal year.

4225 (g) No county, including municipalities therein, shall
4226 receive in excess of twenty percent (20%) of the funds distributed
4227 under paragraph (f) of this subsection.

4228 (h) The revenues received by counties and
4229 municipalities under paragraph (f) of this subsection shall not be
4230 included or considered as proceeds of ad valorem taxes for the
4231 purposes of the growth limitation on ad valorem taxes under
4232 Sections 27-39-305 and 27-39-321.

4233 **SECTION 75.** Section 27-35-311, Mississippi Code of 1972, is
4234 amended as follows:

4235 27-35-311. (1) It shall be the duty of the Board of Tax
4236 Appeals * * * to hear and determine objections to assessments made
4237 by the Department of Revenue for ad valorem tax purposes. * * *
4238 They may, if they think objections just, sustain the same and
4239 amend assessments, if necessary accordingly.

4240 (2) Any objection shall be in writing and filed with the
4241 Executive Director of the Board of Tax Appeals within the
4242 thirty-day period set out in Section 27-35-309(2)(a). At the time
4243 of filing the objection with the Executive Director of the Board
4244 of Tax Appeals, the taxpayer shall also file a copy of his written
4245 objection with the Department of Revenue.

4246 **SECTION 76.** Section 27-35-313, Mississippi Code of 1972, is
4247 amended as follows:

4248 27-35-313. So soon as the assessment rolls have remained
4249 subject to objection for thirty (30) days, and when all
4250 objections, if any, are disposed of, the assessment rolls shall be
4251 approved by the Department of Revenue, and a certified copy of the
4252 assessment rolls shall be sent immediately to the clerks of the



4253 board of supervisors of the respective counties, who shall file
4254 and preserve it as a record.

4255 **SECTION 77.** Section 27-35-325, Mississippi Code of 1972, is
4256 amended as follows:

4257 27-35-325. The Department of Revenue is hereby authorized
4258 and empowered and it shall be its duty to assess any property
4259 required to be assessed by the Department of Revenue as the state
4260 assessor of railroads, which it discovers escaping taxation in
4261 former years by reason of not being assessed; and to assess or
4262 cause to be assessed and taxed, any such property which it
4263 discovers escaping taxation by reason of not being assessed in or
4264 for the benefit of any road district, school district, or other
4265 taxing district or municipality, although the property may have
4266 been assessed and taxed for state and general county taxes; * * *
4267 however, * * * the right to so assess property shall expire at the
4268 end of seven (7) years from the date when the right so to do first
4269 accrued. When any property is discovered escaping assessment and
4270 taxation which, under the law, is required to be assessed by the
4271 Department of Revenue as state assessor of railroads, the
4272 Department of Revenue shall assess the same for such purpose and
4273 for the years it has escaped taxation, and shall give notice by
4274 United States mail, or otherwise, by the Commissioner of Revenue
4275 of the Department of Revenue to the owner of the property, or
4276 agent, of such owner, showing what property has escaped assessment
4277 and for what years, and all other proper information, and the
4278 owner shall have thirty (30) days in which to file objections.
4279 The Department of Revenue shall deal with the assessment in all
4280 respects with the same powers as if made at the time regular
4281 assessment of such property is made, and shall have power to
4282 require such information as it may desire for the correct
4283 determination of all questions before it. When any objection is
4284 heard and determined, the Board of Tax Appeals shall by order
4285 approve or disapprove, or may modify the assessment, and make it



4286 final * * *. If no objection is made in regard to the assessment
4287 or if the assessment is approved or modified by the Board of Tax
4288 Appeals, the Department of Revenue shall certify it to the clerk
4289 of the board of supervisors of the county or counties where the
4290 property is located, and such assessment shall be dealt with by
4291 the clerk and tax collector as is required in cases of assessments
4292 when made at the regular time. In all cases where suit is
4293 necessary, it shall be the duty of the Attorney General to
4294 represent the Department of Revenue whenever requested to do so.

4295 **SECTION 78.** Section 27-35-501, Mississippi Code of 1972, is
4296 amended as follows:

4297 27-35-501. It shall be the duty of the Commissioner of
4298 Revenue, constituting the state assessor of railroads and other
4299 public service corporations, to annually assess for taxation the
4300 property of the persons, firms, partnerships, companies,
4301 associations, or corporations, as hereinafter defined, engaged in
4302 the business of operating, furnishing or leasing cars for the
4303 transportation of freight, or to be used in the operation of any
4304 railway line or lines wholly or partially within this state.

4305 **SECTION 79.** Section 27-35-517, Mississippi Code of 1972, is
4306 amended as follows:

4307 27-35-517. (1) The assessment when made and completed shall
4308 remain open for thirty (30) days for inspection in the offices of
4309 the Department of Revenue and be subject to objections by the
4310 railcar companies for the same time period. The Board of Tax
4311 Appeals shall hear all objections, and it may increase or decrease
4312 any assessment if such action appears to be necessary and proper.

4313 (2) Any objection shall be in writing and filed with the
4314 Executive Director of the Board of Tax Appeals within the
4315 thirty-day period set out in subsection (1) of this section for
4316 objections. At the time of filing the objection with the
4317 Executive Director of the Board of Tax Appeals, the taxpayer shall



4318 also file a copy of his written objection with the Department of
4319 Revenue.

4320 **SECTION 80.** Section 27-35-701, Mississippi Code of 1972, is
4321 amended as follows:

4322 27-35-701. As used in this article, the words shall have the
4323 following meanings:

4324 (a) "Aircraft" means any contrivance, fully equipped
4325 for flight, used or designed for navigation or flight through the
4326 air.

4327 (b) "Airline company" means any person who undertakes,
4328 directly or indirectly, to engage in the scheduled transportation
4329 by aircraft of persons or property for hire in interstate,
4330 intrastate or international transportation.

4331 (c) "Operated" or "operation" means regularly scheduled
4332 landings or takeoffs of aircraft.

4333 (d) "Commission" or "department" means the Department
4334 of Revenue.

4335 (e) "Person" means any individual, corporation, firm,
4336 partnership, company or association, and includes a guardian,
4337 trustee, executor, administrator, receiver, conservator or any
4338 person acting in a fiduciary capacity therefor.

4339 **SECTION 81.** Section 27-35-703, Mississippi Code of 1972, is
4340 amended as follows:

4341 27-35-703. (1) The department shall annually assess,
4342 adjust, equalize and apportion the valuation of all aircraft of
4343 each airline company of a type or model operated in this state by
4344 such airline company by such type or model. Such aircraft shall
4345 be valued by the department in the same manner as other personal
4346 property in the state is valued.

4347 (2) Each airline company shall file with the department, on
4348 or before the first Monday in April of each year, a complete
4349 schedule of all aircraft of a type or model operated in this state
4350 by such company. Such schedule shall be made under oath on forms



4351 prescribed and furnished by the department. If any airline
4352 company shall fail, refuse or neglect to file the required
4353 schedules, such company may be penalized in the manner provided
4354 for in Section 27-35-305.

4355 (3) The assessment when made and completed shall remain open
4356 for thirty (30) days for inspection in the offices of the
4357 Department of Revenue and be subject to objections by the airline
4358 companies for the same time period. The Board of Tax Appeals
4359 shall hear all objections, and it may increase or decrease any
4360 assessment if such action appears to be necessary and proper.

4361 (4) Any objection shall be in writing and filed with the
4362 Executive Director of the Board of Tax Appeals within the
4363 thirty-day period set out in subsection (3) of this section for
4364 objections. At the time of filing the objection with the
4365 Executive Director of the Board of Tax Appeals, the taxpayer shall
4366 also file a copy of his written objection with the Department of
4367 Revenue.

4368 **SECTION 82.** Section 27-41-69, Mississippi Code of 1972, is
4369 amended as follows:

4370 27-41-69. In case of grave public emergency, to be
4371 determined by the Commissioner of Revenue of the Department of
4372 Revenue, with the approval of the Governor and Attorney General,
4373 the Commissioner of Revenue, may * * * postpone in any county the
4374 date fixed by law for the sale of lands for delinquent taxes. In
4375 the event any such sale is postponed, the Commissioner of Revenue
4376 of the Department of Revenue, with the approval of the Governor
4377 and Attorney General, * * * shall designate a date for such sale.
4378 Notice of a sale * * * shall be given by advertising it in the
4379 manner prescribed by law for the sale of land for taxes; and the
4380 same shall be made at the same place and subject to all the
4381 provisions of law applicable to such sales at the time appointed
4382 by law, and lists of lands sold to the state and to individuals
4383 shall be filed in the office of the clerk of the chancery court



4384 within the same relative period of time after the sale as is
4385 allowed for filing such lists after sales at the regular time, and
4386 the clerk shall at once record them; and such lists shall be as
4387 valid and have the same effect and be subject to all the
4388 provisions of law applicable to such lists made of lands sold at
4389 the regular sale for taxes. The Commissioner of Revenue of the
4390 Department of Revenue shall provide notice to the clerk of the
4391 board of supervisors * * * of the * * * postponement of any sale
4392 for taxes in such county and the clerk of the board of supervisors
4393 shall enter such notice on the minutes of the board, but the
4394 failure of the Commissioner of Revenue to so notify * * * the
4395 clerk of the board of supervisors to so record the same shall not
4396 invalidate any sale made hereunder.

4397 **SECTION 83.** Section 27-51-19, Mississippi Code of 1972, is
4398 amended as follows:

4399 27-51-19. The Department of Revenue shall, on or before the
4400 fifteenth day of June of each year, prepare and adopt * * * an
4401 assessment schedule of motor vehicles, as defined in this chapter,
4402 which such assessment schedule, and no other, excepting as may be
4403 hereinafter provided, shall be used by the tax collector of each
4404 county and each municipality in the state, in assessing,
4405 calculating and collecting ad valorem taxes in each respective
4406 jurisdiction on all motor vehicles liable for such tax as
4407 authorized by this chapter.

4408 In preparing the assessment schedule, the Department of
4409 Revenue may make use of, as a base, the values of the various
4410 makes, models, year of manufacture, and types of motor vehicles as
4411 adopted by some reputable nationwide agency or association which
4412 regularly compiles and furnishes such information as to actual
4413 value of the different motor vehicles as to make, model, type and
4414 year of manufacture, or by any other method or methods or
4415 combination of methods which in its judgment will tend to equalize
4416 the assessed value of property of this class with property of



4417 other classes in general. These various motor vehicles, together
4418 with any special equipment, may be grouped into as many categories
4419 as, in the judgment of the Department of Revenue, will be most
4420 practical in effecting equalization.

4421 In preparing the assessment schedule, the Department of
4422 Revenue shall apply such a percentage to the base value of such
4423 motor vehicles which, in its best judgment, will produce an
4424 assessed value which will equalize the assessed value of motor
4425 vehicles with the assessed value of other property in general,
4426 throughout the state, so far as is practical.

4427 The Department of Revenue shall also make necessary
4428 corrections and amendments to this schedule from time to time
4429 throughout the fiscal year, and in so doing the general procedure
4430 set out above shall be followed.

4431 **SECTION 84.** Section 27-51-45, Mississippi Code of 1972, is
4432 amended as follows:

4433 27-51-45. For any year, the Commissioner of Revenue is
4434 hereby authorized, in his discretion, to * * * postpone for not
4435 more than thirty (30) days the time for preparation of the
4436 assessment schedule herein referred to, the time for forwarding
4437 the schedule to the presidents of the various boards of
4438 supervisors and mayors or other presiding officers of the various
4439 municipalities, the time for the consideration of the schedule and
4440 the subsequent time for adoption and publication by these
4441 respective boards, and the time for filing objection to the
4442 schedule by any affected motor vehicle owner. In cases where any
4443 municipality elects to prepare its own independent schedule, such
4444 postponement shall also apply to its acts and duties.

4445 Notice of such postponement * * * shall be made * * * by the
4446 Commissioner of Revenue of the Department of Revenue and a
4447 certified copy shall be furnished the presiding officers of the
4448 various counties and municipalities and such postponement shall be
4449 binding on all counties and municipalities.



4450 **SECTION 85.** Section 27-51-101, Mississippi Code of 1972, is
4451 amended as follows:

4452 27-51-101. (1) As used in Sections 27-51-101 through
4453 27-51-107, unless the context requires otherwise:

4454 (a) "Private carrier of passengers" shall have the
4455 meaning ascribed to such term in Section 27-19-3, but shall not be
4456 construed to include motorcycles.

4457 (b) "Light carrier of property" means any motor vehicle
4458 with a gross weight, as defined in Section 27-19-3, of ten
4459 thousand (10,000) pounds or less that is designed and constructed
4460 for the primary purpose of transporting property on the roads and
4461 highways.

4462 (c) "Local taxing district" means any county,
4463 municipality, school district or other local entity that levies an
4464 ad valorem tax or for which an ad valorem tax is levied, to fund
4465 all or a portion of its budget.

4466 (d) "State fiscal year" means the period beginning on
4467 July 1 and ending on June 30 of the following year.

4468 (e) "Commission," "State Tax Commission" or
4469 "department" means the Department of Revenue.

4470 **SECTION 86.** Section 27-55-1, Mississippi Code of 1972, is
4471 amended as follows:

4472 27-55-1. The Department of Revenue, hereinafter called the
4473 commission or the department, is hereby vested with the sole power
4474 and authority, and is charged with the duty of administering and
4475 enforcing the terms and provisions of this article.

4476 **SECTION 87.** Section 27-55-5, Mississippi Code of 1972, is
4477 amended as follows:

4478 27-55-5. The words, terms and phrases as used in this
4479 article shall have the following meanings unless the context
4480 requires otherwise:

4481 (a) "Gasoline" means:



4482 (i) All products commonly or commercially known or
4483 sold as gasoline (excluding casinghead and absorption or natural
4484 gasoline) regardless of their classification or uses; and

4485 (ii) Any liquid prepared, advertised, offered for
4486 sale or sold for use as or commonly and commercially used as a
4487 fuel in internal combustion engines, which when subjected to
4488 distillation in accordance with the standard method of test for
4489 distillation of gasoline, naphtha, kerosene and similar petroleum
4490 products (American Society for Testing Materials Designation D-86)
4491 shows not less than ten percent (10%) distilled (recovered) below
4492 two hundred sixty (260) degrees Fahrenheit and not less than
4493 ninety-five percent (95%) distilled (recovered) below four hundred
4494 sixty-four (464) degrees Fahrenheit.

4495 The term "gasoline" shall include "aviation gasoline."

4496 The term "gasoline" shall not include:

4497 (i) Liquefied gases which would not exist as
4498 liquid at a temperature of sixty (60) degrees Fahrenheit and at a
4499 pressure of fourteen and seven-tenths (14.7) pounds per square
4500 inch absolute;

4501 (ii) Commercial solvents or naphthas or raw
4502 petroleum products or petrochemicals intermediates when used as or
4503 sold for use in production or manufacture of plastics, detergents,
4504 synthetic rubber, herbicides or other chemicals or products which
4505 are not prepared, advertised, offered for sale or sold for use or
4506 suitable for use as fuel for generating power in internal
4507 combustion engines;

4508 (iii) Racing gasoline.

4509 (b) "Aviation gasoline" means gasoline refined or
4510 manufactured, according to the specifications for aviation
4511 gasoline set forth in ASTM D-910, for exclusive use in
4512 reciprocating aviation engines.

4513 (c) "Person" means any individual, firm, copartnership,
4514 joint venture, association, corporation, estate, trust or any



4515 other group or combination acting as a unit, and the plural as
4516 well as the singular number unless the intention to give a more
4517 limited meaning is disclosed by the context.

4518 (d) "Distributor of gasoline" means:

4519 (i) Any person importing gasoline into this state;

4520 (ii) Any person receiving, purchasing, acquiring,
4521 using, storing or selling any gasoline in this state on which the
4522 gasoline excise tax imposed by this article has not been paid;

4523 (iii) Refiners, blenders, marine terminal
4524 operators or pipeline terminal operators; and

4525 (iv) Any person licensed to sell gasoline in
4526 another state or jurisdiction who is authorized by that state or
4527 jurisdiction to collect the gasoline excise tax imposed by this
4528 article.

4529 (e) "Highway" means every way or place, of whatever
4530 nature including public roads, toll roads, streets and alleys of
4531 this state generally open to the use of the public or to be opened
4532 or reopened to the use of the public for the purpose of vehicular
4533 travel, and notwithstanding that the same may be temporarily
4534 closed for the purpose of construction, reconstruction,
4535 maintenance or repair. The confines of a highway shall include
4536 the entire width and length of the right-of-way.

4537 (f) "Refiner" means every person who manufactures
4538 finished petroleum products from crude oil, unfinished oils,
4539 natural gas liquids, other hydrocarbons, or alcohol.

4540 (g) "Bonded distributor of gasoline" means any person
4541 holding a valid gasoline distributor's permit issued by the
4542 department.

4543 (h) "For agricultural or maritime purposes" means
4544 gasoline used:

4545 (i) In operating farm tractors or other farm
4546 equipment used exclusively in plowing, planting or harvesting farm
4547 products, or in operating boats, and no part of which is used in



4548 any motor vehicle or equipment driven or operated upon the public
4549 roads, streets or highways of this state; and

4550 (ii) As a fuel in a farm tractor using the
4551 highways solely in hauling or transporting farm products of the
4552 soil from the farm to a gin or market where the title to such
4553 products is still in the producer, or in transporting fertilizer
4554 or feed to the farm, where the title to such products is still in
4555 the user.

4556 (i) "For industrial purposes" means gasoline used in
4557 engines or motors of stationary or portable type for the purpose
4558 of operating machinery used for manufacturing or used for
4559 industrial purposes, and no part of which machinery is driven or
4560 operated upon the public roads, streets or highways of this state.

4561 (j) "For domestic purposes" means gasoline used for any
4562 other purpose than agricultural, maritime, industrial or
4563 manufacturing, and no part of which is used for operating motor
4564 vehicles or motor-propelled machines of any description along the
4565 public roads, streets, alleys or highways (as defined in this
4566 article) of this state.

4567 (k) "For nonhighway purposes" means gasoline used for
4568 any other purpose than agricultural, maritime, industrial,
4569 manufacturing or domestic purposes, and no part of which is used
4570 for operating motor vehicles or motor-propelled machines of any
4571 description along the public roads, streets, alleys or highways
4572 (as defined in this article) of this state.

4573 (l) "For aviation purposes" means gasoline used for the
4574 operation of aircraft.

4575 (m) "Refund gasoline" means gasoline used or to be used
4576 for agricultural, maritime, industrial, manufacturing, domestic or
4577 nonhighway purposes only, as these terms are defined in this
4578 article.



4579 (n) "Commission" or "department" means the Department
4580 of Revenue, acting either directly or through its duly authorized
4581 officers, agents or employees.

4582 (o) "United States government" means and includes all
4583 purchasing officers of the Armed Forces of the United States and
4584 the United States Property and Fiscal Officer for the State of
4585 Mississippi or any other state appointed pursuant to Section 708,
4586 Title 32, United States Code, when purchasing gasoline with
4587 federal funds for the account of and use by a component of the
4588 Armed Forces as herein defined.

4589 (p) "Armed Forces" means and includes all components of
4590 the Armed Forces of the United States including the Army National
4591 Guard, the Army National Guard of the United States, the Air
4592 National Guard and the Air National Guard of the United States, as
4593 those terms are defined in Section 101, Title 10, United States
4594 Code, and any other reserve component of the Armed Forces of the
4595 United States enumerated in Section 261, Title 10, United States
4596 Code.

4597 (q) "Blend stock" means ethanol, methanol or any other
4598 products blended with gasoline to produce motor fuel.

4599 (r) "Blender" means any person other than a refiner who
4600 blends blend stock with gasoline or who sells or distributes blend
4601 stock for the purpose of being blended with gasoline.

4602 (s) "Racing gasoline" means gasoline manufactured
4603 exclusively for use in racing and gasoline containing lead, or
4604 having an octane rating of 105 or higher that is not suitable for
4605 use on the highways.

4606 **SECTION 88.** Section 27-55-23, Mississippi Code of 1972, is
4607 amended as follows:

4608 27-55-23. Any person who shall purchase and use gasoline
4609 other than aviation gasoline for agricultural, maritime,
4610 industrial, or domestic purposes, as defined in this article,
4611 which is not used in operating motor vehicles upon the highways of



4612 this state, shall be entitled to a refund of all but Six and
4613 Four-tenths Cents (6.4¢) per gallon of the tax actually paid on
4614 gasoline which is used for agricultural, maritime, industrial,
4615 domestic, or nonhighway purposes, as herein defined, provided that
4616 no such refund shall be payable unless the provisions of this
4617 article are complied with. Provided, however, no refund shall be
4618 allowed to any person who may purchase, sell or use gasoline,
4619 either on or off the highway, in performing contracts for
4620 construction, reconstruction, maintenance or repair, where such
4621 contracts are entered into with the State of Mississippi or with
4622 any department, agency or institution of the State of Mississippi,
4623 or with any political subdivision of the State of Mississippi, or
4624 with any department, agency, or institution of such political
4625 subdivision. Also, provided that no refund of tax paid on
4626 gasoline used on the highways of this state in motor vehicles
4627 owned or operated by the federal government, State of Mississippi,
4628 or any department or political subdivision of either will be
4629 allowed.

4630 Any person who shall purchase and use gasoline other than
4631 aviation gasoline for aviation purposes, as defined in this
4632 article, shall be entitled to a refund of all but Six and
4633 Four-tenths Cents (6.4¢) per gallon of the tax actually paid on
4634 gasoline thus used.

4635 The granting of a refund privilege to any claimant under the
4636 provisions of this article is declared to be a matter of grace
4637 rather than a matter of right, and in all cases arising under this
4638 section the burden shall be on the claimant to make proof
4639 sufficient to convince the department of the claimant's compliance
4640 with the provisions of this article; otherwise, the refund claim
4641 shall be denied or the claimant's permit cancelled by the
4642 department, as the case may be.

4643 Before any person shall be entitled to claim refund of any
4644 tax paid on gasoline under the provisions of this section, he



4645 shall file an information blank for a refund permit with the
4646 department. Such information blank shall be made on forms
4647 furnished by the department and shall give a detailed description
4648 of the equipment and such other information as the department may
4649 require with respect to the equipment or machinery in which refund
4650 gasoline is to be used. If such gasoline is not to be used in
4651 equipment or machinery, the purpose for which such gasoline is to
4652 be used shall be stated. The information blank and supplements
4653 thereto shall be signed by the person desiring to use refund
4654 gasoline or his authorized agent and filed under the penalty of
4655 perjury.

4656 If additional or replacement equipment or machinery is
4657 acquired, or if the status of the claimant otherwise changes after
4658 the original information blank is filed, supplemental information
4659 reflecting these changes shall be filed at the time of filing the
4660 next refund claim. The supplemental information blank shall
4661 contain the same information with respect to the changes as is
4662 required on the original information blank.

4663 Upon approval of the information blank, the department shall
4664 assign a file number to be used by the refund user. Provided,
4665 also, that such refund user will be issued a refund certificate
4666 book to be used when purchasing refund gasoline. Each refund
4667 certificate shall carry the file number of the refund user and,
4668 upon each purchase of refund gasoline, a certificate shall be
4669 filled in and signed on the calendar day of delivery, by either
4670 the dealer or the refund user or their authorized agents, but in
4671 no case may one (1) individual sign such certificate as both the
4672 dealer and the user. Each certificate, however, must be signed by
4673 both the claimant and dealer, or their authorized agents, before a
4674 refund of tax can be allowed on the certificate. Such refund
4675 certificate book shall not be transferable or assignable and shall
4676 be kept in the possession of the refund user or in his control at
4677 all times. Upon receipt of the information blank properly



4678 completed, the department shall forward to such refund user the
4679 file number and certificate book. Should the department refuse to
4680 issue a file number and refund certificate book, or refuse to pay
4681 any refund alleged to be due, the applicant or user may, within
4682 sixty (60) days from the date of the notice of the refusal by the
4683 department, appeal to the board of review of the Department of
4684 Revenue as hereinafter provided.

4685 It shall be the duty of the consumer of gasoline for which
4686 refund application is to be made, including any distributor of
4687 gasoline using his own gasoline for a refund purpose, to have
4688 storage facilities available for delivery of refund gasoline.
4689 Such storage facilities shall be plainly marked "refund gasoline"
4690 in lettering of contrasting color and not less than four (4)
4691 inches in height. Where refund gasoline is delivered directly
4692 into the fuel tank of equipment belonging to or used by the refund
4693 user, such equipment shall be plainly marked "refund gasoline" in
4694 lettering of contrasting color as near to the fuel tank as
4695 possible. Such lettering shall not be less than four (4) inches
4696 in height. It shall also be the duty of the distributor of
4697 gasoline delivering gasoline into the tanks to dye the refund
4698 gasoline a distinctive mahogany color at the time of delivery.
4699 However, in no case shall dye be added to gasoline to be used in
4700 aircraft.

4701 The department is authorized to waive the requirement that
4702 refund gasoline be dyed in any case where damage to equipment or
4703 machinery would result from the addition of such dye, or where
4704 addition of dye would otherwise render gasoline unfit for its
4705 intended use. It shall be the obligation of the user to obtain
4706 the aforementioned waiver from the department.

4707 Any person desiring a refund on any gasoline purchased shall
4708 make claim to the department, on forms provided by the department,
4709 within three (3) years from the date the gasoline was purchased.
4710 No refund shall be allowed on any gasoline which shall not have



4711 been already used or consumed by the purchaser thereof before the
4712 filing of the claim; provided, however, when a claim is filed and
4713 there is an unused part of any purchase to be carried forward to
4714 the next claim, the dating of this carry-over shall take the same
4715 date of the first purchase entered on the next claim. No person
4716 shall file more than one (1) claim during any one (1) month. The
4717 claim shall be personally signed by the purchaser or his duly
4718 authorized agent. The claimant shall in the claim, state that the
4719 refund claim has not and will not be assigned. The original and
4720 duplicate of the certificate shall be retained by the claimant, at
4721 the time of purchase. The original certificate with vendor's
4722 invoices shall be attached to the refund claim, and the duplicate
4723 shall remain in the certificate book of the claimant and shall be
4724 subject to inspection by the department at all reasonable hours.
4725 The claimant shall preserve the duplicate certificates for three
4726 (3) years from date of purchase. The claim shall be in the name
4727 of the purchaser and shall show the purchaser's refund file
4728 number. Supporting invoices shall state that dye has been added
4729 to refund gasoline or that the requirement that dye be added has
4730 been waived by the department. The claim shall be certified under
4731 the penalty of perjury.

4732 Any person who shall file a claim for refund under the
4733 provisions of this article shall show on each refund claim filed:
4734 the names and addresses of the person or persons from whom the
4735 claimant customarily purchases motor fuel for use in propelling
4736 motor vehicles owned or operated by the claimant on the highways
4737 of this state. Until the provisions of this paragraph are
4738 complied with, the refund claim shall not be allowed.

4739 Upon receipt of the claim, the department shall determine the
4740 amount of refund due to the claimant and the amount shall be
4741 refunded to the claimant as provided in Section 27-55-19. If for
4742 any reason the department should determine that an erroneous claim
4743 has been paid, it may deduct such erroneous payment from any legal



4744 claim subsequently filed by the claimant to whom erroneous payment
4745 was made.

4746 If the department determines that any refund claim shall not
4747 be paid, it shall notify the claimant, in writing, at the earliest
4748 date possible after such determination stating the reason or
4749 reasons why such claim is disallowed.

4750 A refund claimant may, within sixty (60) days after receipt
4751 of notice of the disallowance of his claim, appeal to the board of
4752 review of the Department of Revenue as hereinafter provided.

4753 **SECTION 89.** Section 27-55-27, Mississippi Code of 1972, is
4754 amended as follows:

4755 27-55-27. When gasoline is lost or destroyed in quantities
4756 of seven hundred fifty (750) gallons or more through explosion,
4757 fire, collision, storage tank wreckage, wreckage of loading or
4758 unloading facilities, such as pumps and lines, or acts of
4759 Providence while in storage in this state or while being
4760 transported in this state, the owner of such gasoline shall be
4761 entitled to tax credit or refund of the tax paid thereon.

4762 The department shall be notified by the owner of gasoline
4763 lost or destroyed within five (5) days after the loss or
4764 destruction is discovered. The department shall make such
4765 investigation of the facts and circumstances surrounding such loss
4766 or destruction as may be reasonably necessary for the effective
4767 administration of this article.

4768 The claim shall be made in the name of the owner of gasoline
4769 lost or destroyed and shall be signed by the owner or his
4770 authorized agent and filed within three (3) years after the date
4771 of loss. All such claims must be accompanied by proof
4772 satisfactory to the department that the gasoline for which credit
4773 is claimed was destroyed by or through one of the means set forth
4774 in the first paragraph of this section, and in all cases where
4775 gasoline alleged to have been destroyed was covered by insurance,



4776 the department shall not approve such claims unless and until the
4777 insurer has acknowledged and actually paid the loss.

4778 Upon receipt of the claim, the department shall determine the
4779 amount of refund or tax credit due the claimant and in the case of
4780 refund, the amount shall be refunded to the claimant as provided
4781 in Section 27-55-19.

4782 If the department determines that any refund claim shall not
4783 be paid, it shall notify the claimant, stating the reason why such
4784 claim is disallowed. A claimant may, within sixty (60) days from
4785 the date of the written notice of the disallowance of his claims,
4786 appeal to the board of review as hereinafter provided in this
4787 article.

4788 **SECTION 90.** Section 27-55-501, Mississippi Code of 1972, is
4789 amended as follows:

4790 27-55-501. (1) This act may be cited as the "Mississippi
4791 Special Fuel Tax Law."

4792 (2) The Department of Revenue is hereby vested with the sole
4793 power and authority, and is charged with the duty of administering
4794 and enforcing the terms and provisions of this article.

4795 **SECTION 91.** Section 27-55-505, Mississippi Code of 1972, is
4796 amended as follows:

4797 27-55-505. The words, terms and phrases as used in this
4798 article shall have the following meanings unless the context
4799 requires otherwise:

4800 (a) "Special fuel" means kerosene, diesel fuel, fuel
4801 oils, and any petroleum fuel or any other product other than
4802 gasoline or compressed gas which is usable as fuel in an internal
4803 combustion engine, and any combustible liquid other than gasoline
4804 or compressed gas used or capable of being used as a fuel in
4805 aircraft. The term "special fuel" shall not include racing
4806 gasoline as defined in Section 27-55-5.

4807 (b) "Bunker oil" means a residual product obtained in
4808 the refining of crude petroleum intended for use for the



4809 generation of heat in a firebox or furnace when its flash point,
4810 as determined by use of the Pensky-Martens tester, shall not be
4811 less than one hundred fifty (150) degrees Fahrenheit and when its
4812 viscosity at one hundred (100) degrees Fahrenheit shall not be
4813 less than one hundred fifty (150) seconds when determined by use
4814 of the Saybolt Universal Tubes.

4815 (c) "Person" means any individual, firm, copartnership,
4816 joint venture, association, corporation, estate, trust, or any
4817 group or combination acting as a unit, and the plural as well as
4818 the singular number unless the intention to give a more limited
4819 meaning is disclosed by the context.

4820 (d) "Distributor of special fuel" means:

4821 (i) Any person importing special fuel into this
4822 state;

4823 (ii) Any person who shall receive, purchase,
4824 acquire, use, store or sell any special fuel in this state on
4825 which the excise tax hereinafter imposed by this article has not
4826 been paid;

4827 (iii) Any person exporting special fuel;

4828 (iv) Any person engaged in the distribution of
4829 special fuel by tank car or tank truck or both; however, no person
4830 may qualify as a distributor of special fuel for the sole purpose
4831 of using special fuel, as defined in this article, as a fuel to
4832 propel a vehicle or vehicles owned or operated by him on the
4833 highways of this state; and

4834 (v) All persons meeting the definition of
4835 "refiners," "processors," "terminal operator," "blenders" and any
4836 person licensed to sell motor fuel in another state or
4837 jurisdiction who is authorized by that state or jurisdiction to
4838 collect the special fuel excise tax imposed by this article.

4839 (e) "Bonded distributor of special fuel" means any
4840 person holding a valid distributor of special fuel permit issued
4841 by the Department of Revenue.



4842 (f) "Refiner" or "processor" means every person who
4843 shall receive, produce, manufacture, refine, distill, blend or
4844 compound special fuel in this state, when such person shall engage
4845 in any business incident to or necessary for refining or
4846 processing petroleum products in this state; provided further,
4847 that such refiner or processor must have at least two (2)
4848 ten-thousand-gallon or larger tanks for product storage, and the
4849 blending or mixing process produces a finished product that has
4850 entirely different physical and chemical properties from the
4851 original products.

4852 (g) "For nonhighway purposes" means special fuel which
4853 is not used for operating motor vehicles or motor-propelled
4854 machines of any description along the public roads, streets,
4855 alleys or highways of this state as defined in this article.

4856 (h) "Highway" means every way or place of whatever
4857 nature, including public roads, toll roads, streets and alleys of
4858 this state generally open to the use of the public or to be opened
4859 or reopened to the use of the public for the purpose of vehicular
4860 travel, and notwithstanding that the same may be temporarily
4861 closed for the purpose of construction, reconstruction,
4862 maintenance or repair. The confines of a highway shall include
4863 the entire width and length of the right-of-way.

4864 (i) "Commission" or "department" means the Department
4865 of Revenue of the State of Mississippi, acting either directly or
4866 through its duly authorized officers, agents or employees.

4867 (j) "Terminal" means a tank farm within the State of
4868 Mississippi with storage capacity for the receipt of a full barge
4869 delivery or common carrier pipeline delivery of taxable petroleum
4870 products when such products are to be distributed within the
4871 state.

4872 (k) "Marine dealer" means any person selling special
4873 fuel from marine or dockside storage facilities when such special
4874 fuel is for use in boats, vessels, barges or ships.



4875 (1) "United States government" means and includes all
4876 purchasing officers of the Armed Forces of the United States and
4877 the United States Property and Fiscal Officer for the State of
4878 Mississippi or any other state appointed pursuant to Section 708,
4879 Title 32, United States Code, when purchasing special fuel with
4880 federal funds for the account of and use by a component of the
4881 Armed Forces as herein defined.

4882 (m) "Armed Forces" means and includes all components of
4883 the Armed Forces of the United States including the Army National
4884 Guard, the Army National Guard of the United States, the Air
4885 National Guard and the Air National Guard of the United States, as
4886 those terms are defined in Section 101, Title 10, United States
4887 Code, and any other reserve component of the Armed Forces of the
4888 United States enumerated in Section 261, Title 10, United States
4889 Code.

4890 (n) "Motor vehicle" means every vehicle designed,
4891 constructed for or used on the highways of this state which is
4892 self-propelled, except a farm tractor using the highways solely in
4893 hauling or transporting farm products of the soil from the farm to
4894 a gin or market when the title to such products is still in the
4895 producer, or a farm tractor used in transporting fertilizer or
4896 food to a farm when the title to such products is still in the
4897 user.

4898 (o) "Consumer" means, in addition to its ordinary
4899 meaning, a person who purchases undyed diesel fuel to be used for
4900 nonhighway purposes and who does not resell such undyed diesel
4901 fuel.

4902 (p) "Retail dealer" means any person who operates a
4903 retail station.

4904 (q) "Dyed diesel fuel" means diesel fuel that is dyed
4905 in accordance with United States Environmental Protection Agency
4906 or Internal Revenue Service requirements.



4907 (r) "Dyed kerosene" means kerosene that is dyed in
4908 accordance with United States Environmental Protection Agency or
4909 Internal Revenue Service requirements.

4910 (s) "Undyed diesel fuel" means diesel fuel that does
4911 not meet the dyeing requirements prescribed by United States
4912 Environmental Protection Agency or Internal Revenue Service
4913 Regulations.

4914 (t) "Fuel oil" means a general classification for one
4915 of the petroleum fractions produced in conventional distillation
4916 operations. For the purposes of this article, "fuel oil" is No.
4917 1, No. 2 and No. 4 fuel oils and No. 1, No. 2 and No. 4 diesel
4918 fuels.

4919 (u) "Blender" shall mean any person who blends or
4920 compounds any product to produce special fuel.

4921 (v) "Terminal operator" means any person who owns,
4922 operates or otherwise controls a terminal.

4923 **SECTION 92.** Section 27-55-535, Mississippi Code of 1972, is
4924 amended as follows:

4925 27-55-535. When special fuel is lost or destroyed in
4926 quantities of seven hundred fifty (750) gallons or more through
4927 explosion, fire, collision, storage tank wreckage, wreckage of
4928 loading or unloading facilities, such as pumps and lines, or acts
4929 of Providence while in storage in this state or while being
4930 transported in this state, the owner of the special fuel shall be
4931 entitled to tax credit or refund of the tax paid thereon.

4932 The department shall be notified by the owner of the lost or
4933 destroyed special fuel within five (5) days after the loss or
4934 destruction is discovered. The department shall make an
4935 investigation of the facts and circumstances surrounding the loss
4936 or destruction as may be reasonably necessary for the effective
4937 administration of this article.

4938 The claim shall be made in the name of the owner of the lost
4939 or destroyed special fuel and shall be signed by the owner or his



4940 authorized agent and filed within three (3) years after the date
4941 of loss. All claims must be accompanied by proof satisfactory to
4942 the department that the special fuel for which credit is claimed
4943 was destroyed by or through one (1) of the means set forth in the
4944 first paragraph of this section, and in all cases where the
4945 special fuel alleged to have been destroyed was covered by
4946 insurance, the department shall not approve such claims unless and
4947 until the insurer has acknowledged and actually paid the loss.

4948 Upon receipt of the claim the department shall determine the
4949 amount of refund or tax credit due the claimant and in the case of
4950 refund the amount shall be refunded to the claimant as provided in
4951 Section 27-55-19.

4952 If the department determines that any refund claim shall not
4953 be paid, it shall notify the claimant stating the reason or
4954 reasons why the claim is disallowed.

4955 A claimant may, within sixty (60) days from the date of the
4956 written notice of the disallowance of his claim, appeal to the
4957 board of review as provided by law.

4958 **SECTION 93.** Section 27-57-1, Mississippi Code of 1972, is
4959 amended as follows:

4960 27-57-1. The Department of Revenue, hereinafter called the
4961 "commission" or the "department," is hereby vested with the sole
4962 power and authority, and is charged with the duty of administering
4963 and enforcing the terms and provisions of this article.

4964 **SECTION 94.** Section 27-57-5, Mississippi Code of 1972, is
4965 amended as follows:

4966 27-57-5. The words, terms and phrases as used in this
4967 article shall have the following meanings unless the context
4968 requires otherwise:

4969 (a) "Lubricating oil" means all petroleum-based oils or
4970 synthetic lubricants intended for use in the crankcase of an
4971 internal combustion engine, either spark ignition or diesel type.
4972 The purpose of "lubricating oil" is to reduce friction between two



4973 (2) solid surfaces moving relative to one another. Lubricating
4974 oil shall not mean spindle oils, cutting oils, steam cylinder
4975 oils, transmission fluids or oils, gear oils, industrial oils,
4976 electrical insulating oils, manufactured, recommended, advertised
4977 and intended for such; lubricating oil specifically designed for
4978 use in large stationary engines of five hundred (500) horsepower
4979 or more; oils specifically designed for use in aircraft or
4980 outboard motors, or lubricating oil additives and compounds,
4981 manufactured, recommended, advertised and intended for use as an
4982 additive or compound and packaged in quantities of one (1) gallon
4983 or less; oils which would cause damage to an internal combustion
4984 engine if used as a lubricant, or special purpose oils where the
4985 finished cost would make its use as a lubricating oil in an
4986 internal combustion engine economically prohibitive, or oils used
4987 as raw materials in manufacturing processes and any grease which
4988 is classified as a lubricant and which is manufactured,
4989 recommended, advertised and intended for use as such.

4990 (b) "Person" means any individual, firm, copartnership,
4991 joint venture, association, corporation, estate, trust, or any
4992 other group or combination acting as a unit, and the plural as
4993 well as the singular number unless the intention to give a more
4994 limited meaning is disclosed by the context.

4995 (c) "Class A distributor" means any person who acquires
4996 lubricating oil on which the tax levied by this article has not
4997 been paid and sells or delivers lubricating oil to wholesalers,
4998 retailers or directly to consumers.

4999 (d) "Commission" or "department" means the Department
5000 of Revenue.

5001 (e) "Refiner" or "processor" shall mean every person
5002 who shall receive, produce, manufacture, refine, distill, blend or
5003 compound lubricating oil in this state, when such person shall
5004 engage in refining or processing petroleum products in this state,
5005 and the blending or mixing process produces a finished product



5006 with different physical and chemical properties from the original
5007 products.

5008 (f) "Waters" shall mean public waters.

5009 (g) "Retailer" means every person who sells lubricating
5010 oil at retail.

5011 **SECTION 95.** Section 27-57-19, Mississippi Code of 1972, is
5012 amended as follows:

5013 27-57-19. When lubricating oil is lost or destroyed in
5014 quantities of two hundred fifty (250) gallons or more through
5015 explosion, fire, collision, storage tank wreckage, wreckage of
5016 loading or unloading facilities or other acts of Providence, only
5017 while in storage in this state or while being transported in this
5018 state, the owner of the lubricating oil shall be entitled to a
5019 refund of the tax paid thereon.

5020 The department shall be notified by the owner of lubricating
5021 oil lost or destroyed within five (5) days after the loss or
5022 destruction is discovered. The department shall make an
5023 investigation of the facts and circumstances surrounding the loss
5024 or destruction as may be reasonably necessary for the effective
5025 administration of this section.

5026 The claim shall be made in the name of the owner of the
5027 lubricating oil lost or destroyed, and shall be signed by the
5028 owner or his authorized agent and filed within three (3) years
5029 after the date of the loss. All claims must be accompanied by
5030 proof satisfactory to the department that the lubricating oil for
5031 which credit is claimed was destroyed as herein provided. In all
5032 cases where lubricating oil alleged to have been destroyed was
5033 covered by insurance, the department shall not approve such claim
5034 unless and until the insurer has acknowledged and actually paid
5035 the loss.

5036 Upon the receipt of the claim, the department shall determine
5037 the amount of refund or tax credit due to the claimant and in the
5038 case of refund the amount shall be refunded to the claimant as



5039 provided in Section 27-55-19. The refund shall be paid from
5040 current lubricating oil tax collections.

5041 If the department determines that any refund claim shall not
5042 be paid or any tax credit allowed, it shall notify the claimant at
5043 the earliest possible date after it determines the claim cannot be
5044 allowed stating the reason or reasons why the claim is rejected.

5045 A claimant may, within sixty (60) days from the date of the
5046 rejection of his claim, appeal to the board of review as provided
5047 by law.

5048 **SECTION 96.** Section 27-59-1, Mississippi Code of 1972, is
5049 amended as follows:

5050 27-59-1. The Department of Revenue, hereinafter called the
5051 "commission" or the "department," is hereby vested with the sole
5052 power and authority, and is charged with the duty of administering
5053 and enforcing the terms and provisions of this chapter.

5054 **SECTION 97.** Section 27-59-3, Mississippi Code of 1972, is
5055 amended as follows:

5056 27-59-3. The words, terms and phrases as used in this
5057 chapter shall have the following meanings unless the context
5058 requires otherwise:

5059 (a) "Person" means any individual, firm, copartnership,
5060 joint venture, association, corporation, estate, trust, or any
5061 other group or combination acting as a unit, and the plural as
5062 well as the singular number unless the intention to give a more
5063 limited meaning is disclosed by the context.

5064 (b) "Highway" means and includes every way or place, of
5065 whatever nature, including public roads, toll roads, streets, and
5066 alleys of the state generally open to the use of the public or to
5067 be opened or reopened to the use of the public for the purpose of
5068 vehicular travel, and notwithstanding that the same may be
5069 temporarily closed for the purpose of construction,
5070 reconstruction, maintenance or repair. Provided further, that the



5071 confines of a highway shall include the entire width and length of
5072 the right-of-way.

5073 (c) "Motor vehicle" means every vehicle licensed for
5074 highway use by which any person or property is transported or
5075 drawn upon the highways of this state and which is self-propelled.

5076 (d) "Liquefied compressed gas" means gases derived from
5077 petroleum or natural gas which are in the gaseous state at normal
5078 atmospheric temperature and pressure, but which may be maintained
5079 in the liquid state at normal atmospheric temperature by suitable
5080 pressure. As used herein, the term shall be deemed to mean and
5081 include methane, ethane, propane, ethylene, propylene, butylene,
5082 butane, isobutane, and any and all liquid flammable materials
5083 derived from petroleum or natural gas having a vapor pressure
5084 exceeding forty (40) pounds per square inch, absolute, at one
5085 hundred (100) degrees F. Normal storage of these gases is a
5086 liquid under pressure.

5087 (e) "Compressed natural gas" and "liquefied natural
5088 gas" mean natural gas after it has been compressed or liquefied
5089 for use as a fuel in a motor vehicle and shall not include natural
5090 gas prior to such final compression or liquefaction.

5091 (f) "Compressed gas" means "liquefied compressed gas,"
5092 "liquefied natural gas," "compressed natural gas" and any other
5093 liquefied or compressed gas that is used or is usable as fuel in a
5094 motor vehicle.

5095 (g) "Use" means, in addition to its original meaning,
5096 the receipt of compressed gas by any person into the fuel supply
5097 tank of a motor vehicle or into a receptacle from which compressed
5098 gas is supplied by any person to his own or other motor vehicles.

5099 (h) "Terminal" means a tank farm within this state with
5100 the minimum storage capacity for the receipt of a full barge
5101 delivery or common carrier pipeline delivery of compressed gas.



5102 (i) "Refiner" or "processor" means every person who
5103 shall produce, manufacture, refine, distill, compress or liquefy
5104 compressed gas in this state.

5105 (j) "Public utility" means a person engaged in the
5106 distribution of natural gas whose rates are subject to regulation
5107 by the Public Service Commission of the State of Mississippi.

5108 (k) "Distributor" means any person who sells or
5109 delivers compressed gas for use in the operation of a motor
5110 vehicle or motor vehicles on the highways of this state and any
5111 person who shall import, receive, purchase, acquire, manufacture,
5112 refine, use, store or sell any compressed gas in this state, on
5113 which the excise taxes hereinafter levied by this chapter have not
5114 been paid or the payment of which is not covered by the bond of a
5115 qualified Mississippi distributor of compressed gas. All
5116 "refiners" and "processors" shall qualify as distributors of
5117 compressed gas. All persons operating marine or pipeline
5118 terminals and all persons operating underground storage facilities
5119 exclusive of those storing natural gas shall qualify as
5120 distributors of compressed gas. No person may qualify as a
5121 distributor for the sole purpose of using compressed gas as a fuel
5122 to propel a motor vehicle or motor vehicles owned by him on the
5123 highways of this state.

5124 (l) "User" means any person who uses compressed gas to
5125 propel a motor vehicle over the highways of this state.

5126 (m) "Commission" or "department" means the Department
5127 of Revenue of the State of Mississippi, either acting directly or
5128 through its duly authorized officers, agents and employees.

5129 (n) "United States government" means and includes all
5130 purchasing officers of the Armed Forces of the United States and
5131 the United States Property and Fiscal Officer for the State of
5132 Mississippi or any other state, appointed pursuant to Section 708,
5133 Title 32, United States Code, when purchasing compressed gas with



5134 federal funds for the account of and use by a component of the
5135 Armed Forces as defined herein.

5136 (o) "Armed Forces" means and includes all components of
5137 the Armed Forces of the United States, including the Army National
5138 Guard, the Army National Guard of the United States, the Air
5139 National Guard and the Air National Guard of the United States, as
5140 those terms are defined in Section 101, Title 10, United States
5141 Code, and any other reserve component of the Armed Forces of the
5142 United States enumerated in Section 261, Title 10, United States
5143 Code.

5144 **SECTION 98.** Section 27-59-301, Mississippi Code of 1972, is
5145 amended as follows:

5146 27-59-301. The Department of Revenue, hereinafter called the
5147 commission or the department, is hereby vested with the sole power
5148 and authority, and is charged with the duty of administering and
5149 enforcing the terms and provisions of this article.

5150 **SECTION 99.** Section 27-59-303, Mississippi Code of 1972, is
5151 amended as follows:

5152 27-59-303. The words, terms and phrases as used in this
5153 article shall have the following meanings unless the context
5154 requires otherwise.

5155 (a) "Natural gas" means a mixture of hydrocarbons and
5156 small quantities of nonhydrocarbons existing in the gaseous phase.

5157 (b) "Locomotive fuel" means diesel fuel and any other
5158 fuel except gasoline used as fuel in a railroad locomotive.

5159 (c) "Person" means any individual, firm, copartnership,
5160 joint venture, association, corporation, estate, trust or any
5161 other combination acting as a unit, and the plural as well as the
5162 singular number unless the intention to give a more limited
5163 meaning is disclosed by the context.

5164 (d) "Commission" or "department" means the Department
5165 of Revenue, acting either directly or through its duly authorized
5166 officers, agents or employees.



5167 (e) "Permittee" means any person holding a user's
5168 permit issued under the provisions of this article.

5169 (f) "Industrial purposes" means the operation of
5170 machinery used for manufacturing.

5171 (g) "Engine" or "motor" means internal combustion
5172 engine.

5173 (h) "Manufacturer" means a person conducting an
5174 activity of an industrial or commercial nature wherein labor or
5175 skill is applied by hand or by machinery, to materials belonging
5176 to the manufacturer so that a new, different or more useful
5177 article of tangible personal property or article of trade or
5178 commerce is produced for sale or rental.

5179 (i) "Custom processor" means a person who performs the
5180 services of a manufacturer upon the property of a customer.

5181 (j) "Compressed gas" means gases derived from petroleum
5182 or natural gas which are in the gaseous state at normal
5183 atmospheric temperature and pressure, but which may be maintained
5184 in the liquid state at normal atmospheric temperature by suitable
5185 pressure. As used herein, the term shall be deemed to mean and
5186 include methane, ethane, propane, ethylene, propylene, butylene,
5187 butane, isobutane, and any and all liquid flammable materials
5188 derived from petroleum or natural gas having a vapor pressure
5189 exceeding forty (40) pounds per square inch, absolute, at one
5190 hundred (100) degrees Fahrenheit. Normal storage of these gases
5191 is a liquid under pressure.

5192 **SECTION 100.** Section 27-61-1, Mississippi Code of 1972, is
5193 amended as follows:

5194 27-61-1. The purpose of this chapter is to insure that all
5195 carriers specified herein, using the highways of this state, shall
5196 pay a reasonable tax for the privilege of, and as compensation
5197 for, such use.

5198 The Department of Revenue, hereinafter called the
5199 "commission" or the "department," is hereby vested with the sole



5200 power and authority, and is charged with the duty of administering
5201 and enforcing the terms and provisions of this chapter.

5202 **SECTION 101.** Section 27-61-3, Mississippi Code of 1972, is
5203 amended as follows:

5204 27-61-3. When used in this chapter, the following words and
5205 phrases shall have the meaning ascribed to them hereby, except
5206 where the context clearly describes and indicates a different
5207 meaning:

5208 (a) Person: Any individual, firm, copartnership, joint
5209 venture, association, corporation, estate, trust, or any other
5210 group or combination acting as a unit and the plural as well as
5211 the singular number unless the intention to give a more limited
5212 meaning is disclosed by the context.

5213 (b) Motor vehicle: A motor vehicle used, designed or
5214 maintained for transportation of persons or property and (i)
5215 having two (2) axles and a gross vehicle weight exceeding
5216 twenty-six thousand (26,000) pounds; (ii) having three (3) or more
5217 axles, regardless of weight; or being used in combination when the
5218 gross vehicle weight of such combination exceeds twenty-six
5219 thousand (26,000) pounds. The term "motor vehicle" does not
5220 include recreational vehicles.

5221 (c) Fuel: Any product which is used, or is capable of
5222 being used, for the generation of power for the operation of a
5223 motor vehicle.

5224 (d) Commission or department: The Department of
5225 Revenue, either acting directly or through its duly authorized
5226 officers, agents and employees.

5227 (e) Owner: A person who holds the legal title of a
5228 motor vehicle, or in the event a motor vehicle is the subject of
5229 an agreement for the conditional sale, lease or transfer of the
5230 possession, howsoever, thereof, with the right of purchase upon
5231 performance of conditions stated in the agreement, and with an
5232 immediate right of possession vested in the conditional vendee,



5233 lessee, possessor, or in the event such or similar transaction is
5234 had by means of a mortgage and the mortgagor of a motor vehicle is
5235 entitled to possession, then such conditional vendee, lessee,
5236 possessor or mortgagor shall be deemed the owner for the purposes
5237 of this chapter.

5238 (f) Highway: The entire width between boundary lines
5239 of every way in the state that is publicly maintained or any part
5240 of which is publicly maintained and is open or is to be opened to
5241 use by the public for the purpose of vehicular travel, including
5242 all streets and alleys in cities and towns.

5243 (g) Operator: Any person, partnership, joint stock
5244 company or corporation operating on the public highways of this
5245 state one or more motor vehicles as the beneficial owner or
5246 lessee.

5247 (h) Driver: Any person actually in control of, driving
5248 or operating a motor vehicle at any given time.

5249 (i) The terms "gross weight," "common carrier by motor
5250 vehicle," "contract carrier by motor vehicle," "private commercial
5251 carrier of property by motor vehicle," "private commercial carrier
5252 of passengers by motor vehicle," and "private carrier of property"
5253 shall, respectively, have the meaning ascribed to them in Sections
5254 27-19-1 through 27-19-167, Mississippi Code of 1972.

5255 (j) Retail dealer: Any person not licensed as a
5256 distributor who sells gasoline, special fuel, diesel fuel or
5257 compressed gas.

5258 (k) Motor carrier: Any person operating a motor
5259 vehicle, as defined in this section, on the highways of this
5260 state.

5261 (l) "Recreational vehicle" means vehicles such as motor
5262 homes, pickup trucks with attached campers, and buses when used
5263 exclusively for personal pleasure by an individual. In order to
5264 qualify as a recreational vehicle, the vehicle shall not be used
5265 in connection with any business endeavor.



5266 **SECTION 102.** Section 27-65-3, Mississippi Code of 1972, is
5267 amended as follows:

5268 27-65-3. The words, terms and phrases, when used in this
5269 chapter, shall have the meanings ascribed to them herein.

5270 (a) "Tax Commission" or "department" means the
5271 Department of Revenue of the State of Mississippi.

5272 (b) "Commissioner" means the Commissioner of Revenue of
5273 the Department of Revenue.

5274 (c) "Person" means and includes any individual, firm,
5275 copartnership, joint venture, association, corporation, promoter
5276 of a temporary event, estate, trust or other group or combination
5277 acting as a unit, and includes the plural as well as the singular
5278 in number. "Person" shall include husband or wife or both where
5279 joint benefits are derived from the operation of a business taxed
5280 hereunder. "Person" shall also include any state, county,
5281 municipal or other agency or association engaging in a business
5282 taxable under this chapter.

5283 (d) "Tax year" or "taxable year" means either the
5284 calendar year or the taxpayer's fiscal year.

5285 (e) "Taxpayer" means any person liable for or having
5286 paid any tax to the State of Mississippi under the provisions of
5287 this chapter. A taxpayer is required to obtain a sales tax permit
5288 under Section 27-65-27 before engaging in business in this state.
5289 If a taxpayer fails to obtain a sales tax permit before engaging
5290 in business in this state, the taxpayer shall pay the retail rate
5291 on all purchases of tangible personal property and/or services in
5292 this state, even if purchased for resale. Upon obtaining a sales
5293 tax permit, a previously unregistered taxpayer shall file sales
5294 tax returns for all tax periods during which he engaged in
5295 business in this state without a sales tax permit, and report and
5296 pay the sales tax accruing from his operation during this period
5297 and any applicable penalties and interest. On such return, the
5298 taxpayer may take a credit for any sales taxes paid during the



5299 period he operated without a sales tax permit on a purchase that
5300 would have constituted a wholesale sale if the taxpayer had a
5301 sales tax permit at the time of the purchase and if proper
5302 documentation exists to substantiate a wholesale sale. This
5303 credit may also be allowed in any audit of the taxpayer. Any
5304 penalties and interest owed by the taxpayer on the return or in an
5305 audit for a period during which he operated without a sales tax
5306 permit may be determined based on the sales tax accruing from the
5307 taxpayer's operation for that period after the taking of this
5308 credit.

5309 (f) "Sale" or "sales" includes the barter or exchange
5310 of property as well as the sale thereof for money or other
5311 consideration, and every closed transaction by which the title to
5312 taxable property passes shall constitute a taxable event.

5313 "Sale" shall also include the passing of title to property
5314 for a consideration of coupons, trading stamps or by any other
5315 means when redemption is subsequent to the original sale by which
5316 the coupon, stamp or other obligation was created.

5317 The situs of a sale for the purpose of distributing taxes to
5318 municipalities shall be the same as the location of the business
5319 from which the sale is made except that:

5320 (i) Retail sales along a route from a vehicle or
5321 otherwise by a transient vendor shall take the situs of delivery
5322 to the customer.

5323 (ii) The situs of wholesale sales of tangible
5324 personal property taxed at wholesale rates, the amount of which is
5325 allowed as a credit against the sales tax liability of the
5326 retailer, shall be the same as the location of the business of the
5327 retailer receiving the credit.

5328 (iii) The situs of wholesale sales of tangible
5329 personal property taxed at wholesale rates, the amount of which is
5330 not allowed as a credit against the sales tax liability of the
5331 retailer, shall have a rural situs.



5332 (iv) Income received from the renting or leasing
5333 of property used for transportation purposes between cities or
5334 counties shall have a rural situs.

5335 (g) "Delivery charges" shall mean and include any
5336 expenses incurred by a seller in acquiring merchandise for sale in
5337 the regular course of business commonly known as "freight-in" or
5338 "transportation costs-in." "Delivery charges" also include any
5339 charges made by the seller for delivery of property sold to the
5340 purchaser.

5341 (h) "Gross proceeds of sales" means the value
5342 proceeding or accruing from the full sale price of tangible
5343 personal property, including installation charges, carrying
5344 charges, or any other addition to the selling price on account of
5345 deferred payments by the purchaser, without any deduction for
5346 delivery charges, cost of property sold, other expenses or losses,
5347 or taxes of any kind except those expressly exempt by this
5348 chapter.

5349 "Gross proceeds of sales" includes consideration received by
5350 the seller from third parties if:

5351 (i) The seller actually received consideration
5352 from a party other than the purchaser and the consideration is
5353 directly related to a price reduction or discount on the sale;

5354 (ii) The seller has an obligation to pass the
5355 price reduction or discount through to the purchaser;

5356 (iii) The amount of the consideration attributable
5357 to the sale is fixed and determinable by the seller at the time of
5358 the sale of the item to the purchaser; and

5359 (iv) One (1) of the following criteria is met:

5360 1. The purchaser presents a coupon,
5361 certificate or other documentation to the seller to claim a price
5362 reduction or discount where the coupon, certificate or
5363 documentation is authorized, distributed or granted by a third
5364 party with the understanding that the third party will reimburse



5365 any seller to whom the coupon, certificate or documentation is
5366 presented;

5367 2. The purchaser identified himself or
5368 herself to the seller as a member of a group or organization
5369 entitled to a price reduction or discount (a "preferred customer"
5370 card that is available to any patron does not constitute
5371 membership in such a group); or

5372 3. The price reduction or discount is
5373 identified as a third-party price reduction or discount on the
5374 invoice received by the purchaser or on a coupon, certificate or
5375 other documentation presented by the purchaser.

5376 Where a trade-in is taken as part payment on tangible
5377 personal property sold, "gross proceeds of sales" shall include
5378 only the difference received between the selling price of the
5379 tangible personal property and the amount allowed for a trade-in
5380 of property of the same kind. When the trade-in is subsequently
5381 sold, the selling price thereof shall be included in "gross
5382 proceeds of sales."

5383 "Gross proceeds of sales" shall include the value of any
5384 goods, wares, merchandise or property purchased at wholesale or
5385 manufactured, and any mineral or natural resources produced, which
5386 are withdrawn or used from an established business or from the
5387 stock in trade for consumption or any other use in the business or
5388 by the owner. However, "gross proceeds of sales" does not include
5389 meals prepared by a restaurant and provided at no charge to
5390 employees of the restaurant or donated to a charitable
5391 organization that regularly provides food to the needy and the
5392 indigent and which has been granted exemption from the federal
5393 income tax as an organization described in Section 501(c)(3) of
5394 the Internal Revenue Code of 1986.

5395 "Gross proceeds of sales" shall not include bad check or
5396 draft service charges as provided for in Section 97-19-57.



5397 (i) "Gross income" means the total charges for service
5398 or the total receipts (actual or accrued) derived from trades,
5399 business or commerce by reason of the investment of capital in the
5400 business engaged in, including the sale or rental of tangible
5401 personal property, compensation for labor and services performed,
5402 and including the receipts from the sales of property retained as
5403 toll, without any deduction for rebates, cost of property sold,
5404 cost of materials used, labor costs, interest paid, losses or any
5405 expense whatever.

5406 "Gross income" shall also include the cost of property given
5407 as compensation when the property is consumed by a person
5408 performing a taxable service for the donor.

5409 However, "gross income" or "gross proceeds of sales" shall
5410 not be construed to include the value of goods returned by
5411 customers when the total sale price is refunded either in cash or
5412 by credit, or cash discounts allowed and taken on sales. Cash
5413 discounts shall not include the value of trading stamps given with
5414 a sale of property.

5415 (j) "Tangible personal property" means personal
5416 property perceptible to the human senses or by chemical analysis
5417 as opposed to real property or intangibles and shall include
5418 property sold on an installed basis which may become a part of
5419 real or personal property.

5420 (k) "Installation charges" shall mean and include the
5421 charge for the application of tangible personal property to real
5422 or personal property without regard to whether or not it becomes a
5423 part of the real property or retains its personal property
5424 classification. It shall include, but not be limited to, sales in
5425 place of roofing, tile, glass, carpets, drapes, fences, awnings,
5426 window air conditioning units, gasoline pumps, window guards,
5427 floor coverings, carports, store fixtures, aluminum and plastic
5428 siding, tombstones and similar personal property.

5429 (l) "Newspaper" means a periodical which:



5430 (i) Is not published primarily for advertising
5431 purposes and has not contained more than seventy-five percent
5432 (75%) advertising in more than one-half (1/2) of its issues during
5433 any consecutive twelve-month period excluding separate advertising
5434 supplements inserted into but separately identifiable from any
5435 regular issue or issues;

5436 (ii) Has been established and published
5437 continuously for at least twelve (12) months;

5438 (iii) Is regularly issued at stated intervals no
5439 less frequently than once a week, bears a date of issue, and is
5440 numbered consecutively; provided, however, that publication on
5441 legal holidays of this state or of the United States and on
5442 Saturdays and Sundays shall not be required, and failure to
5443 publish not more than two (2) regular issues in any calendar year
5444 shall not exclude a periodical from this definition;

5445 (iv) Is issued from a known office of publication,
5446 which shall be the principal public business office of the
5447 newspaper and need not be the place at which the periodical is
5448 printed and a newspaper shall be deemed to be "published" at the
5449 place where its known office of publication is located;

5450 (v) Is formed of printed sheets; provided,
5451 however, that a periodical that is reproduced by the stencil,
5452 mimeograph or hectograph process shall not be considered to be a
5453 "newspaper"; and

5454 (vi) Is originated and published for the
5455 dissemination of current news and intelligence of varied, broad
5456 and general public interest, announcements and notices, opinions
5457 as editorials on a regular or irregular basis, and advertising and
5458 miscellaneous reading matter.

5459 The term "newspaper" shall include periodicals which are
5460 designed primarily for free circulation or for circulation at
5461 nominal rates as well as those which are designed for circulation
5462 at more than a nominal rate.



5463 The term "newspaper" shall not include a publication or
5464 periodical which is published, sponsored by, is directly supported
5465 financially by, or is published to further the interests of, or is
5466 directed to, or has a circulation restricted in whole or in part
5467 to any particular sect, denomination, labor or fraternal
5468 organization or other special group or class or citizens.

5469 For purposes of this paragraph, a periodical designed
5470 primarily for free circulation or circulation at nominal rates
5471 shall not be considered to be a newspaper unless such periodical
5472 has made an application for such status to the department in the
5473 manner prescribed by the department and has provided to the
5474 department documentation satisfactory to the department showing
5475 that such periodical meets the requirements of the definition of
5476 the term "newspaper." However, if such periodical has been
5477 determined to be a newspaper under action taken by the department
5478 on or before April 11, 1996, such periodical shall be considered
5479 to be a newspaper without the necessity of applying for such
5480 status. A determination by the Department of Revenue that a
5481 publication is a newspaper shall be limited to the application of
5482 this chapter and shall not establish that the publication is a
5483 newspaper for any other purpose.

5484 (m) "MPC" or "Material Purchase Certificate" means a
5485 certificate for which a person that is liable for the tax levy
5486 under Section 27-65-21 can apply and obtain from the commissioner,
5487 and when issued, entitles the holder to purchase materials and
5488 services that are to become a component part of a structure to be
5489 erected or repaired with no tax due. Any person taxable under
5490 Section 27-65-21 who obtains an MPC for a project and purchases
5491 materials and services in this state that are to become a
5492 component part of a structure being erected or repaired in the
5493 project and at any time pays sales tax on these purchases may,
5494 after obtaining the MPC for the project, take a credit against his
5495 sales taxes for the sales tax paid on these purchases if proper



5496 documentation exists to substantiate the payment of the sales tax
5497 on the purchase of component materials and services. This credit
5498 may also be allowed in any audit of the taxpayer. Any penalties
5499 and interest owed by the taxpayer on the return or in the audit
5500 where this credit is taken may be determined based on the sales
5501 tax due after the taking of this credit.

5502 **SECTION 103.** Section 27-65-35, Mississippi Code of 1972, is
5503 amended as follows:

5504 27-65-35. If no return is made on or before the due date by
5505 any taxpayer required to make a return, the commissioner, as soon
5506 as practicable after the due date, shall make an assessment of
5507 taxes and damages from any information available, which shall be
5508 prima facie correct. The commissioner shall give written notice
5509 to the taxpayer of the tax and damages thus assessed and demand
5510 payment within sixty (60) days from the date of the notice. The
5511 notice shall be sent by mail to the taxpayer, or delivered by an
5512 agent of the commissioner either to the taxpayer or someone of
5513 suitable age and discretion at the taxpayer's place of business or
5514 residence. However, if the taxpayer shall file a return and pay
5515 the tax shown to be due within sixty (60) days from the date of
5516 the assessment, the return and payment shall be accepted in lieu
5517 of the assessment.

5518 **SECTION 104.** Section 27-65-37, Mississippi Code of 1972, is
5519 amended as follows:

5520 27-65-37. If adequate records of the gross income or gross
5521 proceeds of sales are not maintained or invoices preserved as
5522 provided herein, or if an audit of the records of a taxpayer, or
5523 any return filed by him, or any other information discloses that
5524 taxes are due and unpaid, the commissioner shall make assessments
5525 of taxes, damages, and interest from any information available,
5526 which shall be prima facie correct. The commissioner shall give
5527 notice to the taxpayer of such assessments and demand payment of
5528 the tax, damages and interest within sixty (60) days from the



5529 date * * * of the notice. The notice shall be sent by certified
5530 or registered mail or delivered by an agent of the commissioner
5531 either to the taxpayer or someone of suitable age and discretion
5532 at the taxpayer's residence or place of business.

5533 If the taxpayer shall fail or refuse to comply with the
5534 notice of assessment or shall fail to petition for a hearing, the
5535 commissioner shall proceed as provided in Section 27-65-39.

5536 **SECTION 105.** Section 27-65-87, Mississippi Code of 1972, is
5537 amended as follows:

5538 27-65-87. The administration of this chapter is vested in
5539 and shall be exercised by the Commissioner of Revenue of the
5540 Department of Revenue, except as otherwise herein provided, and
5541 the enforcement of any of the provisions of this chapter in any of
5542 the courts of the state shall be under the exclusive jurisdiction
5543 of the Commissioner of Revenue of the Department of Revenue who
5544 may require the assistance of an act through the Attorney General,
5545 prosecuting attorney of any county, or any district attorney, or
5546 any attorney for the Department of Revenue, and may with the
5547 assent of the Governor, employ special counsel in any county to
5548 aid the prosecuting attorney, the compensation of whom shall be
5549 fixed by and paid only upon the approval of the Governor; but the
5550 Attorney General, district attorney or prosecuting attorney of any
5551 county shall receive no fees or compensation for services rendered
5552 in enforcing this chapter in addition to the salary paid to such
5553 officer.

5554 In case of violation of the provisions of this chapter, the
5555 commissioner may decline to prosecute for the first offense, if in
5556 his judgment such violation is not willful or flagrant.

5557 **SECTION 106.** Section 27-65-89, Mississippi Code of 1972, is
5558 amended as follows:

5559 27-65-89. The Commissioner of Revenue of the Department of
5560 Revenue shall appoint, as needed, such deputies, agents, clerks
5561 and stenographers as authorized by law, who shall serve under him,



5562 and shall perform such duties as may be required by the
5563 commissioner, including the signing of notices, warrants and such
5564 other documents as may be specifically designated by the
5565 commissioner, not inconsistent with this chapter, and they are
5566 hereby authorized to act for the commissioner, as he may prescribe
5567 and as provided herein. All of such agents, clerks and
5568 stenographers may be removed by the Commissioner of Revenue of the
5569 Department of Revenue for cause of which the commissioner shall be
5570 the final judge.

5571 **SECTION 107.** Section 27-67-3, Mississippi Code of 1972, is
5572 amended as follows:

5573 27-67-3. Whenever used in this article, the words, phrases
5574 and terms shall have the meaning ascribed to them as follows:

5575 (a) "Tax Commission" or "department" means the
5576 Department of Revenue of the State of Mississippi.

5577 (b) "Commissioner" means the Commissioner of Revenue of
5578 the Department of Revenue.

5579 (c) "Person" means any individual, firm, partnership,
5580 joint venture, association, corporation, estate, trust, receiver,
5581 syndicate or any other group or combination acting as a unit and
5582 includes the plural as well as the singular in number. "Person"
5583 shall also include husband or wife, or both, where joint benefits
5584 are derived from the operation of a business taxed hereunder or
5585 where joint benefits are derived from the use of property taxed
5586 hereunder.

5587 (d) "Taxpayer" means any person liable for the payment
5588 of any tax hereunder, or liable for the collection and payment of
5589 the tax.

5590 (e) "Sale" or "purchase" means the exchange of
5591 properties for money or other consideration, and the barter of
5592 properties. Every closed transaction by which title to, or
5593 possession of, tangible personal property passes shall constitute
5594 a taxable event. A transaction whereby the possession of property



5595 is transferred but the seller retains title as security for
5596 payment of the selling price shall be deemed a sale.

5597 (f) "Purchase price" or "sales price" means the total
5598 amount for which tangible personal property is purchased or sold,
5599 valued in money, including any additional charges for deferred
5600 payment, installation and service charges, and freight charges to
5601 the point of use within this state, without any deduction for cost
5602 of property sold, expenses or losses, or taxes of any kind except
5603 those exempt by the sales tax law. "Purchase price" or "sales
5604 price" shall not include cash discounts allowed and taken or
5605 merchandise returned by customers when the total sales price is
5606 refunded either in cash or by credit, and shall not include
5607 amounts allowed for a trade-in of similar property.

5608 (g) "Lease" or "rent" means any agreement entered into
5609 for a consideration that transfers possession or control of
5610 tangible personal property to a person for use within this state.

5611 (h) "Value" means the estimated or assessed monetary
5612 worth of a thing or property. The value of property transferred
5613 into this state for sales promotion or advertising shall be an
5614 amount not less than the cost paid by the transferor or donor.
5615 The value of property which has been used in another state shall
5616 be determined by its cost less straight line depreciation provided
5617 that value shall never be less than twenty percent (20%) of the
5618 cost or other method acceptable to the commissioner. On property
5619 imported by the manufacturer thereof for rental or lease within
5620 this state, value shall be the manufactured cost of the property
5621 and freight to the place of use in Mississippi.

5622 (i) "Tangible personal property" means personal
5623 property perceptible to the human senses or by chemical analysis,
5624 as opposed to real property or intangibles. "Tangible personal
5625 property" shall include printed, mimeographed, multigraphed
5626 matter, or material reproduced in any other manner, and books,
5627 catalogs, manuals, publications or similar documents covering the



5628 services of collecting, compiling or analyzing information of any
5629 kind or nature. However, reports representing the work of persons
5630 such as lawyers, accountants, engineers and similar professionals
5631 shall not be included. "Tangible personal property" shall also
5632 include tangible advertising or sales promotion materials such as,
5633 but not limited to, displays, brochures, signs, catalogs, price
5634 lists, point of sale advertising materials and technical manuals.
5635 Tangible personal property shall also include computer software
5636 programs.

5637 (j) "Person doing business in this state," "person
5638 maintaining a place of business within this state," or any similar
5639 term means any person having within this state an office, a
5640 distribution house, a salesroom or house, a warehouse, or any
5641 other place of business, or owning personal property located in
5642 this state used by another person, or installing personal property
5643 in this state. This definition also includes any person selling
5644 or taking orders for any tangible personal property, either
5645 personally, by mail or through an employee representative,
5646 salesman, commission agent, canvasser, solicitor or independent
5647 contractor or by any other means from within the state.

5648 Any person doing business under the terms of the article by
5649 reason of coming under any one or more of the qualifying
5650 provisions listed above shall be considered as doing business on
5651 all transactions involving sales to persons within this state.

5652 (k) "Use" or "consumption" means the first use or
5653 intended use within this state of tangible personal property and
5654 shall include rental or loan by owners or use by lessees or other
5655 persons receiving benefits from use of the property. "Use" or
5656 "consumption" shall include the benefit realized or to be realized
5657 by persons importing or causing to be imported into this state
5658 tangible advertising or sales promotion materials.

5659 (l) "Storage" means keeping tangible personal property
5660 in this state for subsequent use or consumption in this state.



5661 **SECTION 108.** Section 27-67-503, Mississippi Code of 1972, is
5662 amended as follows:

5663 27-67-503. Whenever used in this article, the following
5664 words and terms shall have the definition and meaning herein
5665 prescribed unless the intention of giving a more limited meaning
5666 is disclosed by the context:

5667 (a) "Tax commission" or "department" shall mean the
5668 Department of Revenue of the State of Mississippi.

5669 (b) "Commissioner" shall mean the Commissioner of
5670 Revenue of the Department of Revenue.

5671 (c) "Person" shall include a natural person, firm,
5672 corporation, copartnership, joint venture, association, estate or
5673 any other group or combination acting as a unit and the plural as
5674 well as the singular thereof.

5675 (d) "Taxpayer" shall mean any person liable for the tax
5676 hereunder.

5677 (e) "Sale" or "purchase" shall include the barter or
5678 exchange of properties as well as the sale or purchase thereof for
5679 money, and every closed transaction by which the title to tangible
5680 property passes, either within or without this state, shall
5681 constitute a taxable event, whether compensation shall be money or
5682 service or some other thing of value.

5683 (f) "Purchase price" or "sales price" shall mean the
5684 total amount for which tangible personal property is purchased or
5685 sold, valued in money, whether paid in money or merchandise;
5686 provided that cash discounts allowed and taken shall not be
5687 included.

5688 (g) "Tangible personal property" shall mean tangible
5689 goods, wares and merchandise when sold, purchased or delivered
5690 within this state.

5691 (h) "Salesman" or "salesmen" shall mean and include any
5692 and all persons engaged in the itinerant solicitation and taking
5693 of orders for tangible personal property by use of the highways of



5694 this state for subsequent delivery to retailers or consumers
5695 within this state.

5696 **SECTION 109.** Section 27-68-3, Mississippi Code of 1972, is
5697 amended as follows:

5698 27-68-3. As used in this chapter:

5699 (a) "Agreement" means the Streamlined Sales and Use Tax
5700 Agreement.

5701 (b) "Certified Automated System" means software
5702 certified jointly by the states that are signatories to the
5703 agreement to calculate the tax imposed by each jurisdiction on a
5704 transaction, determine the amount of tax to remit to the
5705 appropriate state, and maintain a record of the transaction.

5706 (c) "Certified Service Provider" means an agent
5707 certified jointly by the states that are signatories to the
5708 agreement to perform all of the seller's sales tax functions.

5709 (d) "Person" means an individual, trust, estate,
5710 fiduciary, partnership, limited liability company, limited
5711 liability partnership, corporation, or any other legal entity.

5712 (e) "Sales tax" means the tax levied under Chapter 65,
5713 Title 27, Mississippi Code of 1972.

5714 (f) "Seller" means any person making sales, leases, or
5715 rentals of personal property or services.

5716 (g) "State" means any state of the United States and
5717 the District of Columbia.

5718 (h) "State Tax Commission" or "department" means the
5719 Department of Revenue.

5720 (i) "Use tax" means the tax levied under Chapter 67,
5721 Title 27, Mississippi Code of 1972.

5722 **SECTION 110.** Section 27-69-3, Mississippi Code of 1972, is
5723 amended as follows:

5724 27-69-3. When used in this chapter:



5725 (a) "State" means the State of Mississippi as
5726 geographically defined, and any and all waters under the
5727 jurisdiction of the State of Mississippi.

5728 (b) "State Auditor" means the Auditor of Public
5729 Accounts of the State of Mississippi, or his legally appointed
5730 deputy, clerk or agent.

5731 (c) "Commissioner" means the Commissioner of Revenue of
5732 the Department of Revenue, and his authorized agents and
5733 employees.

5734 (d) "Person" means any individual, company,
5735 corporation, partnership, association, joint venture, estate,
5736 trust, or any other group, or combination acting as a unit, and
5737 the plural as well as the singular, unless the intention to give a
5738 more limited meaning is disclosed by the context.

5739 (e) "Consumer" means a person who comes into possession
5740 of tobacco for the purpose of consuming it, giving it away, or
5741 disposing of it in any way by sale, barter or exchange.

5742 (f) "Tobacco" means any cigarettes, cigars, cheroots,
5743 stogies, smoking tobacco (including granulated, plug cut, crimp
5744 cut, ready rubbed, and other kinds and forms of tobacco, or
5745 substitutes therefor, prepared in such manner as to be suitable
5746 for smoking in a pipe or cigarette) and including plug and twist
5747 chewing tobacco and snuff, when such "tobacco" is manufactured and
5748 prepared for sale or personal consumption. All words used herein
5749 shall be given the meaning as defined in the regulations of the
5750 Treasury Department of the United States of America.

5751 (g) "First sale" means and includes the first sale, or
5752 distribution of such tobacco in intrastate commerce, or the first
5753 use or consumption of such tobacco within this state.

5754 (h) "Drop shipment" means and includes any delivery of
5755 tobacco received by any person within this state, when payment for
5756 such tobacco is made to the shipper, or seller by or through a
5757 person other than a consignee.



5758 (i) "Distributor" includes every person, except
5759 retailers as defined herein, in the state who manufactures or
5760 produces tobacco or who ships, transports, or imports into this
5761 state, or in any manner acquires or possesses tobacco, and makes a
5762 first sale of the same in the state.

5763 (j) "Wholesaler" includes dealers, whose principal
5764 business is that of a wholesale dealer or jobber, who is known to
5765 the retail trade as such, and whose place of business is located
5766 in Mississippi or in a state which affords reciprocity to
5767 wholesalers domiciled in Mississippi, who shall sell any taxable
5768 tobacco to retail dealers only for the purpose of resale.

5769 (k) "Retailer" includes every person, other than a
5770 wholesale dealer, as defined above, whose principal business is
5771 that of selling merchandise at retail, who shall sell, or offer
5772 for sale tobacco to the consumer. The sale of tobacco in quantity
5773 lots by retailers to other retailers, transient vendors, or other
5774 persons, shall not be construed as wholesale and shall not qualify
5775 such retailer for a permit as a wholesaler.

5776 (l) "Dealer" includes every person, firm, corporation
5777 or association of persons, except retailers as defined herein, who
5778 manufacture tobacco for distribution, for sale, for use or for
5779 consumption in the State of Mississippi.

5780 The word "dealer" is further defined to mean any person,
5781 firm, corporation or association of persons, except retailers as
5782 defined herein, who imports tobacco from any state or foreign
5783 country for distribution, sale, use, or consumption in the State
5784 of Mississippi.

5785 (m) "Distributing agent" includes every person in the
5786 state who acts as an agent of any person outside the State of
5787 Mississippi, by receiving tobacco in interstate commerce, and
5788 storing such tobacco in this state subject to distribution, or
5789 delivery upon order from the person outside the state to
5790 distributors, wholesalers, retailers and dealers.



5791 (n) "Transient vendor" means and includes every person
5792 commonly and generally termed "peddlers" and every person acting
5793 for himself, or as an agent, employee, salesman, or in any
5794 capacity for another, whether as owner, bailee, or other custodian
5795 of tobacco, and going from person to person, dealer to dealer,
5796 house to house, or place to place, and selling or offering for
5797 sale at retail or wholesale tobacco, and every person who does not
5798 keep a regular place of business open at all times in regular
5799 hours, and every person who goes from person to person, dealer to
5800 dealer, house to house, or place to place, and sells or offers for
5801 sale tobacco which he carries with him, and who delivers the same
5802 at the time of, or immediately after the sale, or without
5803 returning to the place of business operations (a permanent place
5804 of business within the state) between the taking of the order and
5805 the delivery of the tobacco, or

5806 All persons who go from person to person, house to house,
5807 place to place, or dealer to dealer, soliciting orders by
5808 exhibiting samples, or taking orders, and thereafter making
5809 delivery of tobacco, or filling the order without carrying or
5810 sending the order to the permanent place of business, and
5811 thereafter making delivery of the tobacco pursuant to the terms of
5812 the order, or

5813 All persons who go from person to person, place to place,
5814 house to house, or dealer to dealer, carrying samples and selling
5815 tobacco from samples, and afterwards making delivery without
5816 taking and sending an order therefor to a permanent place of
5817 business for the filling of the order, and delivery of the
5818 tobacco, or the exchange of tobacco having become damaged or
5819 unsalable, or the purchase by tobacco of advertising space, or

5820 All persons who have in their possession, or under their
5821 control, any tobacco offered, or to be offered for sale or to be
5822 delivered, unless the sale or delivery thereof is to be made in



5823 pursuance of a bona fide order for the tobacco, to be sold or
5824 delivered, the order to be evidenced by an invoice or memorandum.

5825 (o) "Contraband tobacco" means all tobacco found in the
5826 possession of any person whose permit to engage in dealing in
5827 tobacco has been revoked by the commissioner; and any cigarettes
5828 found in the possession of any person to which the proper tax
5829 stamps have not been affixed; and any cigarettes improperly
5830 stamped when found in the possession of any person; and all other
5831 tobacco upon which the excise tax has not been paid.

5832 (p) "Sale" means an exchange for money or goods, giving
5833 away, or distributing any tobacco as defined in this chapter.

5834 (q) "Forty-eight (48) hours" and "seventy-two (72)
5835 hours" means two (2) calendar days and three (3) calendar days,
5836 respectively, excluding Sundays and legal holidays.

5837 (r) "Stamp" or "stamping," or the import of such word,
5838 when used in this chapter, means any manner of stamp or impression
5839 permitted by the commissioner that carries out the purposes of the
5840 chapter in clearly indicating upon the packages of cigarettes
5841 taxed the due payment of the tax and clearly identifying, by
5842 serial number or otherwise, the permittee who affixed the stamp to
5843 the particular package.

5844 (s) "Manufacturer's list price" means the full sales
5845 price at which tobacco is sold or offered for sale by a
5846 manufacturer to the wholesaler or distributor in this state
5847 without any deduction for freight, trade discount, cash discounts,
5848 special discounts or deals, cash rebates, or any other reduction
5849 from the regular selling price. In the event freight charges on
5850 shipments to wholesalers or distributors are not paid by the
5851 manufacturer, then such freight charges required to be paid by the
5852 wholesalers and distributors shall be added to the amount paid to
5853 the manufacturer in order to determine "manufacturer's list
5854 price." In the case of a wholesaler or distributor whose place of
5855 business is located outside this state, the "manufacturer's list



5856 price" for tobacco sold in this state by such wholesaler or
5857 distributor shall in all cases be considered to be the same as
5858 that of a wholesaler or distributor located within this state.

5859 **SECTION 111.** Section 27-71-1, Mississippi Code of 1972, is
5860 amended as follows:

5861 27-71-1. This article and the terms and provisions hereof
5862 shall be administered and enforced by the Department of Revenue,
5863 hereinafter referred to as the "State Tax Commission," the
5864 "commission" or the "department".

5865 **SECTION 112.** Section 27-71-301, Mississippi Code of 1972, is
5866 amended as follows:

5867 27-71-301. When used in this article the words and terms
5868 hereafter mentioned shall have the following definitions:

5869 (a) "State Auditor" means the State Auditor of Public
5870 Accounts of the State of Mississippi or any legally appointed
5871 deputy, clerk or agent.

5872 (b) "Person" includes all natural persons or
5873 corporations, a partnership, an association, a joint venture, an
5874 estate, a trust, or any other group or combination acting as a
5875 unit and shall include the plural as well as the singular unless
5876 an intention to give another meaning thereto is disclosed in the
5877 context.

5878 (c) "Consumer" means a person who comes into the
5879 possession of beer or light wine, the sale of which is authorized
5880 by Chapter 3 of Title 67, Mississippi Code of 1972, for the
5881 purpose of consuming it, giving it away or otherwise disposing of
5882 it in any manner except by sale, barter or exchange.

5883 (d) "Retailer" means any person who comes into the
5884 possession of such light wines or beer for the purpose of selling
5885 it to the consumer, or giving it away, or exposing it where it may
5886 be taken or purchased or acquired in any other manner by the
5887 consumer.



5888 (e) "Wholesaler" means any person who comes into
5889 possession of such light wine or beer for the purpose of selling,
5890 distributing, or giving it away to retailers or other wholesalers
5891 or dealers inside or outside of this state.

5892 (f) "Commissioner" means the Commissioner of Revenue of
5893 the Department of Revenue or his duly appointed agents or
5894 employees.

5895 (g) "Sale" includes the exchange of such light wines or
5896 beer for money, or giving away or distributing any such light
5897 wines or beer for anything of value.

5898 (h) "Light wines or beer" means beer and light wines
5899 legalized for sale by the provisions of Chapter 3 of Title 67,
5900 Mississippi Code of 1972.

5901 (i) "Distributor" includes every person who receives
5902 either from within or from without this state, from a brewery, a
5903 winery or any other source, light wines or beer as defined in
5904 Chapter 3 of Title 67, Mississippi Code of 1972, for the purpose
5905 of distributing or otherwise disposing of such light wines or beer
5906 to a wholesaler or retailer of such light wines or beer.

5907 (j) "Brewpub" means the premises of any restaurant, as
5908 defined in Section 67-1-5, Mississippi Code of 1972, in which
5909 light wine or beer is manufactured or brewed, subject to the
5910 production limitation imposed in Section 67-3-22, for consumption
5911 exclusively on the premises. "Premises," for the purpose of this
5912 paragraph (j) for a brewpub operated by a hospitality operator,
5913 means only those areas immediately adjacent and connected to the
5914 brewing facility where food is normally sold and consumed.
5915 "Premises," for the purposes of this paragraph (j) for a brewpub
5916 not operated by a hospitality operator, means those areas normally
5917 used by the brewpub to conduct business and shall include the
5918 selling areas, brewing areas and storage areas. For purposes of
5919 this paragraph (j), hospitality operator shall have the meaning
5920 ascribed to such term in Section 67-33-22.



5921 (k) "Hospitality cart" means a mobile cart from which
5922 alcoholic beverages and light wine and beer are sold on a golf
5923 course and for which a hospitality cart permit has been issued
5924 under Section 67-1-51.

5925 **SECTION 113.** Section 27-77-1, Mississippi Code of 1972, is
5926 amended as follows:

5927 27-77-1. As used in this chapter:

5928 (a) "Agency" means the commissioner acting directly or
5929 through his duly authorized officers, agents, representatives and
5930 employees, to perform duties and powers prescribed by the laws of
5931 this state to be performed by the * * * Commissioner of Revenue or
5932 the Department of Revenue * * *.

5933 (b) "Board of review" means the board of review of the
5934 Department of Revenue as appointed by the commissioner under
5935 Section 27-77-3, and also means a panel of the board of review
5936 when an appeal is considered by a panel of the board of review
5937 instead of the board of review en banc.

5938 (c) "Board of Tax Appeals" means the Board of Tax
5939 Appeals as created under Section 1 of this act * * *.

5940 (d) "Chairman" means the Chairman of the Board of Tax
5941 Appeals.

5942 (e) "Commissioner" means the Commissioner of the
5943 Department of Revenue.

5944 (f) "Denial" means the final decision of the staff of
5945 the agency to deny the claim, request for waiver or application
5946 being considered. In this context, staff of the agency does not
5947 include the board of review or the Board of Tax Appeals. "Denial"
5948 does not mean the act of returning or refusing to consider a
5949 claim, request for waiver or application for permit, IFTA license,
5950 title or tag by the staff of the agency due to a lack of
5951 information and/or documentation unless the return or refusal is
5952 in response to a representation by the person who filed the claim,
5953 request for waiver or application in issue that information and/or



5954 documentation indicated by the staff of the agency to be lacking
5955 cannot or will not be provided.

5956 (g) "Designated representative" means an individual who
5957 represents a person in an administrative appeal before a hearing
5958 officer of the agency, before the board of review or before the
5959 Board of Tax Appeals.

5960 (h) "Executive director" means the Executive Director
5961 of the Board of Tax Appeals.

5962 (i) "IFTA license" means a permit, license or decal
5963 which the agency is authorized to issue or revoke under the
5964 Interstate Commercial Carriers Motor Fuel Tax Law (Section 27-61-1
5965 et seq.) or the International Fuel Tax Agreement.

5966 (j) "IFTA licensee" means a person holding the IFTA
5967 license, applying for an IFTA license or renewing an IFTA license.

5968 (k) "Last known address" when referring to the mailing
5969 of a notice of intent to suspend, revoke or to order the surrender
5970 and/or seizure of the permit, IFTA license, tag or title or to the
5971 mailing of a denial of permit, tag or title, means the last
5972 mailing address of the person being sent the notice as it appears
5973 on the record of the agency in regard to the permit, IFTA license,
5974 tag or title in issue. All other references to "last known
5975 address" in this chapter mean the official mailing address that
5976 the hearing officer, the board of review or the executive director
5977 has for the addressee in their file on the administrative appeal
5978 in which the document or item is being mailed to the addressee.
5979 The addressee is presumed to have received any document or item
5980 mailed to his official mailing address. The commissioner, by
5981 regulation, shall prescribe the procedure for establishing an
5982 official mailing address in the administrative appeal process for
5983 appeals before an administrative hearing officer or the Board of
5984 Review of the Department of Revenue and the procedure for changing
5985 that official mailing address. The Board of Tax Appeals, by
5986 regulation, shall prescribe the procedure for establishing an



5987 official mailing address in the administrative appeal process
5988 before that board and the procedure for changing that official
5989 mailing address. It is the responsibility of the addressee to
5990 make sure that his official mailing address is correct.

5991 (l) "Mail," "mailed" or "mailing" means placing the
5992 document or item referred to in first-class United States mail,
5993 postage prepaid, addressed to the person to whom the document or
5994 item is to be sent at the last known address of that person.
5995 Where a person is represented in an administrative appeal before a
5996 hearing officer, the board of review or the Board of Tax Appeals
5997 by a designated representative, the terms "mail," "mailed" or
5998 "mailing" when referring to sending a document or item to that
5999 person shall also mean placing the document or item referred to in
6000 first-class United States mail, postage prepaid, to the last known
6001 address of that person's designated representative. Mailing to
6002 the designated representative of a taxpayer, permittee, IFTA
6003 licensee, tag holder or title interest holder shall constitute
6004 mailing and notice to the taxpayer, permittee, IFTA licensee, tag
6005 holder or title interest holder.

6006 (m) "Permit" means a type of license or permit that the
6007 agency is authorized to issue, suspend or revoke, such as a sales
6008 tax permit, a beer permit, a tobacco permit, a dealer license, or
6009 designated agent status, but does not include:

6010 (i) Any type of permit issued under the Local
6011 Option Alcoholic Beverage Control Law, Section 67-1-1 et seq. or
6012 under the Mississippi Native Wine Law of 1976, Section 67-5-1 et
6013 seq.; or

6014 (ii) An IFTA license.

6015 (n) "Permittee" means a person holding a permit,
6016 applying for a permit or renewing a permit.

6017 (o) "Person" means a natural person, partnership,
6018 limited partnership, corporation, limited liability company,
6019 estate, trust, association, joint venture, other legal entity or



6020 other group or combination acting as a unit, and includes the
6021 plural as well as the singular in number. "Person" includes the
6022 state, county, municipal, other political subdivision and any
6023 agency, institution or instrumentality thereof, but only when used
6024 in the context of a taxpayer, permittee, IFTA license, tag holder
6025 or title interest holder.

6026 (p) "Refund claim" means a claim made in writing by a
6027 taxpayer and received by the agency wherein the taxpayer indicates
6028 that he overpaid taxes to the agency and requests a refund of the
6029 overpayment and/or a credit against current or future taxes for
6030 the overpayment.

6031 (q) "Resident," when used to describe a taxpayer or
6032 petitioner, means a natural person whose residence and place of
6033 abode is within the State of Mississippi.

6034 (r) "Tag" means a type of license tag or plate for a
6035 motor vehicle or trailer that the agency is authorized under the
6036 Mississippi Motor Vehicle Privilege Tax Law, Section 27-19-1 et
6037 seq., or under the Motor Vehicle Dealer Tag Permit Law, Section
6038 27-19-301 et seq., to issue or approve before issuance, but does
6039 not include other types of license tags or plates issued by the
6040 county tax collectors except for personalized license tags and
6041 only to the extent that the agency determines under Section
6042 27-19-48 that a personalized license tag applied for is considered
6043 obscene, slandering, insulting or vulgar in ordinary usage or
6044 demands the surrender or orders the seizure of the tag where
6045 issued in error.

6046 (s) "Tag holder" means the person in whose name a tag
6047 is registered or the person applying for a tag.

6048 (t) "Tag penalty" means the penalties imposed under
6049 Sections 27-19-63 and 27-51-43 for any delinquency in the payment
6050 of motor vehicle privilege tax and ad valorem tax on a motor
6051 vehicle which can be waived by the agency for good reason shown.
6052 Pursuant to Section 27-51-103, imposition of this ad valorem tag



6053 penalty at the maximum rate of twenty-five percent (25%) also
6054 results in ineligibility for the credit against motor vehicle ad
6055 valorem taxes provided by that statute. Waiver of the twenty-five
6056 percent (25%) delinquency penalty by the agency under Section
6057 27-51-43 shall reinstate credit eligibility.

6058 (u) "Tax" means a tax, fee, penalty and/or interest
6059 which the agency is required by either general law or by local and
6060 private law to administer, assess and collect.

6061 (v) "Taxpayer" means a person who is liable for or paid
6062 any tax to the agency.

6063 (w) "Title" means a title to a motor vehicle or
6064 manufactured housing issued by the agency under the Mississippi
6065 Motor Vehicle Title Law, Section 63-21-1 et seq.

6066 (x) "Title interest holder" shall mean the owner or
6067 lienholder in a motor vehicle or manufactured housing as indicated
6068 on a title issued by the agency or as indicated on an application
6069 to the agency for the issuance of a title.

6070 **SECTION 114.** Section 27-77-5, Mississippi Code of 1972, is
6071 amended as follows:

6072 27-77-5. (1) Any taxpayer aggrieved by an assessment of tax
6073 by the agency, by the agency's denial of a refund claim, or by the
6074 denial of a waiver of tag penalty, and who wishes to contest the
6075 action of the agency shall, within sixty (60) days from the date
6076 of the action, file an appeal in writing with the board of review
6077 requesting a hearing and correction of the contested action
6078 specifying in detail the relief requested and any other
6079 information that might be required by regulation. Even after an
6080 appeal is filed with the board of review, the agency retains the
6081 authority to change the assessment, the denial of refund claim or
6082 the denial of tag penalty being appealed.

6083 (2) Upon receipt of a timely written appeal from a tax
6084 assessment, refund claim denial or denial of waiver of a tag
6085 penalty, a hearing shall be scheduled before the board of review



6086 unless it is determined that the relief requested in the written
6087 appeal should be granted without a hearing. A notice of the
6088 hearing shall be mailed to the taxpayer advising the taxpayer of
6089 the date, time and location of the hearing. The taxpayer or his
6090 designated representative shall attend the hearing unless a
6091 request is made to, and granted by, the board of review to allow
6092 the taxpayer to submit his position in writing or by electronic
6093 transmission in lieu of attendance. Failure of the taxpayer or
6094 his designated representative to attend a hearing or to submit his
6095 position in writing or by electronic transmission by the date
6096 specified by the board of review or by the hearing date, if no
6097 date was specified, shall constitute a withdrawal of the appeal.

6098 (3) At a hearing before the board of review on a tax
6099 assessment, denial of refund claim, or denial of waiver of a tag
6100 penalty, the board of review shall try the issues presented,
6101 according to law and the facts and within the guidelines
6102 established by regulation. The hearing before the board of review
6103 shall be informal and no official transcript will be made of the
6104 hearing. At the earliest practical date after the hearing, the
6105 members of the board of review that heard the appeal shall make a
6106 determination on the matter presented and notify the taxpayer of
6107 its findings by mailing a copy of its order to the taxpayer. If
6108 the order involves the appeal of a denial of a waiver of tag
6109 penalty, a copy of the order shall also be mailed to the tax
6110 collector that imposed the penalty. If in the order the board of
6111 review orders the taxpayer to pay a tax assessment, the taxpayer
6112 shall, within sixty (60) days from the date of the order, pay the
6113 amount ordered to be paid or appeal the order of the board of
6114 review to the Board of Tax Appeals. After the sixty-day period,
6115 if an appeal is not filed by the taxpayer with the Executive
6116 Director of the Board of Tax Appeals and the tax determined by the
6117 board of review * * * is not paid * * *, the agency shall proceed



6118 to collect the tax assessment as determined by the board of
6119 review.

6120 (4) Any taxpayer aggrieved by an order of the board of
6121 review affirming a tax assessment, the denial of a refund claim,
6122 or the denial of a waiver of tag penalty, and who wishes to
6123 contest the order shall, within sixty (60) days from the date of
6124 the order of the board of review being contested, file an appeal
6125 to the Board of Tax Appeals. The appeal shall be in writing and
6126 shall request a hearing and reversal or modification of the order
6127 of the board of review, specify in detail the relief requested and
6128 contain any other information that might be required by
6129 regulation, and be filed with the executive director. At the time
6130 of filing his appeal with the executive director, the taxpayer
6131 shall also file a copy of his written appeal with the board of
6132 review. Even after an appeal is filed with the Executive Director
6133 of the Board of Tax Appeals, the board of review retains the
6134 authority to amend and/or correct the order being appealed at any
6135 time prior to a decision by the Board of Tax Appeals on the
6136 appeal. Failure to timely file a written appeal with the
6137 executive director within the sixty-day period shall make the
6138 order of the board of review final and not subject to further
6139 review by the Board of Tax Appeals or a court, other than as to
6140 the issue of whether a written appeal from the order of the board
6141 of review was timely filed with the executive director.

6142 (5) Upon receipt of a written appeal from an order of the
6143 board of review affirming a tax assessment, refund claim denial or
6144 denial of waiver of a tag penalty, the executive director shall
6145 schedule a hearing before the Board of Tax Appeals on the appeal.
6146 A notice of this hearing shall be mailed to the taxpayer and the
6147 agency advising them of the date, time and location of hearing.
6148 The taxpayer or his designated representative shall attend the
6149 hearing unless a request is made to and granted by the Executive
6150 Director of the Board of Tax Appeals to allow the taxpayer to



6151 submit his position in writing or by electronic transmission in
6152 lieu of attendance. Failure of the taxpayer or his designated
6153 representative to attend a hearing or to submit his position in
6154 writing or by electronic transmission by the date specified by the
6155 executive director or by the hearing date, if no date was
6156 specified, shall constitute a withdrawal of the appeal.

6157 (6) At any hearing before the Board of Tax Appeals on an
6158 appeal of an order of the board of review affirming a tax
6159 assessment, refund claim denial or denial of waiver of a tag
6160 penalty, two (2) members of the Board of Tax Appeals shall
6161 constitute a quorum. At the hearing, the Board of Tax Appeals
6162 shall try the issues presented, according to the law and the facts
6163 and pursuant to any guidelines established by regulation. The
6164 rules of evidence shall be relaxed at the hearing. Any appeal to
6165 chancery court from an order of the Board of Tax Appeals resulting
6166 from this type of hearing shall include a full evidentiary
6167 judicial hearing on the issues presented. No official transcript
6168 shall be made of this hearing before the Board of Tax Appeals.
6169 After reaching a decision on the issues presented, the Board of
6170 Tax Appeals shall enter its order setting forth its findings and
6171 decision on the appeal. A copy of the order of the Board of Tax
6172 Appeals shall be mailed to the taxpayer and the agency. If the
6173 order involves an appeal of a denial of a waiver of tag penalty, a
6174 copy of the order shall also be mailed to the tax collector that
6175 imposed the penalty.

6176 (7) If in its order the Board of Tax Appeals orders a
6177 taxpayer to pay a tax assessment, the taxpayer shall, within sixty
6178 (60) days from the date of the order, pay the amount ordered to be
6179 paid or properly appeal the order of the Board of Tax Appeals to
6180 chancery court as provided in Section 27-77-7. After the
6181 sixty-day period, if the tax determined by the Board of Tax
6182 Appeals to be due is not paid and an appeal from the Board of Tax
6183 Appeals order has not been properly filed, the agency shall



6184 proceed to collect the tax assessment as affirmed by the Board of
6185 Tax Appeals. If in its order the Board of Tax Appeals determines
6186 that the taxpayer has overpaid his taxes and an appeal from the
6187 board of review order has not been properly filed in chancery
6188 court, the agency shall refund or credit to the taxpayer, as
6189 provided by law, the amount of overpayment as determined and set
6190 out in the order.

6191 (8) At any time after the filing of an appeal to the board
6192 of review or from the board of review to the Board of Tax Appeals
6193 under this section, an appeal can be withdrawn. Such a withdrawal
6194 of an appeal may be made voluntarily by the taxpayer or may occur
6195 involuntarily as a result of the taxpayer failing to appear at a
6196 scheduled hearing, failing to make a written submission or
6197 electronic transmission in lieu of attendance at a hearing by the
6198 date specified or by the hearing date, if no date was specified,
6199 or by any other act or failure that the board of review or the
6200 Board of Tax Appeals determines represents a failure on the part
6201 of the taxpayer to prosecute his appeal. Any voluntary withdrawal
6202 shall be in writing or by electronic transmission and sent by the
6203 taxpayer or his designated representative to the chairman of the
6204 board of review, if the appeal being withdrawn is to the board of
6205 review, or to the executive director, if the appeal being
6206 withdrawn is to the Board of Tax Appeals. If the withdrawal of
6207 appeal is involuntary, the administrative appeal body from whom
6208 the appeal is being withdrawn shall note on its minutes the
6209 involuntary withdrawal of the appeal and the basis for the
6210 withdrawal. Once an appeal is withdrawn, whether voluntary or
6211 involuntary, the action from which the appeal was taken, whether a
6212 tax assessment, a denial of refund claim, a denial of waiver of
6213 tax penalty, or an order of the board of review, shall become
6214 final and not subject to further review by the board of review,
6215 the Board of Tax Appeals or a court. The agency shall then
6216 proceed in accordance with law based on such final action.



6217 (9) Nothing in this section shall bar a taxpayer from timely
6218 applying to the commissioner as otherwise provided by law for a
6219 tax refund or for a revision in tax.

6220 **SECTION 115.** Section 27-77-7, Mississippi Code of 1972, is
6221 amended as follows:

6222 27-77-7. (1) The findings and order of the Board of Tax
6223 Appeals entered under Section 27-77-5 shall be final unless the
6224 agency or the taxpayer shall, within sixty (60) days from the date
6225 of the order, file a petition in the chancery court appealing the
6226 order * * * . If the petition under this subsection is filed by
6227 the taxpayer, the petition shall be filed against the Department
6228 of Revenue as respondent. If the petition under this subsection
6229 is filed by the agency, the petition shall be filed against the
6230 taxpayer as respondent. The petition * * * shall contain a
6231 concise statement of the facts as contended by the petitioner,
6232 identify the order from which the appeal is being taken and set
6233 out the type of relief sought. If in the action, the taxpayer is
6234 seeking a refund or credit for an alleged overpayment of tax or
6235 for taxes paid in protest under subsection (3) of this section,
6236 the taxpayer shall allege in the petition or in his answer, where
6237 the appeal is filed by the agency, that he alone bore the burden
6238 of the tax sought to be refunded or credited and did not directly
6239 or indirectly collect the tax from anyone else. The respondent to
6240 the petition has thirty (30) days from the date of service of the
6241 petition to file a cross-appeal.

6242 (2) A petition under subsection (1) of this section shall be
6243 filed in the chancery court of the county or judicial district in
6244 which the taxpayer has a place of business or in the Chancery
6245 Court of the First Judicial District of Hinds County, Mississippi;
6246 however, a resident taxpayer may file the petition in the chancery
6247 court of the county or judicial district in which he is a
6248 resident. If both the agency and the taxpayer file a petition
6249 under subsection (1) of this section, the appeals shall be



6250 consolidated and the chancery court where the first petition was
6251 filed shall have jurisdiction over the consolidated appeal. If it
6252 cannot be determined which petition was filed first, the chancery
6253 court where the taxpayer filed his petition shall have
6254 jurisdiction over the consolidated appeal.

6255 (3) A petition filed by a taxpayer under subsection (1) of
6256 this section that appeals an order of the Board of Tax Appeals
6257 affirming a tax assessment shall be accompanied by a surety bond
6258 approved by the clerk of the court in a sum half the amount in
6259 controversy, conditioned to pay the judgment of the court. The
6260 clerk shall not approve a bond unless the bond is issued by a
6261 surety company qualified to write surety bonds in this state. As
6262 an alternative to the posting of bond, a taxpayer appealing an
6263 order of the Board of Tax Appeals affirming a tax assessment may,
6264 prior to the filing of the petition, pay to the agency, under
6265 protest, the amount ordered by the Board of Tax Appeals to be paid
6266 and seek a refund of such taxes, plus interest thereon, in the
6267 appeal. The taxpayer shall pay to the agency any tax included in
6268 the assessment which he is not contesting. If the petition
6269 initiating the appeal is filed by the taxpayer, the payment of the
6270 uncontested tax shall be made prior to the expiration of the
6271 sixty-day time period for filing a petition under subsection (1)
6272 of this section. If the petition initiating the appeal is filed
6273 by the agency, the payment of the uncontested tax shall be made
6274 prior to the expiration of the thirty-day time period for the
6275 filing of an answer or other response to the petition as provided
6276 in subsection (5) of this section. Failure of the taxpayer to
6277 timely pay the uncontested tax shall bar the taxpayer from
6278 obtaining a reduction, abatement and/or refund of any contested
6279 tax in the appeal and shall result in the taxpayer's appeal or
6280 cross-appeal being dismissed with prejudice and with judgment
6281 being entered granting the agency the relief it requested.



6282 (4) In an action under this section resulting from an order
6283 of the Board of Tax Appeals involving a refund claim denial, the
6284 agency shall refund or credit to the taxpayer, as provided by law,
6285 the amount of any overpayment included in the refund claim which
6286 the agency does not contest. If the petition initiating the
6287 appeal is filed by the agency, the process by which such
6288 uncontested overpayment shall be paid or credited to the taxpayer
6289 shall be begun prior to the expiration of the sixty-day time
6290 period for filing a petition under subsection (1) of this section.
6291 If the petition initiating the appeal is filed by the taxpayer,
6292 the process by which such uncontested overpayment shall be paid or
6293 credited to the taxpayer shall be begun prior to the expiration of
6294 the thirty-day time period for the filing of an answer or other
6295 response to the petition as provided in subsection (5) of this
6296 section. Failure of the agency to timely begin the process of
6297 paying or crediting the uncontested overpayment to the taxpayer
6298 shall bar the agency from obtaining an affirmation, in whole or in
6299 part, of the refund claim denial in issue and shall result in the
6300 agency's appeal or cross-appeal being dismissed with prejudice and
6301 judgment being entered granting the taxpayer the relief he
6302 requested, excluding however any request for the awarding of
6303 attorney fees.

6304 (5) Upon the filing of the petition under subsection (1) of
6305 this section, the clerk of the court shall issue a summons to the
6306 respondent requiring the respondent to answer or otherwise respond
6307 to the petition within thirty (30) days of service. Where the
6308 agency is the respondent, the summons shall be served on the
6309 agency by personal service on the commissioner as the chief
6310 executive officer of the agency. The chancery court in which a
6311 petition under subsection (1) of this section is properly filed
6312 shall have jurisdiction to hear and determine the cause or issues
6313 joined as in other cases. In any petition, cross-appeal or answer
6314 in which the taxpayer is seeking a refund or credit for an alleged



6315 overpayment of tax or for taxes paid under protest under
6316 subsection (3) of this section, the taxpayer shall prove by a
6317 preponderance of the evidence that he alone bore the burden of the
6318 tax sought to be refunded or credited and did not directly or
6319 indirectly collect the tax from anyone else. At trial of any
6320 action brought under this section, the chancery court shall give
6321 deference to the decision and interpretation of law and
6322 regulations by the Department of Revenue as it does with the
6323 decisions and interpretation of any administrative agency, but it
6324 shall try the case de novo and conduct a full evidentiary judicial
6325 hearing on the issues raised. At the trial de novo of any action
6326 brought under this section, there is a presumption that the action
6327 of the agency is correct and the burden is upon the taxpayer to
6328 prove by a preponderance of the evidence or a higher standard if
6329 required by the issues raised, that the action taken by the agency
6330 was incorrect or invalid and should be reversed or modified. The
6331 chancery court shall decide all questions presented, including
6332 those as to legality and the amount of tax or refund due, and if
6333 it finds that the tax assessment or denial of refund claim in
6334 issue is incorrect or invalid, in whole or in part, it shall
6335 determine the amount of tax or refund due, including interest and,
6336 if applicable, penalty to date, and enter such order or judgment
6337 as it deems proper. Interest and penalty included in this
6338 determination shall be computed by the court based on the methods
6339 for computing penalty and interest as specified by law for the
6340 type of tax in issue. When the chancery court determines that an
6341 overpayment exists, the determination as to whether such
6342 overpayment shall be refunded to the taxpayer or credited against
6343 the taxpayer's future taxes shall be made by the chancery court
6344 based on the method for handling overpayments as specified by the
6345 law for the type of tax in issue. Either the agency or the
6346 taxpayer, or both, shall have the right to appeal from the order
6347 of the chancery court to the Supreme Court as in other cases. If



6348 an appeal is taken from the order of the chancery court, the bond
6349 provided for in subsection (3) of this section shall continue to
6350 remain in place until a final decision is rendered in the case.

6351 **SECTION 116.** Section 27-77-9, Mississippi Code of 1972, is
6352 amended as follows:

6353 27-77-9. (1) If the agency determines that there is a basis
6354 for suspension, surrender, seizure or revocation of a permit, tag
6355 or title issued or approved by the agency, the agency shall give
6356 the permittee, tag holder, title interest holder in the permit,
6357 tag or title, written notice of its intent to suspend, revoke or
6358 to order the surrender and/or seizure of the permit, tag or title.
6359 The notice of intent shall be mailed or hand delivered to the
6360 permittee, tag holder or title interest holder involved, shall set
6361 forth the facts and conduct that provide the basis for the
6362 intended action and shall advise the permittee, tag holder or
6363 title interest holder involved * * * that he has thirty (30) days
6364 from the date of the notice to file with the board of review a
6365 written request for a hearing on the intended action. * * * If
6366 the permittee, tag holder or title interest holder involved fails
6367 to file a written request with the board of review for a hearing
6368 on the intended action within the thirty-day period, the intended
6369 action shall automatically go into effect on the thirty-first day
6370 after the date of the notice of intent without any further action
6371 by the agency. The agency retains jurisdiction to reinstate,
6372 reduce or remove a suspension and/or return the permit, tag or
6373 title suspended, revoked, surrendered or seized under this
6374 provision.

6375 (2) Upon receipt of a timely filed written request for a
6376 hearing on the intended suspension, surrender, seizure or
6377 revocation of the permit, tag or title in issue, the person filing
6378 the request shall be advised of the date, time and location of a
6379 show cause hearing that will be held a minimum of thirty (30) days
6380 from the date of the notice. In the case of a request for hearing



6381 involving an intended action regarding a title, the notice of
6382 hearing shall also be mailed to any other title interest holders
6383 in the motor vehicle or manufactured housing in issue. At the
6384 hearing, the person requesting the hearing shall show cause why
6385 the proposed action should not be taken. The show cause hearing
6386 shall be informal and the rules of evidence shall be relaxed. The
6387 hearing shall be conducted by the board of review or by a single
6388 hearing officer selected by the chairman of the board of review
6389 from a pool of qualified individuals designated by the
6390 commissioner to serve as administrative hearing officers. The
6391 person that requested the hearing or his designated representative
6392 shall attend the hearing unless a request is made to, and granted
6393 by, the board of review or the designated hearing officer to allow
6394 the person to submit his position in writing or by electronic
6395 transmission in lieu of attending the hearing. Failure of the
6396 person requesting the hearing or his designated representative to
6397 attend a hearing or submit his position in writing or by
6398 electronic transmission in lieu of attendance by the date
6399 specified by the board of review or designated hearing officer or
6400 by the hearing date, if no date is specified, shall constitute an
6401 involuntary withdrawal of the appeal. As soon as practical after
6402 the show cause hearing, the hearing officer or the members of the
6403 board of review that conducted the hearing shall make a
6404 determination as to whether the intended action or any other
6405 action should be taken in regard to the permit, tag or title in
6406 issue. The hearing officer or board of review shall enter an
6407 order based on this determination and a copy of this order shall
6408 be mailed to the permittee, tag holder or title interest holder
6409 involved notifying same of the decision and the action taken.

6410 (3) The order of the hearing officer or the board of review
6411 in regard to a show cause hearing shall be final unless, within
6412 thirty (30) days from the date of the order, the permittee, tag
6413 holder or title interest holder appeals the order to the Board of



6414 Tax Appeals. The appeal shall be in writing and request a hearing
6415 and reversal or modification of the order of the hearing officer
6416 or board of review, specify in detail the relief requested,
6417 contain any other information that might be required by regulation
6418 and be filed with the executive director. The person filing the
6419 appeal with the executive director shall also file a copy of his
6420 written appeal with the board of review. Even after an appeal is
6421 filed with the executive director, the board of review or hearing
6422 officer who entered the order appealed retains the authority to
6423 amend and/or correct this order at any time prior to a decision by
6424 the Board of Tax Appeals on the appeal. Failure to timely file a
6425 written appeal with the executive director within the thirty-day
6426 period shall make the order of the hearing officer or the board of
6427 review being appealed final and not subject to further review by
6428 the Board of Tax Appeals or a court other than as to the issue of
6429 whether a written appeal from the order of the hearing officer or
6430 board of review was timely filed with the executive director.

6431 (4) Upon receipt of a written appeal from an order of a
6432 hearing officer or the board of review regarding a show cause
6433 hearing on a permit, tag or title, the executive director shall
6434 schedule a hearing before the Board of Tax Appeals on this appeal.
6435 A notice of the hearing shall be mailed to the person who filed
6436 the appeal and the agency to advise them of the date, time and
6437 location of hearing. In the case of an appeal from a show cause
6438 hearing on a title, the notice of hearing shall also be mailed to
6439 any other title interest holders in the motor vehicle or
6440 manufactured housing in issue. The person who filed the appeal or
6441 his designated representative shall attend the hearing. Failure
6442 of this person or his designated representative to attend a
6443 hearing shall constitute an involuntary withdrawal of the appeal.

6444 (5) At any hearing before the Board of Tax Appeals on an
6445 appeal of an order regarding a show cause hearing on a permit, tag
6446 or title, two (2) members of the Board of Tax Appeals shall



6447 constitute a quorum. At the hearing the Board of Tax Appeals
6448 shall try the issues presented according to law and the facts and
6449 pursuant to any guidelines established by regulation. The rules
6450 of evidence shall be relaxed at the hearing and the hearing shall
6451 be taken down by a court reporter. After reaching a decision on
6452 the issues presented, the Board of Tax Appeals shall enter an
6453 order setting forth its findings and decision on the appeal. A
6454 copy of the order of the Board of Tax Appeals shall be mailed to
6455 the person who filed the appeal and the agency to notify them of
6456 the findings and decision of the Board of Tax Appeals. In the
6457 case of an appeal involving a title, a copy of the order of the
6458 Board of Tax Appeals shall also be mailed to any other title
6459 interest holder in the motor vehicle or manufactured housing in
6460 issue.

6461 (6) At any time after the filing of an appeal with the board
6462 of review under this section, an appeal may be withdrawn. A
6463 withdrawal of an appeal can be made voluntarily by the person
6464 appealing or may occur involuntarily as the result of his failure
6465 to appear at a scheduled hearing, or by any other act or failure
6466 that the hearing officer or the board of review determines
6467 represents a failure on the part of that person to prosecute his
6468 appeal. A voluntary withdrawal shall be in writing or by
6469 electronic transmission and sent from the person appealing or his
6470 designated representative to the chairman of the board of review
6471 or to the hearing officer designated to hear the matter. If the
6472 withdrawal of appeal is involuntary, the board of review or the
6473 hearing officer designated to hear the matter shall note on its
6474 minutes or by order the involuntary withdrawal of the appeal and
6475 the basis for the withdrawal. Once an appeal to the board of
6476 review under subsection (1) above is withdrawn, whether voluntary
6477 or involuntary, the intended suspension, surrender, seizure or
6478 revocation from which the appeal was taken shall become final and
6479 not subject to further review by the Board of Tax Appeals or a



6480 court. The agency shall then proceed in accordance with law based
6481 on such final action.

6482 (7) At any time after the filing of an appeal with the Board
6483 of Tax Appeals under this section, the appeal may be withdrawn. A
6484 withdrawal of an appeal can be made voluntarily by the person
6485 appealing or may occur involuntarily as the result of the failure
6486 to appear at a scheduled hearing, or by any other act or failure
6487 that the Board of Tax Appeals determines to represent a failure on
6488 the part of that person to prosecute his appeal. A voluntary
6489 withdrawal shall be in writing or by electronic transmission and
6490 sent from the person appealing or his designated representative to
6491 the executive director. If the withdrawal of the appeal is
6492 involuntary, the Board of Tax Appeals shall note on its minutes
6493 the involuntary withdrawal of the appeal and the basis for the
6494 withdrawal. Once an appeal is withdrawn under this section,
6495 whether voluntary or involuntary, the order from the show cause
6496 hearing from which the appeal was taken shall become final and not
6497 subject to further review by the Board of Tax Appeals or a court.
6498 The agency shall then proceed in accordance with law based on the
6499 final order.

6500 **SECTION 117.** Section 27-77-11, Mississippi Code of 1972, is
6501 amended as follows:

6502 27-77-11. (1) If the agency determines that an application
6503 or request for a permit, IFTA license, tag or title issued or
6504 approved by the agency should be denied, the agency shall give the
6505 applicant for the permit, IFTA license, tag or title written
6506 notice of the denial by mailing or hand delivering the notice to
6507 the applicant. In regard to the denial of an application for
6508 title, the designated agent who took the application and any other
6509 alleged title interest holders as appearing on the application
6510 shall also be mailed or hand delivered a copy of the agency's
6511 denial of the title application. If the applicant, or in the case
6512 of the denial of a title application, any title interest holder



6513 appearing on the title application, is aggrieved by the denial and
6514 wishes to contest the denial, he shall, within thirty (30) days
6515 from the date of the written notice of the denial, file an appeal
6516 in writing with the board of review requesting a hearing on the
6517 denial that specified in detail the relief requested and contains
6518 any other information required by regulation. Failure to timely
6519 file a written appeal with the board of review within this
6520 thirty-day period shall make final the agency's denial of the
6521 permit, IFTA license, tag or title in issue and not subject to
6522 further review by the board of review, the Board of Tax Appeals or
6523 a court except as to the issue of whether a written appeal to the
6524 board of review was timely filed. Even if an appeal to the board
6525 of review is filed under this section, the agency retains
6526 jurisdiction to reverse its denial and issue or approve the
6527 permit, IFTA license, tax or title involved in the appeal.

6528 (2) Upon receipt of a written appeal by the board of review
6529 from a denial of a permit, IFTA license, tag or title, a hearing
6530 shall be scheduled before the board of review unless it is
6531 determined that the relief requested in the written appeal should
6532 be granted without a hearing. A notice of the hearing shall be
6533 mailed to the person appealing advising him of the date, time and
6534 location of hearing. If the appeal involves the denial of a
6535 title, the notice of hearing shall also be mailed to all other
6536 title interest holders in the motor vehicle or manufactured
6537 housing in issue, including both those that appear on a current
6538 title and those that appear on the application that was denied.
6539 The notice may contain a statement as to the basis for the denial
6540 of the permit, IFTA license, tag or title. The person appealing
6541 or his designated representative shall attend the hearing unless a
6542 request is made to and granted by the board of review to allow him
6543 to submit his position in writing or by electronic transmission in
6544 lieu of attendance. Failure of the person appealing, or his
6545 designated representative, to attend a hearing or to submit his



6546 position in writing or by electronic transmission in lieu of
6547 attendance by the date specified by the board of review or by the
6548 hearing date, if no date is specified, shall constitute a
6549 withdrawal of the appeal.

6550 (3) At a hearing before the board of review on a denial of a
6551 permit, IFTA license, tag or title, the board of review shall try
6552 the issues presented, according to law and the facts and within
6553 the guidelines established by regulation. The hearing before the
6554 board of review shall be informal and no official transcript shall
6555 be made of the hearing. At the earliest practical date after the
6556 hearing, the members of the board of review that heard the appeal
6557 shall make a determination of the matter presented and notify the
6558 person appealing of its findings by mailing a copy of its order to
6559 that person. In the case of a hearing involving the denial of a
6560 title, the order shall also be mailed to all other title interest
6561 holders in the motor vehicle or manufactured housing in issue,
6562 including those that appear on a current title and those that
6563 appear on the application that was denied.

6564 (4) The order of the board of review involving the denial of
6565 a permit, IFTA license, tag or title shall be final unless within
6566 thirty (30) days from the date of the order, the applicant appeals
6567 the order to the Board of Tax Appeals. In the case of an order of
6568 the board of review involving a review of the denial of a title,
6569 any title interest holder in the motor vehicle or manufactured
6570 housing in issue may appeal the order to the Board of Tax Appeals.
6571 The appeal shall be in writing, request a hearing and reversal or
6572 modification of the order of the board of review, specify in
6573 detail the relief requested, contain any other information that is
6574 required by regulation and be filed with the executive director
6575 with a copy sent to the board of review. Failure to timely file a
6576 written appeal with the executive director within the thirty-day
6577 period will make the order of the board of review being appealed
6578 final and not subject to further review by the Board of Tax



6579 Appeals or a court other than as to the issue of whether a written
6580 appeal from the order of the board of review was timely filed with
6581 the executive director. Even if an appeal to the Board of Tax
6582 Appeals is filed under this section, the board of review retains
6583 the authority to amend and/or correct its order being appealed
6584 prior to a decision by the Board of Tax Appeals on the appeal.

6585 (5) Upon receipt of a written appeal from an order of the
6586 board of review involving the denial of a permit, IFTA license,
6587 tag or title, the executive director shall schedule a hearing
6588 before the Board of Tax Appeals on the appeal. A notice of the
6589 hearing shall be mailed to the person who filed the appeal and the
6590 agency to advise them of the date, time and location of hearing.
6591 In the case of an appeal from an order of the board of review
6592 involving the denial of a title, the notice of hearing shall also
6593 be mailed to all title interest holders in the motor vehicle or
6594 manufactured housing in issue. The person who filed the appeal or
6595 his designated representative shall attend the hearing. Failure
6596 of this person or his designated representative to attend a
6597 hearing shall constitute an involuntary withdrawal of the appeal.

6598 (6) At any hearing before the Board of Tax Appeals on an
6599 appeal of an order from the board of review involving the denial
6600 of a permit, IFTA license, tag or title, two (2) members of the
6601 Board of Tax Appeals shall constitute a quorum. At the hearing,
6602 the commission shall try the issues presented according to law and
6603 the facts and pursuant to any guidelines established by
6604 regulation. The rules of evidence shall be relaxed at the hearing
6605 and the hearing shall be taken down by a court reporter. After
6606 reaching a decision on the issues presented, the Board of Tax
6607 Appeals shall enter its order setting forth its findings and
6608 decision on the appeal. A copy of the order of the Board of Tax
6609 Appeals shall be mailed to the person who filed the appeal and the
6610 agency with the Board of Tax Appeals to notify them of the
6611 findings and decision of the Board of Tax Appeals. In the case of



6612 an appeal involving a title, a copy of the order of the Board of
6613 Tax Appeals shall also be mailed to all title interest holders in
6614 the motor vehicle or manufactured housing in issue.

6615 (7) At any time after the filing of an appeal with the board
6616 of review, or from the board of review to the Board of Tax Appeals
6617 under this chapter, an appeal can be withdrawn. A withdrawal of
6618 an appeal may be made voluntarily by the person who filed the
6619 appeal or may occur involuntarily by the person failing to appear
6620 at a scheduled hearing, by failing to make a written submission or
6621 electronic transmission to the board of review in lieu of
6622 attendance by the date specified by the board or by the hearing
6623 date, if no date was specified, or by any other act or failure
6624 that the board of review or the Board of Tax Appeals determines
6625 represents a failure on the part of this person to prosecute his
6626 appeal. Any voluntary withdrawal shall be in writing or by
6627 electronic transmission and sent by the person appealing or his
6628 designated representative to the chairman of the board of review,
6629 if the appeal being withdrawn is to the board of review, or to the
6630 executive director, if the appeal being withdrawn is to the Board
6631 of Tax Appeals. If the withdrawal of appeal is involuntary, the
6632 administrative appeal body from whom the appeal is being withdrawn
6633 shall note on its minutes the involuntary withdrawal of the appeal
6634 and the basis for the withdrawal. Once an appeal is withdrawn,
6635 whether voluntary or involuntary, the action from which the appeal
6636 was taken, whether the original denial or the order of the board
6637 of review, shall become final and not subject to further review by
6638 the board of review, the Board of Tax Appeals or a court. The
6639 agency shall then proceed in accordance with law based on such
6640 final action.

6641 **SECTION 118.** Section 27-77-12, Mississippi Code of 1972, is
6642 amended as follows:

6643 27-77-12. (1) If the agency determines that there is a
6644 basis for revocation of an IFTA license, the agency shall give the



6645 IFTA licensee holding the IFTA license written notice of its
6646 intent to revoke his IFTA license. The notice of intent shall be
6647 mailed or hand delivered to the IFTA licensee and shall set forth
6648 the facts and conduct that provide the basis for the intended
6649 revocation and shall advise the IFTA licensee that he has thirty
6650 (30) days from the date of the notice to file with the board of
6651 review a written request for a hearing on the intended revocation.
6652 If the IFTA licensee fails to file a written request with the
6653 board of review for a hearing on the intended revocation within
6654 the thirty-day period, the IFTA license shall be automatically
6655 revoked on the thirty-first day after the date of the notice
6656 without any further action by the agency. The agency retains
6657 jurisdiction to reinstate an IFTA license after revocation.
6658 Failure of the IFTA licensee to timely file a written request for
6659 a hearing on the intended revocation will bar further review of
6660 the revocation by any court.

6661 (2) Upon receipt by the board of review of a timely filed
6662 written request for a hearing on the intended revocation of the
6663 IFTA license, the IFTA licensee filing the request shall be
6664 advised of the date, time and location of a show cause hearing
6665 that will be held a minimum of thirty (30) days from the date of
6666 the notice. At the hearing, the IFTA licensee shall show cause
6667 why his IFTA license should not be revoked. The show cause
6668 hearing shall be informal and the rules of evidence shall be
6669 relaxed. The hearing shall be conducted by the board of review or
6670 by a single hearing officer selected by the chairman of the board
6671 of review from a pool of qualified individuals designated by the
6672 commissioner to serve as administrative hearing officers. The
6673 IFTA licensee or his designated representative shall attend the
6674 hearing unless a request is made to, and granted by, the board of
6675 review or the designated hearing officer to allow the IFTA
6676 licensee to submit his position in writing or by electronic
6677 transmission in lieu of attending the hearing. Failure of the



6678 IFTA licensee or his designated representative to attend a hearing
6679 or submit his position in writing or by electronic transmission in
6680 lieu of attendance by the date specified by the board of review or
6681 designated hearing officer or by the hearing date, if no date is
6682 specified, shall constitute an involuntary withdrawal of the
6683 appeal. As soon as practical after the show cause hearing, the
6684 hearing officer or the board of review * * * shall make a
6685 determination as to whether the IFTA license * * * should be
6686 revoked. The hearing officer or board of review shall enter an
6687 order based on this determination and a copy of this order shall
6688 be mailed to the IFTA licensee notifying him of the decision and
6689 the action taken.

6690 (3) The order of the hearing officer or the board of review
6691 in regard to a show cause hearing shall be final unless, within
6692 thirty (30) days from the date of the order, the IFTA licensee
6693 appeals the order to the Board of Tax Appeals. The appeal shall
6694 be in writing and request a hearing and reversal or modification
6695 of the order of the hearing officer or board of review, specify in
6696 detail the relief requested, contain any other information that
6697 might be required by regulation and be filed with the executive
6698 director with a copy sent to the board of review. Even after an
6699 appeal is filed with the executive director, the board of review
6700 or hearing officer who entered the order appealed retains the
6701 authority to amend and/or correct this order at any time prior to
6702 a decision by the Board of Tax Appeals on the appeal.

6703 (4) Upon receipt of a written appeal from an order of a
6704 hearing officer or the board of review regarding a show cause
6705 hearing on an IFTA license, the executive director shall schedule
6706 a hearing before the Board of Tax Appeals on the appeal. A notice
6707 of the hearing shall be mailed to the IFTA licensee or his
6708 designated representative and the agency to advise them of the
6709 date, time and location of the hearing. The IFTA licensee or his
6710 designated representative shall attend the hearing. Failure of



6711 the IFTA licensee or his designated representative to attend a
6712 hearing shall constitute an involuntary withdrawal of the appeal.

6713 (5) At any hearing before the Board of Tax Appeals on an
6714 appeal of an order regarding a show cause hearing on an IFTA
6715 license, two (2) members of the Board of Tax Appeals shall
6716 constitute a quorum. At the hearing the Board of Tax Appeals
6717 shall try the issues presented according to law and the facts and
6718 pursuant to any guidelines established by regulation. The rules
6719 of evidence shall be relaxed at the hearing and the hearing shall
6720 be recorded by a court reporter. After reaching a decision on the
6721 issues presented, the Board of Tax Appeals shall enter an order
6722 setting forth its findings and decision on the appeal. A copy of
6723 the order of the Board of Tax Appeals shall be mailed to the
6724 person who filed the appeal and the agency to notify them of the
6725 findings and decision of the Board of Tax Appeals.

6726 (6) At any time after the filing of a timely written request
6727 with the board of review for a hearing on the intended revocation
6728 of an IFTA license under this section, the request may be
6729 withdrawn. A withdrawal of a request for a hearing on the
6730 intended revocation may be made voluntarily by the person
6731 requesting the hearing or may occur involuntarily as a result of a
6732 failure to appear at a scheduled hearing, or by any other act or
6733 failure that the board of review or designated hearing officer
6734 determines represents a failure on the part of that person to
6735 pursue his request for a hearing on the intended revocation. A
6736 voluntary withdrawal shall be in writing or by electronic
6737 transmission and sent from the person requesting the hearing or
6738 his designated representative to the chairman of the board of
6739 review or the hearing officer designated to hear the matter. If
6740 the withdrawal of the request for a hearing is involuntary, the
6741 board of review or the hearing officer designated to hear the
6742 matter shall note on its minutes or by order the involuntary
6743 withdrawal of the request and the basis for the withdrawal. Once



6744 a request for hearing on the intended revocation is withdrawn,
6745 whether voluntary or involuntary, the IFTA license shall be
6746 automatically revoked.

6747 (7) At any time after the filing of an appeal with the Board
6748 of Tax Appeals under this section, the appeal may be withdrawn. A
6749 withdrawal of an appeal can be made voluntarily by the person
6750 appealing or may occur involuntarily as the result of the failure
6751 to appear at a scheduled hearing, or by any other act or failure
6752 that the Board of Tax Appeals determines to represent a failure on
6753 the part of that person to prosecute his appeal. A voluntary
6754 withdrawal shall be in writing or by electronic transmission and
6755 sent from the person appealing or his designated representative to
6756 the executive director. If the withdrawal of the appeal is
6757 involuntary, the Board of Tax Appeals shall note on its minutes
6758 the involuntary withdrawal of the appeal and the basis for the
6759 withdrawal. Once an appeal is withdrawn under this section,
6760 whether voluntary or involuntary, the order from the show cause
6761 hearing from which the appeal was taken shall become final and not
6762 subject to further review by the Board of Tax Appeals or a court.
6763 The agency shall then proceed in accordance with law based on the
6764 final order.

6765 **SECTION 119.** Section 27-77-13, Mississippi Code of 1972, is
6766 amended as follows:

6767 27-77-13. (1) The findings and order of the Board of Tax
6768 Appeals entered in accordance with Section 27-77-9, 27-77-11 or
6769 Section 27-77-12, shall be final unless the agency or the
6770 permittee, IFTA licensee, tag holder, or title interest holder of
6771 the permit, IFTA license, tag or title in regard to which action
6772 was taken in the order shall, within thirty (30) days from the
6773 date of the order, file a petition in * * * chancery court seeking
6774 a review of the order. If a petition under this subsection is
6775 filed by the permittee, IFTA licensee, tag holder or title
6776 interest holder, the petition shall be filed against the agency as



6777 respondent. If a petition under this subsection is filed by the
6778 agency, the petition shall be filed against the permittee, IFTA
6779 licensee, tag holder or title interest holder of the permit, IFTA
6780 license, tag or title which is the subject of the order sought to
6781 be reviewed as respondent. The respondent to a petition has
6782 thirty (30) days from the date of service of the petition to file
6783 a cross-appeal. The petition shall contain a concise statement of
6784 the facts as contended by the petitioner, identify the order from
6785 which the appeal is being taken and the type of relief sought.
6786 Where the petition is being filed by a permittee, IFTA licensee,
6787 tag holder or title interest holder, the petition shall also
6788 contain a certificate that the petitioner has paid to the
6789 executive director the estimated cost of the preparation of the
6790 entire record of the Board of Tax Appeals on the matter for which
6791 a review is sought.

6792 (2) A petition under subsection (1) of this section shall be
6793 filed in the chancery court of the county or judicial district in
6794 which the permittee, IFTA licensee, tag holder or title interest
6795 holder of the permit, IFTA license, tag or title which is the
6796 subject of the order of the Board of Tax Appeals sought to be
6797 reviewed has a place of business or in the First Judicial District
6798 of Hinds County, Mississippi; however, a resident permittee, IFTA
6799 licensee, tag holder or title interest holder may file a petition
6800 in the chancery court of the county or judicial district in which
6801 he is a resident. If both the agency and the permittee, IFTA
6802 licensee, tag holder or title interest holder file a petition
6803 under subsection (1) of this section, the appeals shall be
6804 consolidated and the chancery court where the first petition was
6805 filed shall have jurisdiction over the consolidated appeal. If it
6806 cannot be determined which petition was filed first, the chancery
6807 court where the permittee, IFTA licensee, tag holder or title
6808 interest holder filed his petition shall have jurisdiction over
6809 the consolidated appeal.



6810 (3) The review by the chancery court of the order of the
6811 Board of Tax Appeals on a petition filed under subsection (1) of
6812 this section shall be based on the record made before the Board of
6813 Tax Appeals. Before filing a petition under subsection (1) of
6814 this section, a petitioner, who is a permittee, IFTA licensee, tag
6815 holder or title interest holder, shall obtain from the executive
6816 director an estimate of the cost to prepare the entire record of
6817 the Board of Tax Appeals and shall pay to the executive director
6818 the amount of the estimate. If, upon the preparation of the
6819 record, it is determined that the estimate paid was insufficient
6820 to pay the actual cost of the preparation of the record, the
6821 executive director shall mail to the petitioner a written notice
6822 of the deficiency. The petitioner shall pay the deficiency to the
6823 executive director within thirty (30) days from the date of this
6824 written notice. If upon the preparation of the record, it is
6825 determined that the estimate paid by the petitioner exceeds the
6826 actual cost of the preparation of the record, the executive
6827 director shall remit to the petitioner the amount by which the
6828 estimate paid exceeds the actual cost. The chancery court shall
6829 dismiss with prejudice any petition filed by a permittee, IFTA
6830 licensee, tag holder or title interest holder where it is shown
6831 that the petitioner failed to pay prior to filing the petition the
6832 estimated cost for preparation of the record of the Board of Tax
6833 Appeals or failed to pay any deficiency in the estimate within
6834 thirty (30) days of a notice of deficiency. Where the agency
6835 files a petition under subsection (1) of this section, the agency
6836 shall pay the cost of the preparation of the entire record of the
6837 Board of Tax Appeals on the matter for which a review is sought.
6838 Where both the agency and the permittee, IFTA licensee, tag holder
6839 or title interest holder file a petition under subsection (1) of
6840 this section from the same Board of Tax Appeals order, the
6841 executive director shall remit to the permittee, IFTA licensee,
6842 tag holder or title interest holder that filed the petition the



6843 amount by which, if any, the payment received from this permittee,
6844 IFTA licensee, tag holder or title interest holder for preparation
6845 of the record exceeds one half (1/2) of the actual cost of
6846 preparation of the record. The other half of the actual cost of
6847 preparation of the record in this situation shall be paid by the
6848 agency.

6849 (4) Upon the filing of the petition under subsection (1) of
6850 this section, the clerk of the court in which the petition is
6851 filed shall issue a summons to the respondent requiring the
6852 respondent to answer or otherwise respond to the petition within
6853 thirty (30) days of service. Where the agency is the respondent,
6854 the summons shall be served on the agency by personal service on
6855 the commissioner as the chief executive officer of the agency.

6856 (5) Upon the filing of an answer and/or response * * * to
6857 the petition filed under subsection (1) of this section, and upon
6858 the filing of the record made before the Board of Tax Appeals with
6859 the clerk of the court, the chancery court shall, upon the motion
6860 of either party, establish a schedule for the filing of briefs in
6861 the action. The scope of review of the chancery court in an
6862 action filed under subsection (1) of this section shall be limited
6863 to a review of the record made before the Board of Tax Appeals to
6864 determine if the action of the Board of Tax Appeals is unlawful
6865 for the reason that it was:

6866 (a) Not supported by substantial evidence;
6867 (b) Arbitrary or capricious;
6868 (c) Beyond the power of the Board of Tax Appeals to
6869 make; or

6870 (d) In violation of some statutory or constitutional
6871 right of the petitioner.

6872 (6) No relief shall be granted based upon the chancery
6873 court's finding of harmless error by the Board of Tax Appeals in
6874 complying with any procedural requirement; however, in the event
6875 that there is a finding of prejudicial error in the proceedings,



6876 the cause shall be remanded to the Board of Tax Appeals for a
6877 rehearing consistent with the findings of the court.

6878 (7) The respondent, the petitioner, or both, shall have the
6879 right to appeal from the order of the chancery court to the
6880 Supreme Court as in other cases.

6881 **SECTION 120.** Section 27-77-15, Mississippi Code of 1972, is
6882 amended as follows:

6883 27-77-15. (1) Except as otherwise provided in this section,
6884 it shall be unlawful for the executive director, the Board of
6885 Appeals, the commissioner, * * * the agency, or an officer, agent
6886 or employee of the agency or the Board of Tax Appeals, to divulge
6887 or make known in any manner the information contained in the
6888 files, records and orders of the agency, a hearing officer of the
6889 agency, the board of review or the Board of Tax Appeals in regard
6890 to an appeal to a hearing officer, the board of review or the
6891 Board of Tax Appeals under this chapter.

6892 (2) For purposes of this section, the term "appellant" means
6893 the taxpayer, IFTA licensee, permittee, tag holder or title
6894 interest holder who filed the appeal to the board of review or the
6895 Board of Tax Appeals under this chapter which resulted in the
6896 files, records and orders of that appeal. * * *

6897 (3) The executive director, the Board of Tax Appeals, the
6898 commissioner, * * * the agency, hearing officer or an agent or
6899 employee of the agency or the Board of Tax Appeals is permitted to
6900 divulge and make known information otherwise prohibited from
6901 disclosure under subsection (1) of this section in any of the
6902 following circumstances:

6903 (a) Where the information is being disclosed as a
6904 result of complying with the provisions of this chapter and/or
6905 with regulations promulgated to enforce the provisions of this
6906 chapter.

6907 (b) Where the information is being provided to the
6908 appellant or his designated representative.



6909 (c) Where the information is being disclosed to
6910 employees or officers of the agency.

6911 (d) Where the information is being provided or
6912 disclosed pursuant to a written authorization executed by the
6913 appellant as prescribed by regulation.

6914 (e) Where the information is being provided or
6915 disclosed in the course of a court action in which the agency, the
6916 Board of Tax Appeals, the commissioner, an * * * officer or * * *
6917 employee of the agency or the Board of Tax Appeals and the
6918 appellant are parties, including, but not limited to, an action
6919 brought under this chapter or in the course of the bankruptcy case
6920 of the appellant.

6921 (f) Where the information is being provided to the
6922 Internal Revenue Service or a taxing authority of another state
6923 under an information exchange agreement where similar information
6924 can be obtained by the agency from the Internal Revenue Service or
6925 state taxing authority receiving the information.

6926 (g) Where the information is being provided pursuant to
6927 the International Registration Plan (IRP) or the International
6928 Fuel Tax Agreement (IFTA) or any regulations, rules or procedures
6929 adopted under such plan or agreement.

6930 (h) Where the disclosure of information is authorized
6931 under Section 27-55-49, 27-55-557, 27-57-39, 27-59-53 or 27-61-20.

6932 (i) Where the information is being provided to the
6933 State Auditor or his employees in the course of his audit of the
6934 agency; however, the prohibitions against disclosure which apply
6935 to the agency shall also apply to the State Auditor and his
6936 employees or former employees.

6937 (j) Where the information is being provided to the
6938 Attorney General or any other attorney representing the state or
6939 the agency in an action brought by the appellant to set aside the
6940 tax, in an action brought by the state or agency to recover the



6941 tax imposed, or in an action where the appellant is being
6942 prosecuted for a crime under the tax laws of this state.

6943 (k) Where the information is being provided by the
6944 commissioner to a contractor of collection services pursuant to
6945 the authority granted the commissioner in Section 27-75-16.

6946 (l) Where the information is being provided in
6947 accordance with a proper judicial order. The term "proper
6948 judicial order" as used in this paragraph shall not include
6949 subpoenas or subpoenas duces tecum, but shall include only those
6950 orders entered by a court of record in this state after furnishing
6951 notice and a hearing to the appellant and the Department of
6952 Revenue. The court shall not authorize the furnishing of such
6953 information unless it is satisfied that the information is needed
6954 to pursue pending litigation in which the information itself is in
6955 issue, or the judge is satisfied that the need for furnishing the
6956 information outweighs the rights of the appellant to have such
6957 information secreted.

6958 (4) Nothing in subsection (1) of this section shall prohibit
6959 the inspection or disclosure of the minutes of the Board of Tax
6960 Appeals except to the extent that such minutes reflect the
6961 specific amount of a tax assessment or refund claim or the
6962 specific amount of tax or refund claim determined by the Board of
6963 Tax Appeals to be due.

6964 (5) Information that is prohibited from being disclosed in
6965 subsection (1) of this section shall be exempt from the provisions
6966 of the Mississippi Public Records Act of 1983.

6967 (6) Due to the need to discuss confidential tax information,
6968 the hearings before a hearing officer, the board of review and the
6969 Board of Tax Appeals under this chapter, and the meetings in which
6970 the board of review and the Board of Tax Appeals deliberate and
6971 vote on the issues raised at such hearings shall be exempt from
6972 the provisions of Section 25-41-1 et seq.



6973 **SECTION 121.** Section 27-77-17, Mississippi Code of 1972, is
6974 amended as follows:

6975 27-77-17. Except as to the determination of whether a tag
6976 penalty should be waived under Section 27-51-43, the provisions of
6977 this chapter shall not apply to any action taken by the agency,
6978 commissioner or the Department of Revenue in regard to ad valorem
6979 taxes, including, but not limited to, the determination under
6980 Section 27-31-107 as to whether property is entitled to a new or
6981 expanded enterprise exemption, the duties and actions performed
6982 under the Homestead Exemption Law of 1946, being Section 27-33-1
6983 et seq., the actions taken as the result of the examination of the
6984 recapitulation of the assessment rolls of the counties under
6985 Section 27-35-113, the actions relating to the examination of the
6986 assessment rolls under Section 27-35-127, and the ad valorem
6987 assessment of railroads, public service corporations, nuclear
6988 generating plants, railcar companies, airline companies, motor
6989 vehicles, manufactured homes and mobile homes. The provisions of
6990 this chapter shall not apply to any action of the agency,
6991 commissioner or Department of Revenue under the Local Option
6992 Alcoholic Beverage Control Law, being Section 67-1-1 et seq. or
6993 any action under the Mississippi Native Wine Law of 1976, being
6994 Section 67-5-1 et seq.

6995 **SECTION 122.** Section 27-77-19, Mississippi Code of 1972, is
6996 amended as follows:

6997 27-77-19. (1) The commissioner may from time to time make
6998 such rules and regulations, not inconsistent with this chapter, as
6999 he may deem necessary to enforce its provisions as it relates to
7000 matters, proceedings and/or appeals before the agency, a hearing
7001 officer of the agency and the board of review.

7002 (2) The Board of Tax Appeals may from time to time make such
7003 rules and regulations, not inconsistent with this chapter, as it
7004 may deem necessary to enforce its provisions as it relates to



7005 matters, proceedings and/or appeals before the Board of Tax
7006 Appeals.

7007 (3) By issuance of a subpoena under his signature and seal,
7008 the commissioner may require any person to attend a hearing before
7009 a hearing officer or the board of review * * * and to give
7010 testimony and/or produce documents or other things at that
7011 hearing. If any person subpoenaed by the commissioner fails to
7012 attend the hearing, refuses to testify or answer any material
7013 question at the hearing or refuses to produce at the hearing any
7014 document or thing subpoenaed, the commissioner or the person who
7015 requested issuance of the subpoena is authorized to institute
7016 proceedings in the circuit court of the county where such person
7017 resides or is found to compel compliance with the subpoena.

7018 (4) By issuance of a subpoena under his signature and seal,
7019 the executive director may require any person to attend a hearing
7020 before the Board of Tax Appeals and to give testimony and/or
7021 produce documents or other things at that hearing. If any person
7022 subpoenaed by the executive director fails to attend the hearing,
7023 refuses to testify or answer any material question at the hearing
7024 or refuses to produce at the hearing any document or thing
7025 subpoenaed, the executive director or the person who requested
7026 issuance of the subpoena is authorized to institute proceedings in
7027 the circuit court of the county where such person resides or is
7028 found to compel compliance with the subpoena.

7029 **SECTION 123.** Section 63-21-3, Mississippi Code of 1972, is
7030 amended as follows:

7031 63-21-3. The terms and provisions of this chapter shall be
7032 administered by the Department of Revenue. The Department of
7033 Revenue shall have charge of all the affairs of administering the
7034 laws of the state relative to vehicle registration and titling and
7035 manufactured housing titling as hereinafter provided and may
7036 employ such administrative and clerical assistance, material and



7037 equipment as may be necessary to enable it to speedily, completely
7038 and efficiently perform the duties as outlined in this chapter.

7039 **SECTION 124.** Section 63-21-5, Mississippi Code of 1972, is
7040 amended as follows:

7041 63-21-5. The following words and phrases when used in this
7042 chapter shall, for the purpose of this chapter, have the meanings
7043 respectively ascribed to them in this section except where the
7044 context clearly indicates a different meaning:

7045 (a) "State Tax Commission" or "department" means the
7046 Department of Revenue of the State of Mississippi.

7047 (b) "Dealer" means every person engaged regularly in
7048 the business of buying, selling or exchanging motor vehicles,
7049 trailers, semitrailers, trucks, tractors or other character of
7050 commercial or industrial motor vehicles in this state, and having
7051 in this state an established place of business as defined in
7052 Section 27-19-303, Mississippi Code of 1972. The term "dealer"
7053 shall also mean every person engaged regularly in the business of
7054 buying, selling or exchanging manufactured housing in this state,
7055 and licensed as a dealer of manufactured housing by the
7056 Mississippi Department of Insurance.

7057 (c) "Designated agent" means each county tax collector
7058 in this state who may perform his duties under this chapter either
7059 personally or through any of his deputies, or such other persons
7060 as the Department of Revenue may designate. The term shall also
7061 mean those "dealers" as herein defined and/or their officers and
7062 employees and other persons who are appointed by the Department of
7063 Revenue in the manner provided in Section 63-21-13, Mississippi
7064 Code of 1972, to perform the duties of "designated agent" for the
7065 purposes of this chapter.

7066 (d) "Implement of husbandry" means every vehicle
7067 designed and adapted exclusively for agricultural, horticultural
7068 or livestock raising operations or for lifting or carrying an



7069 implement of husbandry and in either case not subject to
7070 registration if used upon the highways.

7071 (e) "Vehicle identification number" means the numbers
7072 and letters on a vehicle, manufactured home or mobile home
7073 designated by the manufacturer or assigned by the Department of
7074 Revenue for the purpose of identifying the vehicle, manufactured
7075 home or mobile home.

7076 (f) "Lien" means every kind of written lease which is
7077 substantially equivalent to an installment sale or which provides
7078 for a right of purchase; conditional sale; reservation of title;
7079 deed of trust; chattel mortgage; trust receipt; and every other
7080 written agreement or instrument of whatever kind or character
7081 whereby an interest other than absolute title is sought to be held
7082 or given on a motor vehicle, manufactured home or mobile home.

7083 (g) "Lienholder" means any natural person, firm,
7084 copartnership, association or corporation holding a lien as herein
7085 defined on a motor vehicle, manufactured home or mobile home.

7086 (h) "Manufactured housing" or "manufactured home" means
7087 any structure, transportable in one or more sections, which in the
7088 traveling mode, is eight (8) body feet or more in width or forty
7089 (40) body feet or more in length or, when erected on site, is
7090 three hundred twenty (320) or more square feet and which is built
7091 on a permanent chassis and designed to be used as a dwelling with
7092 or without a permanent foundation when connected to the required
7093 utilities, and includes the plumbing, heating, air-conditioning
7094 and electrical systems contained therein; except that such terms
7095 shall include any structure which meets all the requirements of
7096 this paragraph except the size requirements and with respect to
7097 which the manufacturer voluntarily files a certification required
7098 by the Secretary of Housing and Urban Development and complies
7099 with the standards established under the National Manufactured
7100 Housing Construction and Safety Standards Act of 1974, 42 USCS,
7101 Section 5401.



7102 (i) "Manufacturer" means any person regularly engaged
7103 in the business of manufacturing, constructing or assembling motor
7104 vehicles, manufactured homes or mobile homes, either within or
7105 without this state.

7106 (j) "Mobile home" means any structure, transportable in
7107 one or more sections, which in the traveling mode, is eight (8)
7108 body feet or more in width or forty (40) body feet or more in
7109 length or, when erected on site, is three hundred twenty (320) or
7110 more square feet and which is built on a permanent chassis and
7111 designed to be used as a dwelling with or without a permanent
7112 foundation when connected to the required utilities, and includes
7113 the plumbing, heating, air-conditioning and electrical systems
7114 contained therein and manufactured prior to June 15, 1976. Any
7115 mobile home designated as realty on or before July 1, 1999, shall
7116 continue to be designated as realty so that a security interest
7117 will be made by incorporating such mobile home in a deed of trust.

7118 (k) "Motorcycle" means every motor vehicle having a
7119 seat or saddle for the use of the rider and designed to travel on
7120 not more than three (3) wheels in contact with the ground, but
7121 excluding a farm tractor.

7122 (l) "Motor vehicle" means every automobile, motorcycle,
7123 mobile trailer, semitrailer, truck, truck tractor, trailer and
7124 every other device in, upon, or by which any person or property is
7125 or may be transported or drawn upon a public highway which is
7126 required to have a road or bridge privilege license, except such
7127 as is moved by animal power or used exclusively upon stationary
7128 rails or tracks.

7129 (m) "New vehicle" means a motor vehicle, manufactured
7130 home or mobile home which has never been the subject of a first
7131 sale for use.

7132 (n) "Used vehicle" means a motor vehicle, manufactured
7133 home or mobile home that has been the subject of a first sale for
7134 use, whether within this state or elsewhere.



7135 (o) "Owner" means a person or persons holding the legal
7136 title of a vehicle, manufactured home or mobile home; in the event
7137 a vehicle, manufactured home or mobile home is the subject of a
7138 deed of trust or a chattel mortgage or an agreement for the
7139 conditional sale or lease thereof or other like agreement, with
7140 the right of purchase upon performance of the conditions stated in
7141 the agreement and with the immediate right of possession vested in
7142 the grantor in the deed of trust, mortgagor, conditional vendee or
7143 lessee, the grantor, mortgagor, conditional vendee or lessee shall
7144 be deemed the owner for the purpose of this chapter.

7145 (p) "Person" includes every natural person, firm,
7146 copartnership, association or corporation.

7147 (q) "Pole trailer" means every vehicle without motive
7148 power designed to be drawn by another vehicle and attached to the
7149 towing vehicle by means of a reach or pole, or by being boomed or
7150 otherwise secured to the towing vehicle, and ordinarily used for
7151 transporting long or irregularly shaped loads such as poles,
7152 pipes, boats or structural members capable generally of sustaining
7153 themselves as beams between the supporting connections.

7154 (r) "Security agreement" means a written agreement
7155 which reserves or creates a security interest.

7156 (s) "Security interest" means an interest in a vehicle,
7157 manufactured home or mobile home reserved or created by agreement
7158 and which secures payment or performance of an obligation. The
7159 term includes the interest of a lessor under a lease intended as
7160 security. A security interest is "perfected" when it is valid
7161 against third parties generally, subject only to specific
7162 statutory exceptions.

7163 (t) "Special mobile equipment" means every vehicle not
7164 designed or used primarily for the transportation of persons or
7165 property and only incidentally operated or moved over a highway,
7166 including, but not limited to: ditch-digging apparatus,
7167 well-boring apparatus and road construction and maintenance



7168 machinery such as asphalt spreaders, bituminous mixers, bucket
7169 loaders, tractors other than truck tractors, ditchers, leveling
7170 graders, finishing machines, motor graders, road rollers,
7171 scarifiers, earth-moving carryalls and scrapers, power shovels and
7172 draglines, and self-propelled cranes, vehicles so constructed that
7173 they exceed eight (8) feet in width and/or thirteen (13) feet six
7174 (6) inches in height, and earth-moving equipment. The term does
7175 not include house trailers, dump trucks, truck-mounted transit
7176 mixers, cranes or shovels, or other vehicles designed for the
7177 transportation of persons or property to which machinery has been
7178 attached.

7179 (u) "Nonresident" means every person who is not a
7180 resident of this state.

7181 (v) "Current address" means a new address different
7182 from the address shown on the application or on the certificate of
7183 title. The owner shall within thirty (30) days after his address
7184 is changed from that shown on the application or on the
7185 certificate of title notify the department of the change of
7186 address in the manner prescribed by the department.

7187 (w) "Odometer" means an instrument for measuring and
7188 recording the actual distance a motor vehicle travels while in
7189 operation; but shall not include any auxiliary instrument designed
7190 to be reset by the operator of the motor vehicle for the purpose
7191 of recording the distance traveled on trips.

7192 (x) "Odometer reading" means the actual cumulative
7193 distance traveled disclosed on the odometer.

7194 (y) "Odometer disclosure statement" means a statement
7195 certified by the owner of the motor vehicle to the transferee or
7196 to the department as to the odometer reading.

7197 (z) "Mileage" means actual distance that a vehicle has
7198 traveled.

7199 (aa) "Trailer" means every vehicle other than a "pole
7200 trailer" as defined in this chapter without motive power designed



7201 to be drawn by another vehicle and attached to the towing vehicle
7202 for the purpose of hauling goods or products. The term "trailer"
7203 shall not refer to any structure, transportable in one or more
7204 sections regardless of size, when erected on site, and which is
7205 built on a permanent chassis and designed to be used as a dwelling
7206 with or without a permanent foundation when connected to the
7207 required utilities, and includes the plumbing, heating,
7208 air-conditioning and electrical systems contained therein
7209 regardless of the date of manufacture.

7210 (bb) "Salvage mobile home" or "salvage manufactured
7211 home" means a mobile home or manufactured home for which a
7212 certificate of title has been issued that an insurance company
7213 obtains from the owner as a result of paying a total loss claim
7214 resulting from collision, fire, flood, wind or other occurrence.
7215 The term "salvage mobile home" or "salvage manufactured home" does
7216 not mean or include and is not applicable to a mobile home or
7217 manufactured home that is twenty (20) years old or older.

7218 (cc) "Salvage certificate of title" means a document
7219 issued by the department for a salvage mobile home or salvage
7220 manufactured home as defined in this chapter.

7221 (dd) "All-terrain vehicle" means a motor vehicle that
7222 is designed for off-road use and is not required to have a motor
7223 vehicle privilege license.

7224 **SECTION 125.** Section 63-21-75, Mississippi Code of 1972, is
7225 amended as follows:

7226 63-21-75. The Department of Revenue is charged with the
7227 enforcement of the provisions of this chapter and the department
7228 is hereby authorized and empowered to call upon any and all law
7229 enforcement agencies and officers of this state for such
7230 assistance as it may deem necessary in order to assure such
7231 enforcement. It shall be the duty of such law enforcement
7232 agencies and officers to render such assistance to the Department
7233 of Revenue when called upon by the department to so do.



7234 **SECTION 126.** Section 67-1-5, Mississippi Code of 1972, is
7235 amended as follows:

7236 67-1-5. For the purposes of this chapter and unless
7237 otherwise required by the context:

7238 (a) "Alcoholic beverage" means any alcoholic liquid,
7239 including wines of more than five percent (5%) of alcohol by
7240 weight, capable of being consumed as a beverage by a human being,
7241 but shall not include wine containing five percent (5%) or less of
7242 alcohol by weight and shall not include beer containing not more
7243 than five percent (5%) of alcohol by weight, as provided for in
7244 Section 67-3-5, Mississippi Code of 1972, but shall include native
7245 wines. The words "alcoholic beverage" shall not include ethyl
7246 alcohol manufactured or distilled solely for fuel purposes.

7247 (b) "Alcohol" means the product of distillation of any
7248 fermented liquid, whatever the origin thereof, and includes
7249 synthetic ethyl alcohol, but does not include denatured alcohol or
7250 wood alcohol.

7251 (c) "Distilled spirits" means any beverage containing
7252 more than four percent (4%) of alcohol by weight produced by
7253 distillation of fermented grain, starch, molasses or sugar,
7254 including dilutions and mixtures of these beverages.

7255 (d) "Wine" or "vinous liquor" means any product
7256 obtained from the alcoholic fermentation of the juice of sound,
7257 ripe grapes, fruits or berries and made in accordance with the
7258 revenue laws of the United States.

7259 (e) "Person" means and includes any individual,
7260 partnership, corporation, association or other legal entity
7261 whatsoever.

7262 (f) "Manufacturer" means any person engaged in
7263 manufacturing, distilling, rectifying, blending or bottling any
7264 alcoholic beverage.

7265 (g) "Wholesaler" means any person, other than a
7266 manufacturer, engaged in distributing or selling any alcoholic



7267 beverage at wholesale for delivery within or without this state
7268 when such sale is for the purpose of resale by the purchaser.

7269 (h) "Retailer" means any person who sells, distributes,
7270 or offers for sale or distribution, any alcoholic beverage for use
7271 or consumption by the purchaser and not for resale.

7272 (i) "State Tax Commission," "Commission" or
7273 "department" means the Department of Revenue of the State of
7274 Mississippi, which shall create a division in its organization to
7275 be known as the Alcoholic Beverage Control Division. Any
7276 reference to the commission or the department hereafter means the
7277 powers and duties of the Department of Revenue with reference to
7278 supervision of the Alcoholic Beverage Control Division.

7279 (j) "Division" means the Alcoholic Beverage Control
7280 Division of the Department of Revenue.

7281 (k) "Municipality" means any incorporated city or town
7282 of this state.

7283 (l) "Hotel" means an establishment within a
7284 municipality, or within a qualified resort area approved as such
7285 by the department, where, in consideration of payment, food and
7286 lodging are habitually furnished to travelers and wherein are
7287 located at least twenty (20) adequately furnished and completely
7288 separate sleeping rooms with adequate facilities that persons
7289 usually apply for and receive as overnight accommodations. Hotels
7290 in towns or cities of more than twenty-five thousand (25,000)
7291 population are similarly defined except that they must have fifty
7292 (50) or more sleeping rooms. Any such establishment described in
7293 this paragraph with less than fifty (50) beds shall operate one or
7294 more regular dining rooms designed to be constantly frequented by
7295 customers each day. When used in this chapter, the word "hotel"
7296 shall also be construed to include any establishment that meets
7297 the definition of "bed and breakfast inn" as provided in this
7298 section.



7299 (m) "Restaurant" means a place which is regularly and
7300 in a bona fide manner used and kept open for the serving of meals
7301 to guests for compensation, which has suitable seating facilities
7302 for guests, and which has suitable kitchen facilities connected
7303 therewith for cooking an assortment of foods and meals commonly
7304 ordered at various hours of the day; the service of such food as
7305 sandwiches and salads only shall not be deemed in compliance with
7306 this requirement. No place shall qualify as a restaurant under
7307 this chapter unless twenty-five percent (25%) or more of the
7308 revenue derived from such place shall be from the preparation,
7309 cooking and serving of meals and not from the sale of beverages,
7310 or unless the value of food given to and consumed by customers is
7311 equal to twenty-five percent (25%) or more of total revenue.

7312 (n) "Club" means an association or a corporation:

7313 (i) Organized or created under the laws of this
7314 state for a period of five (5) years prior to July 1, 1966;

7315 (ii) Organized not primarily for pecuniary profit
7316 but for the promotion of some common object other than the sale or
7317 consumption of alcoholic beverages;

7318 (iii) Maintained by its members through the
7319 payment of annual dues;

7320 (iv) Owning, hiring or leasing a building or space
7321 in a building of such extent and character as may be suitable and
7322 adequate for the reasonable and comfortable use and accommodation
7323 of its members and their guests;

7324 (v) The affairs and management of which are
7325 conducted by a board of directors, board of Governors, executive
7326 committee, or similar governing body chosen by the members at a
7327 regular meeting held at some periodic interval; and

7328 (vi) No member, officer, agent or employee of
7329 which is paid, or directly or indirectly receives, in the form of
7330 a salary or other compensation any profit from the distribution or
7331 sale of alcoholic beverages to the club or to members or guests of



7332 the club beyond such salary or compensation as may be fixed and
7333 voted at a proper meeting by the board of directors or other
7334 governing body out of the general revenues of the club.

7335 The department may, in its discretion, waive the five-year
7336 provision of this paragraph. In order to qualify under this
7337 paragraph, a club must file with the department, at the time of
7338 its application for a license under this chapter, two (2) copies
7339 of a list of the names and residences of its members and similarly
7340 file, within ten (10) days after the election of any additional
7341 member, his name and address. Each club applying for a license
7342 shall also file with the department at the time of the application
7343 a copy of its articles of association, charter of incorporation,
7344 bylaws or other instruments governing the business and affairs
7345 thereof.

7346 (o) "Qualified resort area" means any area or locality
7347 outside of the limits of incorporated municipalities in this state
7348 commonly known and accepted as a place which regularly and
7349 customarily attracts tourists, vacationists and other transients
7350 because of its historical, scenic or recreational facilities or
7351 attractions, or because of other attributes which regularly and
7352 customarily appeal to and attract tourists, vacationists and other
7353 transients in substantial numbers; however, no area or locality
7354 shall so qualify as a resort area until it has been duly and
7355 properly approved as such by the department.

7356 (i) The department may approve an area or locality
7357 outside of the limits of an incorporated municipality that is in
7358 the process of being developed as a qualified resort area if such
7359 area or locality, when developed, can reasonably be expected to
7360 meet the requisites of the definition of the term "qualified
7361 resort area." In such a case, the status of qualified resort area
7362 shall not take effect until completion of the development.

7363 (ii) The term includes any state park which is
7364 declared a resort area by the department; however, such



7365 declaration may only be initiated in a written request for resort
7366 area status made to the department by the Executive Director of
7367 the Department of Wildlife, Fisheries and Parks, and no permit for
7368 the sale of any alcoholic beverage, as defined in this chapter,
7369 except an on-premises retailer's permit, shall be issued for a
7370 hotel, restaurant or bed and breakfast inn in such park.

7371 (iii) The term includes:

7372 1. The clubhouses associated with the state
7373 park golf courses at the Lefleur's Bluff State Park, the John Kyle
7374 State Park, the Percy Quin State Park and the Hugh White State
7375 Park;

7376 2. The clubhouse and associated golf course
7377 where the golf course is adjacent to one or more planned
7378 residential developments and the golf course and all such
7379 developments collectively include at least seven hundred fifty
7380 (750) acres and at least four hundred (400) residential units; and

7381 3. Any facility located on property that is a
7382 game reserve with restricted access that consists of at least
7383 three thousand (3,000) contiguous acres with no public roads and
7384 that offers as a service hunts for a fee to overnight guests of
7385 the facility.

7386 The status of these clubhouses, facilities and golf courses
7387 as qualified resort areas does not require any declaration of same
7388 by the department.

7389 (p) "Native wine" means any product, produced in
7390 Mississippi for sale, having an alcohol content not to exceed
7391 twenty-one percent (21%) by weight and made in accordance with
7392 revenue laws of the United States, which shall be obtained
7393 primarily from the alcoholic fermentation of the juice of ripe
7394 grapes, fruits, berries or vegetables grown and produced in
7395 Mississippi; provided that bulk, concentrated or fortified wines
7396 used for blending may be produced without this state and used in
7397 producing native wines. The department shall adopt and promulgate



7398 rules and regulations to permit a producer to import such bulk
7399 and/or fortified wines into this state for use in blending with
7400 native wines without payment of any excise tax that would
7401 otherwise accrue thereon.

7402 (q) "Native winery" means any place or establishment
7403 within the State of Mississippi where native wine is produced in
7404 whole or in part for sale.

7405 (r) "Bed and breakfast inn" means an establishment
7406 within a municipality where in consideration of payment, breakfast
7407 and lodging are habitually furnished to travelers and wherein are
7408 located not less than eight (8) and not more than nineteen (19)
7409 adequately furnished and completely separate sleeping rooms with
7410 adequate facilities, that persons usually apply for and receive as
7411 overnight accommodations; however, such restriction on the minimum
7412 number of sleeping rooms shall not apply to establishments on the
7413 National Register of Historic Places. No place shall qualify as a
7414 bed and breakfast inn under this chapter unless on the date of the
7415 initial application for a license under this chapter more than
7416 fifty percent (50%) of the sleeping rooms are located in a
7417 structure formerly used as a residence.

7418 (s) "Board" shall refer to Board of Tax Appeals of the
7419 State of Mississippi.

7420 **SECTION 127.** Section 67-1-19, Mississippi Code of 1972, is
7421 amended as follows:

7422 67-1-19. The administration and enforcement of this chapter
7423 shall be vested in the Department of Revenue * * *. There is
7424 hereby created the Alcoholic Beverage Control Division within and
7425 as a part of the Department of Revenue.

7426 **SECTION 128.** Section 67-1-23, Mississippi Code of 1972, is
7427 amended as follows:

7428 67-1-23. The Commissioner of Revenue of the Department of
7429 Revenue shall appoint a director of the division, and may appoint
7430 or employ such agents, inspectors, clerks and other employees for



7431 such division as may be necessary to carry out the provisions of
7432 this chapter or to perform the duties and exercise the powers
7433 conferred by this chapter upon the department. The Commissioner
7434 of Revenue shall have the authority to employ, compensate,
7435 terminate, suspend with or without pay, promote, demote, transfer
7436 or reprimand the director, agents, inspectors, clerks and other
7437 employees of the division. * * * The director and all permanent
7438 employees of the division shall devote their full time to the
7439 duties of their respective offices.

7440 **SECTION 129.** Section 67-1-33, Mississippi Code of 1972, is
7441 amended as follows:

7442 67-1-33. (1) No member of the Board of Tax Appeals,
7443 Commissioner of Revenue of the Department of Revenue, or person
7444 appointed or employed by the department under this chapter shall
7445 solicit, accept or receive any gift, gratuity, emolument or
7446 employment from any person subject to the provisions of this
7447 chapter, or from any officer, agent or employee thereof.

7448 (2) No * * * member of the Board of Tax Appeals, the
7449 Commissioner of Revenue of the Department of Revenue, or person
7450 appointed or employed by the department under this chapter shall
7451 solicit, request from or recommend, directly or indirectly, to
7452 any * * * person subject to the provisions of this chapter, or to
7453 any officer, agent or employee thereof, the appointment of any
7454 person to any place or position.

7455 (3) Every * * * person subject to the provisions of this
7456 chapter, and every officer, agent or employee thereof, is hereby
7457 forbidden to offer to any member of the Board of Tax Appeals, to
7458 the Commissioner of Revenue or to any person appointed or employed
7459 by the department under this chapter any gift, gratuity, emolument
7460 or employment.

7461 (4) If any member of the Board of Tax Appeals, the
7462 Commissioner of Revenue or any person appointed or employed by the
7463 department under this chapter shall violate any of the provisions



7464 of this section, he shall be removed from the office or employment
7465 held by him.

7466 (5) Every person violating the provisions of this section
7467 shall be guilty of a misdemeanor.

7468 (6) For purposes of this provision, the terms "gift,"
7469 "gratuity," "emolument" and "employment" do not include the
7470 payment of expenses associated with social occasions afforded
7471 public servants or any other benefit that does not come within the
7472 definition of "pecuniary benefit" as defined in Section 25-4-103.

7473 **SECTION 130.** Section 67-1-35, Mississippi Code of 1972, is
7474 amended as follows:

7475 67-1-35. * * * The department may, for authentication of
7476 records, process and proceedings, adopt, keep and use a seal for
7477 the Alcoholic Beverage Control Division of the Department of
7478 Revenue, of which seal judicial notice shall be taken in all
7479 courts of this state. Any process, notice or other paper which
7480 the department may be authorized by law to issue under this
7481 chapter shall be deemed sufficient if signed by the director and
7482 authenticated by such seal. All acts, orders, proceedings, rules,
7483 regulations, entries, minutes, and other records of the department
7484 in connection with this chapter, and all reports and documents
7485 filed with it under this chapter, may be proved in any court of
7486 this state by a copy thereof certified to by the director with the
7487 seal of the division affixed.

7488 **SECTION 131.** Section 67-1-37, Mississippi Code of 1972, is
7489 amended as follows:

7490 **[Until July 1, 2011, this section will read as follows:]**

7491 67-1-37. (1) The Department of Revenue, under its duties
7492 and powers with respect to the Alcoholic Beverage Control Division
7493 therein, shall have the following powers, functions and duties:

7494 (a) To issue or refuse to issue any permit provided for
7495 by this chapter, or to extend the permit or remit in whole or any



7496 part of the permit monies when the permit cannot be used due to a
7497 natural disaster or Act of God.

7498 (b) To revoke, suspend or cancel, for violation of or
7499 noncompliance with the provisions of this chapter, or the law
7500 governing the production and sale of native wines, or any lawful
7501 rules and regulations of the department issued hereunder, or for
7502 other sufficient cause, any permit issued by it under the
7503 provisions of this chapter * * *. The department shall also be
7504 authorized to suspend the permit of any permit holder for being
7505 out of compliance with an order for support, as defined in Section
7506 93-11-153. The procedure for suspension of a permit for being out
7507 of compliance with an order for support, and the procedure for the
7508 reissuance or reinstatement of a permit suspended for that
7509 purpose, and the payment of any fees for the reissuance or
7510 reinstatement of a permit suspended for that purpose, shall be
7511 governed by Section 93-11-157 or Section 93-11-163, as the case
7512 may be. If there is any conflict between any provision of Section
7513 93-11-157 or Section 93-11-163 and any provision of this chapter,
7514 the provisions of Section 93-11-157 or Section 93-11-163, as the
7515 case may be, shall control.

7516 (c) To prescribe forms of permits and applications for
7517 permits and of all reports which it deems necessary in
7518 administering this chapter.

7519 (d) To fix standards, not in conflict with those
7520 prescribed by any law of this state or of the United States, to
7521 secure the use of proper ingredients and methods of manufacture of
7522 alcoholic beverages.

7523 (e) To issue rules regulating the advertising of
7524 alcoholic beverages in the state in any class of media and
7525 permitting advertising of the retail price of alcoholic beverages.

7526 (f) To issue reasonable rules and regulations, not
7527 inconsistent with the federal laws or regulations, requiring
7528 informative labeling of all alcoholic beverages offered for sale



7529 within this state and providing for the standards of fill and
7530 shapes of retail containers of alcoholic beverages; however, such
7531 containers shall not contain less than fifty (50) milliliters by
7532 liquid measure.

7533 (g) Subject to the provisions of subsection (3) of
7534 Section 67-1-51, to issue rules and regulations governing the
7535 issuance of retail permits for premises located near or around
7536 schools, colleges, universities, churches and other public
7537 institutions, and specifying the distances therefrom within which
7538 no such permit shall be issued. The Alcoholic Beverage Control
7539 Division shall not issue a package retailer's or on-premises
7540 retailer's permit for the sale or consumption of alcoholic
7541 beverages in or on the campus of any public school, community or
7542 junior college, college or university.

7543 (h) To adopt and promulgate, repeal and amend, such
7544 rules, regulations, standards, requirements and orders, not
7545 inconsistent with this chapter or any law of this state or of the
7546 United States, as it deems necessary to control the manufacture,
7547 importation, transportation, distribution and sale of alcoholic
7548 liquor, whether intended for beverage or nonbeverage use in a
7549 manner not inconsistent with the provisions of this chapter or any
7550 other statute, including the native wine laws.

7551 (i) To call upon other administrative departments of
7552 the state, county and municipal governments, county and city
7553 police departments and upon prosecuting officers for such
7554 information and assistance as it may deem necessary in the
7555 performance of its duties.

7556 (j) To prepare and submit to the Governor during the
7557 month of January of each year a detailed report of its official
7558 acts during the preceding fiscal year ending June 30, including
7559 such recommendations as it may see fit to make, and to transmit a
7560 like report to each member of the Legislature of this state upon
7561 the convening thereof at its next regular session.



7562 (k) To inspect, or cause to be inspected, any premises
7563 where alcoholic liquors intended for sale are manufactured,
7564 stored, distributed or sold, and to examine or cause to be
7565 examined all books and records pertaining to the business
7566 conducted therein.

7567 * * *

7568 (l) To investigate the administration of laws in
7569 relation to alcoholic liquors in this and other states and any
7570 foreign countries, and to recommend from time to time to the
7571 Governor and through him to the Legislature of this state such
7572 amendments to this chapter, if any, as it may think desirable.

7573 (m) To designate hours and days when alcoholic
7574 beverages may be sold in different localities in the state which
7575 permit such sale.

7576 (n) To assign employees to posts of duty at locations
7577 where they will be most beneficial for the control of alcoholic
7578 beverages and to take any other action concerning persons employed
7579 under this chapter as authorized by law and taken in accordance
7580 with the rules, regulations and procedures of the State Personnel
7581 Board. * * *

7582 * * *

7583 (o) To enforce the provisions made unlawful by Sections
7584 67-3-13, 67-3-15, 67-3-53, 67-3-57 and 67-3-70.

7585 (p) To delegate its authority under this chapter to the
7586 Alcoholic Beverage Control Division, its director or any other
7587 officer or employee of the department that it deems appropriate.

7588 (2) No alcoholic beverage shall be sold or consumed at any
7589 public athletic event at any public school, community or junior
7590 college, college or university.

7591 **[From and after July 1, 2011, this section will read as**
7592 **follows:]**



7593 67-1-37. (1) The Department of Revenue, under its duties
7594 and powers with respect to the Alcoholic Beverage Control Division
7595 therein, shall have the following powers, functions and duties:

7596 (a) To issue or refuse to issue any permit provided for
7597 by this chapter, or to extend the permit or remit in whole or any
7598 part of the permit monies when the permit cannot be used due to a
7599 natural disaster or Act of God.

7600 (b) To revoke, suspend or cancel, for violation of or
7601 noncompliance with the provisions of this chapter, or the law
7602 governing the production and sale of native wines, or any lawful
7603 rules and regulations of the department issued hereunder, or for
7604 other sufficient cause, any permit issued by it under the
7605 provisions of this chapter * * *. The department shall also be
7606 authorized to suspend the permit of any permit holder for being
7607 out of compliance with an order for support, as defined in Section
7608 93-11-153. The procedure for suspension of a permit for being out
7609 of compliance with an order for support, and the procedure for the
7610 reissuance or reinstatement of a permit suspended for that
7611 purpose, and the payment of any fees for the reissuance or
7612 reinstatement of a permit suspended for that purpose, shall be
7613 governed by Section 93-11-157 or 93-11-163, as the case may be.
7614 If there is any conflict between any provision of Section
7615 93-11-157 or 93-11-163 and any provision of this chapter, the
7616 provisions of Section 93-11-157 or 93-11-163, as the case may be,
7617 shall control.

7618 (c) To prescribe forms of permits and applications for
7619 permits and of all reports which it deems necessary in
7620 administering this chapter.

7621 (d) To fix standards, not in conflict with those
7622 prescribed by any law of this state or of the United States, to
7623 secure the use of proper ingredients and methods of manufacture of
7624 alcoholic beverages.



7625 (e) To issue rules regulating the advertising of
7626 alcoholic beverages in the state in any class of media and
7627 permitting advertising of the retail price of alcoholic beverages.

7628 (f) To issue reasonable rules and regulations, not
7629 inconsistent with the federal laws or regulations, requiring
7630 informative labeling of all alcoholic beverages offered for sale
7631 within this state and providing for the standards of fill and
7632 shapes of retail containers of alcoholic beverages; however, such
7633 containers shall not contain less than fifty (50) milliliters by
7634 liquid measure.

7635 (g) Subject to the provisions of subsection (3) of
7636 Section 67-1-51, to issue rules and regulations governing the
7637 issuance of retail permits for premises located near or around
7638 schools, colleges, universities, churches and other public
7639 institutions, and specifying the distances therefrom within which
7640 no such permit shall be issued. The Alcoholic Beverage Control
7641 Division shall not issue a package retailer's or on-premises
7642 retailer's permit for the sale or consumption of alcoholic
7643 beverages in or on the campus of any public school, community or
7644 junior college, college or university.

7645 (h) To adopt and promulgate, repeal and amend, such
7646 rules, regulations, standards, requirements and orders, not
7647 inconsistent with this chapter or any law of this state or of the
7648 United States, as it deems necessary to control the manufacture,
7649 importation, transportation, distribution and sale of alcoholic
7650 liquor, whether intended for beverage or nonbeverage use in a
7651 manner not inconsistent with the provisions of this chapter or any
7652 other statute, including the native wine laws.

7653 (i) To call upon other administrative departments of
7654 the state, county and municipal governments, county and city
7655 police departments and upon prosecuting officers for such
7656 information and assistance as it may deem necessary in the
7657 performance of its duties.



7658 (j) To prepare and submit to the Governor during the
7659 month of January of each year a detailed report of its official
7660 acts during the preceding fiscal year ending June 30, including
7661 such recommendations as it may see fit to make, and to transmit a
7662 like report to each member of the Legislature of this state upon
7663 the convening thereof at its next regular session.

7664 (k) To inspect, or cause to be inspected, any premises
7665 where alcoholic liquors intended for sale are manufactured,
7666 stored, distributed or sold, and to examine or cause to be
7667 examined all books and records pertaining to the business
7668 conducted therein.

7669 * * *

7670 (l) To investigate the administration of laws in
7671 relation to alcoholic liquors in this and other states and any
7672 foreign countries, and to recommend from time to time to the
7673 Governor and through him to the Legislature of this state such
7674 amendments to this chapter, if any, as it may think desirable.

7675 (m) To designate hours and days when alcoholic
7676 beverages may be sold in different localities in the state which
7677 permit such sale.

7678 (n) To assign employees to posts of duty at locations
7679 where they will be most beneficial for the control of alcoholic
7680 beverages and to take any other action concerning persons employed
7681 under this chapter as authorized by law and taken in accordance
7682 with the rules, regulations and procedures of the State Personnel
7683 Board. * * *

7684 * * *

7685 (o) To delegate its authority under this chapter to the
7686 Alcoholic Beverage Control Division, its director or any other
7687 officer or employee of the department that it deems appropriate.

7688 (2) No alcoholic beverage shall be sold or consumed at any
7689 public athletic event at any public school, community or junior
7690 college, college or university.



7691 **SECTION 132.** Section 67-1-39, Mississippi Code of 1972, is
7692 amended as follows:

7693 67-1-39. Any appeal from an order of the Board of Tax
7694 Appeals regarding an action taken under this chapter shall be
7695 filed without supersedeas to the Chancery Court of the First
7696 Judicial District of Hinds County, Mississippi, if the appellant
7697 is the department, or to the county of the domicile of any other
7698 appellant. * * * Any such appeal shall be based on the record
7699 made before the Board of Tax Appeals and shall be filed within
7700 thirty (30) days from the date of the order being appealed. There
7701 may be an appeal therefrom to the Supreme Court as in other cases
7702 provided, but it shall be without supersedeas on the order of the
7703 Board of Tax Appeals to them made and finally determined either by
7704 the chancery court or the Supreme Court. Actions taken by the
7705 department in suspending a permit when required by Section
7706 93-11-157 or 93-11-163 are not actions resulting in an order from
7707 which an appeal may be taken under this section. Any appeal of a
7708 permit suspension that is required by Section 93-11-157 shall be
7709 taken in accordance with the appeal procedure specified in Section
7710 93-11-157 or 93-11-163, as the case may be, rather than the
7711 procedure specified in this section.

7712 **SECTION 133.** Section 67-1-63, Mississippi Code of 1972, is
7713 amended as follows:

7714 67-1-63. (1) Any permittee may renew his permit at the
7715 expiration thereof for an additional term of one (1) year,
7716 provided he is then qualified to receive a permit and the premises
7717 for which the renewal is sought are suitable for such purposes.
7718 The renewal privilege herein provided for shall not be construed
7719 as a vested right. No "on-premises" retailer's permit shall be
7720 renewed at the expiration thereof for any "hotel" or "restaurant"
7721 under this chapter unless the commission is satisfied that the
7722 holder thereof is continuing to meet the requirements of a hotel
7723 or restaurant, as defined in Section 67-1-5.



7724 (2) When an application for the renewal of a permit has been
7725 denied by the department for a reason other than for being
7726 incomplete, for failure to pay any applicable license privilege
7727 taxes or fees required for renewal or for failure to post a bond,
7728 cash or securities as required by Section 27-71-21, the permittee
7729 shall be allowed to continue to operate under the permit for which
7730 renewal was denied until the last of the following dates:

7731 (a) The date on which the permit expires;

7732 (b) The date on which the time period for filing an
7733 appeal of the denial of the renewal to the Board of Tax Appeals
7734 expires;

7735 (c) If the denial is timely appealed to the Board of Tax
7736 Appeals and this appeal is later withdrawn, the date on which the
7737 withdrawal of appeal occurs; or

7738 (d) If the denial is timely appealed to the Board of Tax
7739 Appeals and an order is entered by the Board of Tax Appeals
7740 affirming the denial of the renewal, the date on which the
7741 permittee receives notice of the decision of the Board of Tax
7742 Appeals affirming the denial. Refusal to accept delivery of such
7743 notice or the posting of the final decision of the Board of Tax
7744 Appeals at the permitted place of business shall constitute
7745 receipt of notice by the permittee of this decision.

7746 (3) If the denial of an application for renewal of a permit
7747 is appealed to the Board of Tax Appeals and the board reverses the
7748 denial of the application for renewal, the department shall renew
7749 and issue the permit from its last expiration date.

7750 (4) The issuance and/or renewal of a permit based on the
7751 decision of the Board of Tax Appeals shall not bar or estop the
7752 department from appealing this decision of the Board of Tax
7753 Appeals to chancery court under Section 67-1-39. Any subsequent
7754 renewal of this permit while an appeal by the department from the
7755 decision of the Board of Tax Appeals is pending shall be subject
7756 to the final decision of the court on this appeal. If in such an



7757 appeal by the department, a court enters a final decision and/or
7758 order reversing the decision of the board and affirming the denial
7759 of the application for a permit or the application for renewal of
7760 a permit, the permit, even if subsequently renewed, shall be
7761 deemed denied and not authorize the permittee to sell alcoholic
7762 beverages under that permit after the date on which the decision
7763 and/or order of the court affirming the denial of the permit
7764 becomes final and not subject to any further appeal.

7765 **SECTION 134.** Section 67-1-71, Mississippi Code of 1972, is
7766 amended as follows:

7767 67-1-71. The department may revoke or suspend any permit
7768 issued by it for a violation by the permittee of any of the
7769 provisions of this chapter or of the regulations promulgated under
7770 it by the department.

7771 Permits must be revoked or suspended for the following
7772 causes:

7773 (a) Conviction of the permittee for the violation of
7774 any of the provisions of this chapter;

7775 (b) Willful failure or refusal by any permittee to
7776 comply with any of the provisions of this chapter or of any rule
7777 or regulation adopted pursuant thereto;

7778 (c) The making of any materially false statement in any
7779 application for a permit;

7780 (d) Conviction of one or more of the clerks, agents or
7781 employees of the permittee, of any violation of this chapter upon
7782 the premises covered by such permit within a period of time as
7783 designated by the rules or regulations of the department;

7784 (e) The possession on the premises of any retail
7785 permittee of any alcoholic beverages upon which the tax has not
7786 been paid;

7787 (f) The willful failure of any permittee to keep the
7788 records or make the reports required by this chapter, or to allow
7789 an inspection of such records by any duly authorized person;



7790 (g) The suspension or revocation of a permit issued to
7791 the permittee by the federal government, or conviction of
7792 violating any federal law relating to alcoholic beverages;

7793 (h) The failure to furnish any bond required by Section
7794 27-71-21 within fifteen (15) days after notice from the
7795 department; and

7796 (i) The conducting of any form of illegal gambling on
7797 the premises of any permittee or on any premises connected
7798 therewith or the presence on any such premises of any gambling
7799 device with the knowledge of the permittee.

7800 The provisions of paragraph (i) of this section shall not
7801 apply to gambling or the presence of any gambling devices, with
7802 knowledge of the permittee, on board a cruise vessel in the waters
7803 within the State of Mississippi, which lie adjacent to the State
7804 of Mississippi south of the three (3) most southern counties in
7805 the State of Mississippi, or on any vessel as defined in Section
7806 27-109-1 whenever such vessel is on the Mississippi River or
7807 navigable waters within any county bordering on the Mississippi
7808 River. The department may, in its discretion, issue on-premises
7809 retailer's permits to a common carrier of the nature described in
7810 this paragraph.

7811 No permit shall be suspended or revoked until after the
7812 permittee has been provided reasonable notice of the charges
7813 against him for which suspension or revocation is sought and the
7814 opportunity to a hearing before the Board of Tax Appeals to
7815 contest such charges and the suspension or revocation proposed.
7816 Opportunity to a hearing is provided without an actual hearing if
7817 the permittee, after receiving reasonable notice, including notice
7818 of his right to a hearing, fails to timely request a hearing. The
7819 permittee may also at any time waive his rights to reasonable
7820 notice and/or to the opportunity to a hearing by agreeing to a
7821 suspension or revocation offered by the department.

7822 Notwithstanding the requirement above that a permit may not be



7823 suspended without notice and opportunity to a hearing, sales of
7824 alcoholic beverages by a permittee under a permit for which the
7825 bond shall be suspended under Section 27-71-21 has been cancelled
7826 from and after issuance of this notice provided in subsection (h)
7827 above and shall continue to be suspended until the bond is
7828 reinstated, a new bond is posted or sufficient cash or securities
7829 as provided under Section 27-71-21 are deposited with the State
7830 Treasurer for this permit.

7831 In addition to the causes specified in this section and other
7832 provisions of this chapter, the department shall be authorized to
7833 suspend the permit of any permit holder for being out of
7834 compliance with an order for support, as defined in Section
7835 93-11-153. The procedure for suspension of a permit for being out
7836 of compliance with an order for support, and the procedure for the
7837 reissuance or reinstatement of a permit suspended for that
7838 purpose, and the payment of any fees for the reissuance or
7839 reinstatement of a permit suspended for that purpose, shall be
7840 governed by Section 93-11-157 or 93-11-163, as the case may be.
7841 If there is any conflict between any provision of Section
7842 93-11-157 or 93-11-163 and any provision of this chapter, the
7843 provisions of Section 93-11-157 or 93-11-163, as the case may be,
7844 shall control.

7845 **SECTION 135.** The following shall be codified as Section
7846 67-1-72, Mississippi Code of 1972:

7847 67-1-72. (1) Except as otherwise provided in this chapter,
7848 any applicant or holder of a permit issued under this chapter
7849 which is aggrieved by an action of the Department of Revenue to
7850 deny his application for a permit, to deny the renewal of his
7851 permit or to revoke or suspend his permit shall be allowed to
7852 appeal to the Board of Tax Appeals from this action. This appeal
7853 is to be filed by the aggrieved person with the Executive Director
7854 of the Board of Tax Appeals, with a copy being sent to the
7855 Department of Revenue, within fifteen (15) days of the date to



7856 that person received notice of the action of the department being
7857 aggrieved. If the person aggrieved fails to appeal within this
7858 fifteen-day period, the action of the Department of Revenue shall
7859 take effect as set out in the notice. The Department of Revenue
7860 retains the authority to change at any time the action aggrieved
7861 to in an appeal under this subsection. The applicant or holder of
7862 any permit issued under this chapter may waive his right to notice
7863 and opportunity to a hearing as provided by this subsection and
7864 agree to the action being taken by the department. The inability
7865 of the Department of Revenue to issue or renew a permit due to an
7866 incomplete application or due to the failure of the applicant to
7867 pay the annual privilege taxes and fees provided by Section
7868 27-71-5 and/or the failure of the applicant to post or deposit the
7869 bond, cash or securities as required by Section 27-71-21 shall not
7870 constitute a denial for purposes of this subsection.

7871 (2) Any applicant for approval as a manager of an
7872 establishment operating under a permit issued under this chapter
7873 or who holds the designation of an approved manager of an
7874 establishment operating under a permit issued under this chapter
7875 and who is aggrieved by an action of the Department of Revenue to
7876 deny his application for approval as a manager or to revoke or
7877 suspend his designation as an approved manager shall be allowed to
7878 appeal to the Board of Tax Appeals from this action. This appeal
7879 is to be filed by the aggrieved person with the Executive Director
7880 of the Board of Tax Appeals, with a copy being sent to the
7881 Department of Revenue, within fifteen (15) days from the date that
7882 person received notice of the action of the department being
7883 aggrieved. If the person aggrieved fails to appeal within this
7884 fifteen-day period, the action of the Department of Revenue shall
7885 take effect as set out in the notice. The Department of Revenue
7886 retains the authority to change at any time the action aggrieved
7887 to in an appeal under this subsection. The applicant or holder of
7888 an approved manager designation may waive his right to notice and



7889 opportunity to a hearing as provided by this subsection and agree
7890 to the action being taken by the department. The inability of the
7891 Department of Revenue to consider an application for approval of
7892 an applicant as a manager due to an incomplete application shall
7893 not constitute a denial of the application for purposes of this
7894 subsection.

7895 (3) Any applicant for approval of an area or locality as a
7896 qualified resort area under this chapter who is aggrieved by the
7897 decision of the Department of Revenue to deny the qualified resort
7898 area as requested and any county or municipality wherein the
7899 proposed qualified resort area is located may appeal to the Board
7900 of Tax Appeals from such decision. This appeal is to be filed by
7901 the aggrieved applicant or by the affected county or municipality
7902 with the Executive Director of the Board of Tax Appeals, with a
7903 copy being sent to the Department of Revenue, within fifteen (15)
7904 days from the date that the person or entity filing the appeal
7905 received notice of the decision of the Department of Revenue to
7906 deny the qualified resort area. If an appeal is not filed within
7907 this fifteen-day period, the decision of the Department of Revenue
7908 shall become final. The Department of Revenue retains the
7909 authority to change at any time the decision aggrieved to in an
7910 appeal under this subsection. The inability of the Department of
7911 Revenue to consider an application for the approval of an area or
7912 locality as a qualified resort area due to an incomplete
7913 application shall not constitute a denial of that application for
7914 purposes of this subsection.

7915 (4) Any person, including any county or municipality in
7916 which the qualified resort area is located, who is aggrieved by
7917 the decision of the Department of Revenue to revoke the approval
7918 of an area or locality as a qualified resort area may appeal to
7919 the Board of Tax Appeals from such decision. This appeal is to be
7920 filed by the aggrieved person with the Executive Director of the
7921 Board of Tax Appeals, with a copy being sent to the Department of



7922 Revenue, within fifteen (15) days from the date that the person or
7923 entity filing the appeal received notice of the decision of the
7924 department to revoke approval of the qualified resort area. At
7925 the discretion of the Department of Revenue, in addition to any
7926 other notice to be provided under this subsection, the department
7927 may provide notice of its decision to revoke approval of the
7928 qualified resort area by publication in the same manner as
7929 provided by regulation when approval of a qualified resort area is
7930 sought. In regard to such publication, the fifteen (15) day
7931 period provide herein will begin on the date that notice is first
7932 published. If an appeal is not filed within this fifteen-day
7933 period, the decision of the Department of Revenue shall become
7934 final. The Department of Revenue retains the authority to change
7935 at any time the decision aggrieved to in an appeal under this
7936 subsection.

7937 (5) Any person objecting to an application for the issuance
7938 or transfer of a permit, other than a temporary retailer's permit,
7939 issued under this chapter and who timely requests in writing a
7940 hearing on his objection shall be given a hearing before the Board
7941 of Tax Appeals unless the permit is denied by the Department of
7942 Revenue and an appeal is not taken by the applicant to the Board
7943 of Tax Appeals from that denial or the applicant withdraws his
7944 application. Any written request for a hearing on an objection
7945 must be filed with the Department of Revenue within fifteen (15)
7946 days from the first date of publication of the notice of such
7947 application under Section 67-1-53. If the department determines
7948 that the permit should be denied, notice will be provided to the
7949 applicant as set out in subsection (1) above, and if the applicant
7950 timely requests a hearing on the denial as provided by this
7951 subsection (1), the department will advise the Executive Director
7952 of the Board of Tax Appeals and the applicant of the written
7953 request for a hearing on an objection to the permit. The hearing
7954 on the objection to the permit and the hearing on the appeal by



7955 the applicant from the denial of the department of the application
7956 shall be consolidated and heard by the Board of Tax Appeals at the
7957 same time. If the department determines that the permit should be
7958 issued, the department will advise the applicant and the Executive
7959 Director of the Board of Tax Appeals of the timely written request
7960 for a hearing on an objection to the application and a hearing
7961 will be set before the Board of Tax Appeals on this objection. If
7962 prior to the hearing, either the person requesting the hearing
7963 withdraws his request or the applicant withdraws his application,
7964 the hearing will be cancelled and the objection proceedings before
7965 the Board of Tax Appeals on the application will be dismissed as
7966 moot. In the case of such withdrawals, the Board of Tax Appeals
7967 is authorized to assess to either or both parties any costs
7968 incurred by it prior to such withdrawal. The Department of
7969 Revenue retains authority to issue the permit to the applicant
7970 where the person objecting to the application withdraws his
7971 request for a hearing.

7972 (6) Any person objecting to an application for approval by
7973 the Department of Revenue of a area or locality as a qualified
7974 resort area under this chapter and who timely requests in writing
7975 a hearing on his objection shall be given a hearing before the
7976 Board of Tax Appeals unless approval of the application is denied
7977 by the Department of Revenue and an appeal is not taken by the
7978 applicant or the county or municipality in which the proposed
7979 qualified resort area is located to the Board of Tax Appeals from
7980 that denial or the applicant withdraws his application. Any
7981 written request for a hearing on an objection must be filed with
7982 the Department of Revenue within fifteen (15) days from the first
7983 date of publication on the notice of such application as provided
7984 by regulation. If the department determines that the application
7985 for approval of the proposed area or locality as a qualified
7986 resort area should be denied, the department will proceed with
7987 denial of such application as set out in subsection (3) above, and



7988 if the applicant or the county or municipality in which the
7989 proposed qualified resort area is located timely requests a
7990 hearing on the denial as provided by this subsection (3), the
7991 department will advise the Executive Director of the Board of Tax
7992 Appeals and the applicant of the written request for a hearing on
7993 an objection to the application. The hearing on the objection to
7994 approval of the proposed qualified resort area and the hearing on
7995 the appeal from the denial of the department of the application
7996 for such approval shall be consolidated and heard by the Board of
7997 Tax Appeals at the same time. If the department determines that
7998 the proposed qualified resort area should be approved, the
7999 department will advise the applicant and the Executive Director of
8000 the Board of Tax Appeals of the timely written request for a
8001 hearing on an objection to the application and a hearing will be
8002 set before the Board of Tax Appeals on this objection. If prior
8003 to the hearing, either the person requesting the hearing withdraws
8004 his request or the applicant withdraws his application, the
8005 hearing will be cancelled and the objection proceedings before the
8006 Board of Tax Appeals on the application will be dismissed as moot.
8007 In the case of such withdrawals, the Board of Tax Appeals is
8008 authorized to assess to either or both parties any costs incurred
8009 by it prior to such withdrawal. The Department of Revenue retains
8010 authority to approve the proposed area or locality as a qualified
8011 resort area where the person objecting to the application
8012 withdraws his request for a hearing.

8013 (7) Any person having an interest in any alcoholic beverages
8014 or raw materials which the Department of Revenue intends to
8015 dispose of under Section 67-1-18 shall be given reasonable notice
8016 of this proposed disposal, and upon such notice, this person may
8017 request a hearing before the Board of Tax Appeals to establish his
8018 right or claim to this property. This request for a hearing shall
8019 be filed with the Board of Tax Appeals, with a copy sent to the
8020 Department of Revenue, within fifteen (15) days from the date of



8021 receipt of the notice provide above by the person filing the
8022 request. If a request is not received by the Board of Tax Appeals
8023 within this fifteen-day period, the department may order the
8024 property disposed of in accordance with Section 67-1-18.

8025 (8) Upon receipt of a written request for hearing or appeal
8026 as set out above, the executive director shall schedule a hearing
8027 before the Board of Tax Appeals on this request or appeal. A
8028 notice of the hearing shall be mailed to all persons or entities
8029 having an interest in the matter being heard which shall always
8030 include the person or entity filing the request or appeal for
8031 which the hearing is being set, the applicant or holder of any
8032 permit, approved manager status or qualified resort area status in
8033 issue, any person who filed a written request for a hearing on an
8034 objection to any application in issue and the Department of
8035 Revenue. This notice shall provide the date, time and location of
8036 the hearing. Mailing to the attorney representing a person or
8037 entity in the matter being heard shall be the same as mailing to
8038 the person or entity the attorney represents. Failure of the
8039 person or entity on whose request or appeal the matter was set for
8040 hearing to appear personally or through his designated
8041 representative at the hearing shall constitute an involuntary
8042 withdrawal of his request or appeal. Upon such withdrawal, the
8043 Board of Tax Appeals shall note on the record the failure of the
8044 person or entity to appear at the hearing and shall dismiss the
8045 request or appeal and remand the matter back to the Department of
8046 Revenue for appropriate action.

8047 (9) At any hearing before the Board of Tax Appeals on an
8048 appeal or hearing request as set out above, two (2) members of the
8049 Board of Tax Appeals shall constitute a quorum. At the hearing,
8050 the Board of Tax Appeals shall try the issues presented according
8051 to law and the facts and pursuant to any guidelines established by
8052 regulation. The rules of evidence shall be relaxed at the hearing
8053 and the hearing shall be recorded by a court reporter. After



8054 reaching a decision on the issues presented, the Board of Tax
8055 Appeals shall enter an order setting forth its findings and
8056 decision in the matter. A copy of the order of the Board of Tax
8057 Appeals shall be mailed to the person or entity filing the request
8058 or appeal which was heard, the applicant or holder of any permit,
8059 approved manager status or qualified resort area status in issue,
8060 any person who filed a written request for a hearing on an
8061 objection to any application in issue and the Department of
8062 Revenue to notify them of the findings and decision of the Board
8063 of Tax Appeals.

8064 **SECTION 136.** Section 67-3-3, Mississippi Code of 1972, is
8065 amended as follows:

8066 67-3-3. When used in this chapter, unless the context
8067 indicates otherwise:

8068 (a) "Commissioner" means the Commissioner of Revenue of
8069 the Department of Revenue of the State of Mississippi, and his
8070 authorized agents and employees;

8071 (b) "Person" means one or more persons, a company, a
8072 corporation, a partnership, a syndicate or an association;

8073 (c) "Manufacturer" and "retailer" include brewpubs
8074 licensed pursuant to Article 3, Chapter 71, Title 27, Mississippi
8075 Code of 1972, unless otherwise clearly provided; and

8076 (d) "Beer" means a malt beverage as defined in the
8077 Federal Alcohol Administration Act and any rules and regulations
8078 adopted pursuant to such act.

8079 **SECTION 137.** Section 67-7-5, Mississippi Code of 1972, is
8080 amended as follows:

8081 67-7-5. As used in this chapter, the following words or
8082 phrases, or the plural thereof, whenever they appear in this
8083 chapter, unless the context clearly requires otherwise, shall have
8084 the meaning ascribed to them in this section.

8085 (a) "Agreement" means any agreement between a
8086 wholesaler and a supplier, whether oral or written, whereby a



8087 wholesaler is granted the right to purchase and sell a brand or
8088 brands of light wine or beer sold by a supplier.

8089 (b) "Ancillary business" means a business owned by the
8090 wholesaler, by a substantial stockholder of a wholesaler, or by a
8091 substantial partner of a wholesaler, the primary business of which
8092 is directly related to the transporting, storing or marketing of
8093 the brand or brands of light wine or beer of a supplier with whom
8094 the wholesaler has an agreement; or a business owned by a
8095 wholesaler, a substantial stockholder of a wholesaler.

8096 (c) "Commission" or "department" means the Department
8097 of Revenue of the State of Mississippi.

8098 (d) "Commissioner" means the Commissioner of Revenue of
8099 the Department of Revenue.

8100 (e) "Designated member" means the spouse, child,
8101 grandchild, parent, brother or sister of a deceased individual who
8102 owned an interest, including a controlling interest, in a
8103 wholesaler, or any person who inherits under the deceased
8104 individual's will, or under the laws of intestate succession of
8105 this state; or any person who or entity which has otherwise,
8106 through a valid testamentary device by the deceased individual,
8107 succeeded the deceased individual in the wholesaler's business, or
8108 has succeeded to the deceased individual's ownership interest in
8109 the wholesaler pursuant to a written contract or instrument which
8110 has been previously approved by supplier; "designated member"
8111 includes the appointed and qualified personal representative and
8112 the testamentary trustee of a deceased individual owning an
8113 ownership interest in a wholesaler, and it includes the person
8114 appointed by a court as the guardian or conservator of the
8115 property of an incapacitated individual owning an ownership
8116 interest in a wholesaler.

8117 (f) "Establish" means to adjust or regulate, to provide
8118 for and uphold.



8119 (g) "Good faith" means honesty in fact and observance
8120 of reasonable commercial standards of fair dealing in the trade,
8121 as defined in and interpreted under the Uniform Commercial Code.

8122 (h) "Reasonable qualifications" means the standard of
8123 the reasonable criteria established and consistently used by the
8124 respective supplier for similarly situated wholesalers that
8125 entered into, continued or renewed an agreement with the supplier
8126 during a period of twenty-four (24) months before the proposed
8127 transfer of the wholesaler's business, or for similarly situated
8128 wholesalers who have changed managers or designated managers,
8129 under the agreement, during a period of twenty-four (24) months
8130 before the proposed change in the manager or successor manager of
8131 the wholesaler's business.

8132 (i) "Retaliatory action" means the refusal to continue
8133 an agreement, or a material reduction in the quality of service or
8134 quantity of products available to a wholesaler under an agreement,
8135 which refusal or reduction is not made in good faith.

8136 (j) "Sales territory" means a primary area of sales
8137 responsibility for the brand or brands of light wine or beer sold
8138 by a supplier as designated by an agreement.

8139 (k) "Substantial stockholder or substantial partner"
8140 means a stockholder or partner in the wholesaler who owns an
8141 interest of ten percent (10%) or more of the partnership or of the
8142 capital stock of a corporate wholesaler.

8143 (l) "Supplier" means a manufacturer or importer of
8144 light wine or beer as regulated by the department under Sections
8145 67-3-1 through 67-3-73.

8146 (m) "Transfer of wholesaler's business" means the
8147 voluntary sale, assignment or other transfer of ten percent (10%)
8148 or more of control of the business or all or substantially all of
8149 the assets of the wholesaler, or ten percent (10%) or more of
8150 control of the capital stocks of the wholesaler, including without
8151 limitation the sale or other transfer of capital stock or assets



8152 by merger, consolidation or dissolution, or of the capital stock
8153 of the parent corporation, or of the capital stock or beneficial
8154 ownership of any other entity owning or controlling the
8155 wholesaler.

8156 (n) "Wholesaler" means a wholesaler of light wine or
8157 beer as regulated by the department under Sections 67-3-1 through
8158 67-3-73.

8159 (o) "Similarly situated wholesalers" means wholesalers
8160 of a supplier that are of a generally comparable size and operate
8161 in markets in Mississippi and adjoining states with similar
8162 demographic characteristics, including population size, density,
8163 distribution and vital statistics, as well as reasonably similar
8164 economic and geographic conditions.

8165 (p) "Light wine and/or beer" has the meaning ascribed
8166 to such terms in Section 67-3-5.

8167 **SECTION 138.** Section 71-5-389, Mississippi Code of 1972, is
8168 amended as follows:

8169 71-5-389. (1) For the purposes of this section, the
8170 following terms shall have the respective meanings ascribed by
8171 this section:

8172 (a) "Claimant agency" means the Mississippi Department
8173 of Employment Security.

8174 (b) "Debtor" means any individual owing money or having
8175 a delinquent account with any claimant agency, which obligation
8176 has not been adjudicated satisfied by court order, set aside by
8177 court order, or discharged in bankruptcy.

8178 (c) "Debt" means any sum due and owing any claimant
8179 agency, including costs, court costs, fines, penalties and
8180 interest which have accrued through contract, subrogation, tort,
8181 operation of law, or any other legal theory regardless of whether
8182 there is an outstanding judgment for that sum which is legally
8183 collectible and for which a collection effort has been or is being
8184 made.



8185 (d) "Department" or "Department of Revenue" means the
8186 Department of Revenue of the State of Mississippi.

8187 (e) "Refund" means the Mississippi income tax refund
8188 which the department determines to be due any individual taxpayer.

8189 (2) The collection remedy authorized by this section is in
8190 addition to and is not substitution for any other remedy available
8191 by law.

8192 (3) (a) A claimant agency may submit debts in excess of
8193 Twenty-five Dollars (\$25.00) owed to it to the department for
8194 collection through setoff, under the procedure established by this
8195 section, except in cases where the validity of the debt is
8196 legitimately in dispute, an alternate means of collection is
8197 pending and believed to be adequate, or such collection would
8198 result in a loss of federal funds or federal assistance.

8199 (b) Upon the request of a claimant agency, the
8200 department shall set off any refund, as defined herein, against
8201 the sum certified by the claimant agency as provided in this
8202 section.

8203 (4) (a) Within the time frame specified by the department,
8204 a claimant agency seeking to collect a debt through setoff shall
8205 supply the information necessary to identify each debtor whose
8206 refund is sought to be set off and certify the amount of debt or
8207 debts owed by each such debtor.

8208 (b) If a debtor identified by a claimant agency is
8209 determined by the department to be entitled to a refund of at
8210 least Twenty-five Dollars (\$25.00), the department shall transfer
8211 an amount equal to the refund owed, not to exceed the amount of
8212 the claimed debt certified, to the claimant agency. The
8213 Department of Revenue shall send the excess amount to the debtor
8214 within a reasonable time after such excess is determined. At the
8215 time of the transfer of funds to a claimant agency pursuant to
8216 this paragraph (b), the Department of Revenue shall notify the
8217 taxpayer or taxpayers whose refund is sought to be set off that



8218 the transfer has been made. Such notice shall clearly set forth
8219 the name of the debtor, the manner in which the debt arose, the
8220 amount of the claimed debt, the transfer of funds to the claimant
8221 agency pursuant to this paragraph (b) and the intention to set off
8222 the refund against the debt, the amount of the refund in excess of
8223 the claimed debt, the taxpayer's opportunity to give written
8224 notice to contest the setoff within thirty (30) days of the date
8225 of mailing of the notice, the name and mailing address of the
8226 claimant agency to which the application for such a hearing must
8227 be sent, and the fact that the failure to apply for such a
8228 hearing, in writing, within the thirty-day period will be deemed a
8229 waiver of the opportunity to contest the setoff. In the case of a
8230 joint return or a joint refund, the notice shall also state the
8231 name of the taxpayer named in the return, if any, against whom no
8232 debt is claimed, the fact that a debt is not claimed against such
8233 taxpayer, the fact that such taxpayer is entitled to receive a
8234 refund if it is due him regardless of the debt asserted against
8235 his spouse, and that in order to obtain a refund due him such
8236 taxpayer must apply in writing for a hearing with the claimant
8237 agency named in the notice within thirty (30) days of the date of
8238 the mailing of the notice. If a taxpayer fails to apply in
8239 writing for such a hearing within thirty (30) days of the mailing
8240 of such notice, he will have waived his opportunity to contest the
8241 setoff.

8242 (c) Upon receipt of funds transferred from the
8243 Department of Revenue pursuant to paragraph (b) of this
8244 subsection, the claimant agency shall deposit and hold such funds
8245 in an escrow account until a final determination of the validity
8246 of the debt.

8247 (d) The claimant agency shall pay the Department of
8248 Revenue a fee, not to exceed Seventeen Dollars (\$17.00) in each
8249 case in which a tax refund is identified as being available for
8250 offset. Such fees shall be deposited by the Department of Revenue



8251 into a special fund hereby created in the State Treasury, out of
8252 which the Legislature shall appropriate monies to defray expenses
8253 of the Department of Revenue in employing personnel to administer
8254 the provisions of this section.

8255 (5) (a) When the claimant agency receives a protest or an
8256 application in writing from a taxpayer within thirty (30) days of
8257 the notice issued by the Department of Revenue, the claimant
8258 agency shall set a date to hear the protest and give notice to the
8259 taxpayer by registered or certified mail of the date so set. The
8260 time and place of such hearing shall be designated in such notice
8261 and the date set shall not be less than fifteen (15) days from the
8262 date of such notice. If, at the hearing, the sum asserted as due
8263 and owing is found not to be correct, an adjustment to the claim
8264 may be made. The claimant agency shall give notice to the debtor
8265 of its final determination as provided in paragraph (c) of this
8266 subsection.

8267 (b) No issues shall be reconsidered at the hearing
8268 which have been previously litigated.

8269 (c) If any debtor is dissatisfied with the final
8270 determination made at the hearing by the claimant agency, he may
8271 appeal the final determination to the circuit court of the county
8272 in which the main office of the claimant agency is located by
8273 filing notice of appeal with the administrative head of the
8274 claimant agency and with the clerk of the circuit court of the
8275 county in which the appeal shall be taken within thirty (30) days
8276 from the date the notice of final determination was given by the
8277 claimant agency.

8278 (6) (a) Upon final determination of the amount of the debt
8279 due and owing by means of hearing or by the taxpayer's default
8280 through failure to comply with timely request for review, the
8281 claimant agency shall remove the amount of the debt due and owing
8282 from the escrow account and credit such amount to the debtor's
8283 obligation.



8284 (b) Upon transfer of the debt due and owing from the
8285 escrow account to the credit of the debtor's account, the claimant
8286 agency shall notify the debtor in writing of the finalization of
8287 the setoff. Such notice shall include a final accounting if the
8288 refund which was set off, including the amount of the refund to
8289 which the debtor was entitled prior to the setoff, the amount of
8290 the debt due and owing, the amount of the * * * collection fee
8291 paid to the Department of Revenue, the amount of the refund in
8292 excess of the debt which was returned to the debtor by the
8293 Department of Revenue, and the amount of the funds transferred to
8294 the claimant agency in excess of the debt determined to be due and
8295 owing at a hearing, if such a hearing was held. At such time, the
8296 claimant agency shall refund to the debtor the amount of the
8297 claimed debt originally certified and transferred to it by the
8298 Department of Revenue in excess of the amount of debt finally
8299 found to be due and owing.

8300 (7) (a) Notwithstanding the provision that prohibits
8301 disclosure by the Department of Revenue of the contents of
8302 taxpayer records or information and notwithstanding any other
8303 confidentiality statute, the Department of Revenue may provide to
8304 a claimant agency all information necessary to accomplish and
8305 effectuate the intent of the section.

8306 (b) The information obtained by claimant agency from
8307 the Department of Revenue in accordance with the provisions of
8308 this section shall retain its confidentiality and shall only be
8309 used by a claimant agency in the pursuit of its debt collection
8310 duties and practices; and any employee or prior employee of any
8311 claimant agency who unlawfully discloses any such information for
8312 any other purpose, except as specifically authorized by law, shall
8313 be subject to the same penalties specified by law for unauthorized
8314 confidential information by an agent or employee of the Department
8315 of Revenue.



8316 **SECTION 139.** Section 75-23-5, Mississippi Code of 1972, is
8317 amended as follows:

8318 75-23-5. The following words, terms and phrases, when used
8319 in the Unfair Cigarette Sales Law, shall have the meaning ascribed
8320 to them in this section except where the context clearly indicates
8321 a different meaning:

8322 (a) "Person" shall mean and include any individual,
8323 firm, association, company, partnership, corporation, joint stock
8324 company, club, agency, syndicate, the State of Mississippi,
8325 county, municipal corporation or other political subdivision of
8326 this state, receiver, trustee, fiduciary, or trade association.

8327 (b) "Commission" or "department" shall mean the
8328 Department of Revenue of the State of Mississippi.

8329 (c) "Cigarettes" shall mean and include any roll for
8330 smoking made wholly or in part of tobacco, irrespective of size or
8331 shape and whether or not such tobacco is flavored, adulterated or
8332 mixed with any other ingredient, the wrapper or cover of which is
8333 made of paper or any other substance or material, excepting
8334 tobacco.

8335 (d) "Wholesaler" shall mean and include any person
8336 qualified as a wholesaler with the Department of Revenue of
8337 Mississippi and shall also mean and include any person other than
8338 a buying pool as defined herein, wherever resident or located, who
8339 brings or causes to be brought into this state unstamped
8340 cigarettes purchased directly from the manufacturer thereof and
8341 who maintains an established place of business where substantially
8342 all of the business is the sale of cigarettes and related
8343 merchandise at wholesale to cigarette licensees and where at all
8344 times a substantial stock of cigarettes and related merchandise is
8345 available for resale; provided, that seventy-five percent (75%)
8346 thereof are sold to retailers or other wholesalers not connected
8347 with the wholesaler by reason of any business connection or
8348 otherwise; and also any person retailing cigarettes to consumers,



8349 provided, at least seventy-five percent (75%) of his purchases are
8350 made directly from the manufacturers thereof; and also any person
8351 in this state other than a buying pool as defined herein, who
8352 purchases cigarettes, from any other person who purchases from a
8353 manufacturer at least seventy-five percent (75%) of which are for
8354 purposes of resale to retailers in this state not connected with
8355 said wholesaler by reason of any business connection or otherwise
8356 and who maintains an established place of business where
8357 cigarettes and related merchandise are sold at wholesale to
8358 persons licensed under this law, and where at all times a
8359 substantial stock of cigarettes and related merchandise is
8360 available to all retailers for resale; and also any person in this
8361 state who acquires cigarettes solely for the purpose of resale in
8362 cigarette vending machines; provided, such person operated thirty
8363 (30) or more machines.

8364 (e) "Retailer" shall mean and include any person who is
8365 engaged in this state in the business of selling cigarettes at
8366 retail and includes any group of persons, cooperative
8367 organizations, buying pools, and any other person or group of
8368 retailers purchasing cigarettes on a cooperative basis from
8369 licensed distributors or wholesalers. Any person placing a
8370 cigarette vending machine at, on or in any premises shall be
8371 deemed to be a retailer from each such vending machine.

8372 (f) "Buying pool" means and includes any combination,
8373 corporation, association, affiliation or group of retail dealers
8374 operating jointly in the purchase, sale, exchange, or barter of
8375 cigarettes, the profits of which accrue directly or indirectly to
8376 such retail dealers.

8377 (g) "Sale" or "sell" shall mean any transfer for a
8378 consideration, exchange, barter, gift, offer for sale, advertising
8379 for sale, soliciting an order for cigarettes and distribution in
8380 any manner or by any means whatsoever.



8381 (h) "Sell at wholesale," "sale at wholesale" and
8382 "wholesale sales" shall mean and include any sale made in the
8383 ordinary course of trade or usual conduct of the wholesaler's
8384 business to a retailer for the purpose of resale.

8385 (i) "Sell at retail," "sale at retail" or "retail
8386 sales" shall mean and include any sale for consumption or use made
8387 in the ordinary course of trade or usual conduct of the seller's
8388 business.

8389 (j) "Basic cost of cigarettes" shall mean whichever of
8390 the two (2) following amounts is lower, namely, (i) the invoice
8391 cost of cigarettes to the wholesaler or retailer, as the case may
8392 be, or (ii) the lowest replacement cost of cigarettes to the
8393 wholesaler or retailer, as the case may be, within thirty (30)
8394 days prior to the date of sale, in the quantity last purchased
8395 (whether within or before the * * * thirty-day period), less, in
8396 either of the two (2) cases, all trade discounts except customary
8397 discounts for cash, plus the full face value of any stamps or any
8398 tax which may be required by any cigarette tax act of this state
8399 or political subdivision thereof, now in effect or hereafter
8400 enacted, if not already included in the invoice cost of the
8401 cigarettes to the wholesaler or retailer, as the case may be.

8402 (k) (i) "Cost to wholesaler" shall mean the basic cost
8403 of the cigarettes involved to the wholesaler plus the cost of
8404 doing business by the wholesaler as evidenced by the standards and
8405 methods of accounting regularly employed by him, and must include,
8406 without limitation, labor costs (including salaries of executives
8407 and officers), rent, depreciation, selling costs, maintenance of
8408 equipment, delivery costs, all types of licenses, taxes, insurance
8409 and advertising.

8410 (ii) In the absence of proof of a lesser or higher
8411 cost of doing business by the wholesale dealer making the sale,
8412 the cost of doing business by the wholesale dealer shall be
8413 presumed to be two percent (2%) of the basic cost of * * *



8414 cigarettes to the wholesale dealer, any fraction of a cent thus
8415 computed shall be rounded off to the next highest cent, plus
8416 cartage to the retail outlet, if performed or paid for by the
8417 wholesale dealer, which cartage cost, in the absence of proof of a
8418 lesser or higher cost, shall be presumed to be one-half of one
8419 percent (1/2 of 1%) of the basic cost of the * * * cigarettes to
8420 the wholesale dealer, any fraction of a cent in computing the
8421 amount of the cartage shall be rounded off to the next highest
8422 cent.

8423 (1) (i) "Cost to the retailer" shall mean the basic
8424 cost of the cigarettes involved to the retailer plus the cost of
8425 doing business by the retailer as evidenced by the standards and
8426 methods of accounting regularly employed by him and must include,
8427 without limitation, labor (including salaries of executives and
8428 officers), rent, depreciation, selling costs, maintenance of
8429 equipment, delivery costs, all types of licenses, taxes, insurance
8430 and advertising.

8431 (ii) In the absence of proof of a lesser or higher
8432 cost of doing business by the retailer making the sale, the cost
8433 of doing business by the * * * retailer shall be presumed to be
8434 six percent (6%) of the basic cost of cigarettes to the * * *
8435 retailer. Any fraction of a cent thus computed shall be rounded
8436 off to the next highest cent.

8437 (iii) In the case of any retail dealer who in
8438 connection with the * * * retail dealer's purchase of any
8439 cigarettes shall receive not only the discounts ordinarily allowed
8440 upon purchases by a retail dealer but also in whole or in part the
8441 discounts ordinarily allowed upon purchases by a wholesale dealer,
8442 the cost of doing business by the * * * retail dealer with respect
8443 to the * * * cigarettes shall be, in the absence of proof of a
8444 lesser or higher cost of doing business by the * * * retail
8445 dealer, the sum of the cost of doing business by the retail dealer
8446 and, to the extent that he shall have received the full discounts



8447 ordinarily allowed to a wholesale dealer, the cost of doing
8448 business by a wholesale dealer as hereinabove defined in paragraph
8449 (j)(ii) of this section.

8450 **SECTION 140.** Section 75-23-31, Mississippi Code of 1972, is
8451 amended as follows:

8452 75-23-31. As used in this article:

8453 (a) "Commission" or "department" means the Mississippi
8454 Department of Revenue.

8455 (b) "Cigarette" means any roll for smoking made wholly
8456 or in part of tobacco, irrespective of size or shape and whether
8457 such tobacco is flavored, adulterated or mixed with any other
8458 ingredient, the wrapper or cover of which is made of paper or any
8459 other substance or material except tobacco.

8460 (c) "Person" means any individual, firm, association,
8461 agency, syndicate, the State of Mississippi, county, municipal
8462 corporation or other political subdivision of this state,
8463 receiver, trustee, fiduciary or trade association.

8464 **SECTION 141.** Section 75-76-5, Mississippi Code of 1972, is
8465 amended as follows:

8466 75-76-5. As used in this chapter, unless the context
8467 requires otherwise:

8468 (a) "Applicant" means any person who has applied for or
8469 is about to apply for a state gaming license, registration or
8470 finding of suitability under the provisions of this chapter or
8471 approval of any act or transaction for which approval is required
8472 or permitted under the provisions of this chapter.

8473 (b) "Application" means a request for the issuance of a
8474 state gaming license, registration or finding of suitability under
8475 the provisions of this chapter or for approval of any act or
8476 transaction for which approval is required or permitted under the
8477 provisions of this chapter but does not include any supplemental
8478 forms or information that may be required with the application.



8479 (c) "Associated equipment" means any equipment or
8480 mechanical, electromechanical or electronic contrivance, component
8481 or machine used remotely or directly in connection with gaming or
8482 with any game, race book or sports pool that would not otherwise
8483 be classified as a gaming device, including dice, playing cards,
8484 links which connect to progressive slot machines, equipment which
8485 affects the proper reporting of gross revenue, computerized
8486 systems of betting at a race book or sports pool, computerized
8487 systems for monitoring slot machines, and devices for weighing or
8488 counting money.

8489 (d) "Chairman" * * * means * * * the Chairman of the
8490 Mississippi Gaming Commission except when used in the term
8491 "Chairman of the State Tax Commission." "Chairman of the State
8492 Tax Commission" or "commissioner" means the Commissioner of
8493 Revenue of the Department of Revenue.

8494 (e) "Commission" or "Mississippi Gaming
8495 Commission" * * * means the Mississippi Gaming Commission.

8496 (f) "Commission member" * * * means a member of the
8497 Mississippi Gaming Commission.

8498 (g) "Credit instrument" means a writing which evidences
8499 a gaming debt owed to a person who holds a license at the time the
8500 debt is created, and includes any writing taken in consolidation,
8501 redemption or payment of a prior credit instrument.

8502 (h) "Enforcement division" means a particular division
8503 supervised by the executive director that provides enforcement
8504 functions.

8505 (i) "Establishment" means any premises wherein or
8506 whereon any gaming is done.

8507 (j) "Executive director" * * * means the Executive
8508 Director of the Mississippi Gaming Commission.

8509 (k) Except as otherwise provided by law, "game," or
8510 "gambling game" means any banking or percentage game played with
8511 cards, with dice or with any mechanical, electromechanical or



8512 electronic device or machine for money, property, checks, credit
8513 or any representative of value, including, without limiting, the
8514 generality of the foregoing, faro, monte, roulette, keno, fan-tan,
8515 twenty-one, blackjack, seven-and-a-half, big injun, klondike,
8516 craps, poker, chuck-a-luck (dai shu), wheel of fortune, chemin de
8517 fer, baccarat, pai gow, beat the banker, panguingui, slot machine,
8518 or any other game or device approved by the commission. However,
8519 "game" or "gambling game" shall not include bingo games or raffles
8520 which are held pursuant to the provisions of Section 97-33-51.

8521 The commission shall not be required to recognize any game
8522 hereunder with respect to which the commission determines it does
8523 not have sufficient experience or expertise.

8524 (l) "Gaming" or "gambling" means to deal, operate,
8525 carry on, conduct, maintain or expose for play any game as defined
8526 in this chapter.

8527 (m) "Gaming device" means any mechanical,
8528 electromechanical or electronic contrivance, component or machine
8529 used in connection with gaming or any game which affects the
8530 result of a wager by determining win or loss. The term includes a
8531 system for processing information which can alter the normal
8532 criteria of random selection, which affects the operation of any
8533 game, or which determines the outcome of a game. The term does
8534 not include a system or device which affects a game solely by
8535 stopping its operation so that the outcome remains undetermined,
8536 and does not include any antique coin machine as defined in
8537 Section 27-27-12.

8538 (n) "Gaming employee" means any person connected
8539 directly with the operation of a gaming establishment licensed to
8540 conduct any game, including:

- 8541 (i) Boxmen;
- 8542 (ii) Cashiers;
- 8543 (iii) Change personnel;
- 8544 (iv) Counting room personnel;



- 8545 (v) Dealers;
- 8546 (vi) Floormen;
- 8547 (vii) Hosts or other persons empowered to extend
- 8548 credit or complimentary services;
- 8549 (viii) Keno runners;
- 8550 (ix) Keno writers;
- 8551 (x) Machine mechanics;
- 8552 (xi) Security personnel;
- 8553 (xii) Shift or pit bosses;
- 8554 (xiii) Shills;
- 8555 (xiv) Supervisors or managers; and
- 8556 (xv) Ticket writers.

8557 The term "gaming employee" also includes employees of
8558 manufacturers or distributors of gaming equipment within this
8559 state whose duties are directly involved with the manufacture,
8560 repair or distribution of gaming equipment.

8561 "Gaming employee" does not include bartenders, cocktail
8562 waitresses or other persons engaged in preparing or serving food
8563 or beverages unless acting in some other capacity.

8564 (o) "Gaming license" means any license issued by the
8565 state which authorizes the person named therein to engage in
8566 gaming.

8567 (p) "Gross revenue" means the total of all of the
8568 following, less the total of all cash paid out as losses to
8569 patrons and those amounts paid to purchase annuities to fund
8570 losses paid to patrons over several years by independent financial
8571 institutions:

- 8572 (i) Cash received as winnings;
- 8573 (ii) Cash received in payment for credit extended
- 8574 by a licensee to a patron for purposes of gaming; and
- 8575 (iii) Compensation received for conducting any
- 8576 game in which the licensee is not party to a wager.



8577 For the purposes of this definition, cash or the value of
8578 noncash prizes awarded to patrons in a contest or tournament are
8579 not losses.

8580 The term does not include:

8581 (i) Counterfeit money or tokens;

8582 (ii) Coins of other countries which are received
8583 in gaming devices;

8584 (iii) Cash taken in fraudulent acts perpetrated
8585 against a licensee for which the licensee is not reimbursed; or

8586 (iv) Cash received as entry fees for contests or
8587 tournaments in which the patrons compete for prizes.

8588 (q) "Hearing examiner" means a member of the
8589 Mississippi Gaming Commission or other person authorized by the
8590 commission to conduct hearings.

8591 (r) "Investigation division" means a particular
8592 division supervised by the executive director that provides
8593 investigative functions.

8594 (s) "License" means a gaming license or a
8595 manufacturer's, seller's or distributor's license.

8596 (t) "Licensee" means any person to whom a valid license
8597 has been issued.

8598 (u) "License fees" means monies required by law to be
8599 paid to obtain or continue a gaming license or a manufacturer's,
8600 seller's or distributor's license.

8601 (v) "Licensed gaming establishment" means any premises
8602 licensed pursuant to the provisions of this chapter wherein or
8603 whereon gaming is done.

8604 (w) "Manufacturer's," "seller's" or "distributor's"
8605 license means a license issued pursuant to Section 75-76-79.

8606 (x) "Navigable waters" shall have the meaning ascribed
8607 to such term under Section 27-109-1.

8608 (y) "Operation" means the conduct of gaming.



8609 (z) "Party" means the Mississippi Gaming Commission and
8610 any licensee or other person appearing of record in any proceeding
8611 before the commission; or the Mississippi Gaming Commission and
8612 any licensee or other person appearing of record in any proceeding
8613 for judicial review of any action, decision or order of the
8614 commission.

8615 (aa) "Person" includes any association, corporation,
8616 firm, partnership, trust or other form of business association as
8617 well as a natural person.

8618 (bb) "Premises" means land, together with all
8619 buildings, improvements and personal property located thereon, and
8620 includes all parts of any vessel or cruise vessel.

8621 (cc) "Race book" means the business of accepting wagers
8622 upon the outcome of any event held at a track which uses the
8623 pari-mutuel system of wagering.

8624 (dd) "Regulation" means a rule, standard, directive or
8625 statement of general applicability which effectuates law or policy
8626 or which describes the procedure or requirements for practicing
8627 before the commission. The term includes a proposed regulation
8628 and the amendment or repeal of a prior regulation but does not
8629 include:

8630 (i) A statement concerning only the internal
8631 management of the commission and not affecting the rights or
8632 procedures available to any licensee or other person;

8633 (ii) A declaratory ruling;

8634 (iii) An interagency memorandum;

8635 (iv) The commission's decision in a contested case
8636 or relating to an application for a license; or

8637 (v) Any notice concerning the fees to be charged
8638 which are necessary for the administration of this chapter.

8639 (ee) "Respondent" means any licensee or other person
8640 against whom a complaint has been filed with the commission.



8641 (ff) "Slot machine" means any mechanical, electrical or
8642 other device, contrivance or machine which, upon insertion of a
8643 coin, token or similar object, or upon payment of any
8644 consideration, is available to play or operate, the play or
8645 operation of which, whether by reason of the skill of the operator
8646 or application of the element of chance, or both, may deliver or
8647 entitle the person playing or operating the machine to receive
8648 cash, premiums, merchandise, tokens or anything of value, whether
8649 the payoff is made automatically from the machine or in any other
8650 manner. The term does not include any antique coin machine as
8651 defined in Section 27-27-12.

8652 (gg) "Sports pool" means the business of accepting
8653 wagers on sporting events, except for athletic events, by any
8654 system or method of wagering other than the system known as the
8655 "pari-mutuel method of wagering."

8656 (hh) "State Tax Commission" or "department" means the
8657 Department of Revenue of the State of Mississippi.

8658 (ii) "Temporary work permit" means a work permit which
8659 is valid only for a period not to exceed ninety (90) days from its
8660 date of issue and which is not renewable.

8661 (jj) "Vessel" or "cruise vessel" shall have the
8662 meanings ascribed to such terms under Section 27-109-1.

8663 (kk) "Work permit" means any card, certificate or
8664 permit issued by the commission, whether denominated as a work
8665 permit, registration card or otherwise, authorizing the employment
8666 of the holder as a gaming employee. A document issued by any
8667 governmental authority for any employment other than gaming is not
8668 a valid work permit for the purposes of this chapter.

8669 (ll) "School or training institution" means any school
8670 or training institution which is licensed by the commission to
8671 teach or train gaming employees pursuant to Section 75-76-34.

8672 (mm) "Cheat" means to alter the selection of criteria
8673 that determine:



- 8674 (i) The rules of a game; or
8675 (ii) The amount or frequency of payment in a game.

8676 **SECTION 142.** Section 75-76-83, Mississippi Code of 1972, is
8677 amended as follows:

8678 75-76-83. Any person aggrieved by the final order of the
8679 Board of Tax Appeals regarding any action taken by the
8680 Commissioner of Revenue and/or the Department of Revenue under the
8681 provisions of this chapter, including any person charged with any
8682 tax, fee, interest, penalties and damages imposed by this chapter
8683 and required to pay same, may appeal from such order as provided
8684 in Section 27-77-7. * * *

8685 **SECTION 143.** Sections 27-3-11, 27-3-21, 27-3-25, 27-3-27,
8686 27-3-32, 27-3-55, 27-3-75 and 67-1-21, Mississippi Code of 1972,
8687 are repealed.

8688 **SECTION 144.** Nothing in this act shall affect or defeat any
8689 assessment, refund claim, request for waiver of a tax penalty, the
8690 suspension, revocation, surrender, seizure or denial of permit,
8691 tag or title, the suspension, revocation or denial of a permit,
8692 approved manager status, qualified resort area or forfeiture under
8693 the Local Option Alcoholic Beverage Control Law, Section 67-1-1 et
8694 seq., the administrative appeal or judicial appeal of any of the
8695 foregoing acts or any other action taken by the Mississippi State
8696 Tax Commission or by the Chairman of the Mississippi State Tax
8697 Commission prior to the effective date of this act. The
8698 provisions of the laws relating to the administrative appeal or
8699 judicial review of such actions which were in effect prior to the
8700 effective date of this act are expressly continued in full force,
8701 effect and operation for the purpose of providing an
8702 administrative appeal and/or judicial review, where previously
8703 provided, of such actions, except to the extent that any matter is
8704 pending on an administrative appeal before the three (3) member
8705 Mississippi State Tax Commission on the effective date will after
8706 the effective date of this act be heard and decided by the Board



8707 of Tax Appeals as the successor of the Mississippi State Tax
8708 Commission in regard to administrative appeals.

8709 **SECTION 145.** This act shall take effect and be in force from
8710 and after July 1, 2010.

