

By: Senator(s) Kirby, Dearing, Jackson
(11th)

To: Finance

SENATE BILL NO. 2712

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



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



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

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

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

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



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

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

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



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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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

285 (2) The executive director shall be admitted to practice law
286 in this state and have a familiarity with the tax appeals process
287 sufficient to fulfill the duties of the office of executive
288 director. The salary of the executive director shall be set by



289 the State Personnel Board. The executive director shall devote
290 full time to the duties assigned to him by the board and/or its
291 chairman.

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

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

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

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

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

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

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

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



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

338 (8) Since the Board of Tax Appeals is the successor to the
339 three-member State Tax Commission in regard to administrative
340 appeals, the Secretary of the State Tax Commission shall take with
341 him, when he assumes the position of the Executive Director of the
342 Board of Tax Appeals, all minutes and orders of the three-member
343 State Tax Commission and all papers, exhibits and documents filed
344 with the three-member State Tax Commission that had been
345 previously preserved as a record of that body by the Secretary of
346 the State Tax Commission and shall continue to preserve these
347 minutes, orders and records of the three-member State Tax
348 Commission in accordance with any record retention schedule
349 established for such records. He shall continue to perform any
350 other duties and responsibilities of the Secretary of the State
351 Tax Commission in regard to these minutes, orders and records,
352 including, but not limited to, certifying copies of such records,
353 and such copies, when so certified, shall be accepted in all
354 matters equally and in like manner as the original.



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

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

381 **SECTION 6.** (1) Except for the duties and powers devolved
382 upon the Board of Tax Appeals by Section 2 of this act, the
383 Commissioner of Revenue acting through the Department of Revenue
384 shall on and after the effective date of this act exercise those
385 powers, duties and functions heretofore vested in the Mississippi
386 State Tax Commission, the State Tax Commission, the Tax
387 Commission, the Commissioner of Revenue, the Chairman of the



388 Mississippi State Tax Commission, the Chairman of the State Tax
389 Commission and/or the Chairman of the Tax Commission.

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

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



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

437 (4) In regard to the promulgation and adoption of any rule
438 or regulation by the State Tax Commission and/or the Chairman of
439 the State Tax Commission prior to the effective date of this act,
440 the creation of the Department of Revenue and the transfer of
441 powers, duties and functions to the Commissioner of Revenue of the
442 Department of Revenue from the State Tax Commission and Chairman
443 of the State Tax Commission as set out in subsection (1) of this
444 section shall be treated as only a change in the name of the
445 official or agency that adopted and promulgated such rules and
446 regulations from the Chairman of the State Tax Commission or the
447 State Tax Commission to the Commissioner of Revenue of the
448 Department of Revenue, and after the effective date of this act,
449 the Commissioner of Revenue of the Department of Revenue is
450 authorized and empowered to enforce such rules or regulations as
451 the official or agency that originally adopted and promulgated
452 such rules and regulations without having to readopt or
453 re-promulgate such rules and regulations. In such rules and



454 regulations, after the effective date of this act, any reference
455 to Mississippi State Tax Commission, the State Tax Commission, the
456 Tax Commission and/or commission shall mean Department of Revenue
457 and any reference to the Commissioner of Revenue, the Chairman of
458 the Mississippi State Tax Commission, the Chairman of the State
459 Tax Commission, the Chairman of the Tax Commission and/or chairman
460 shall mean Commissioner of Revenue of the Department of Revenue.

461 (5) The terms "Mississippi State Tax Commission," "State Tax
462 Commission," "Tax Commission," and "commission" appearing in the
463 laws of this state in connection with the performance of the
464 duties and functions by the Mississippi State Tax Commission, the
465 State Tax Commission or Tax Commission shall mean the Department
466 of Revenue, and, more particularly, such words or terms shall mean
467 the Department of Revenue whenever they appear in Sections 7-5-25,
468 7-7-49, 9-21-51, 11-51-77, 13-3-157, 13-3-169, 17-17-53,
469 17-17-219, 17-17-327, 17-17-415, 17-17-423, 19-2-11, 19-5-357,
470 19-9-151, 21-29-229, 21-29-233, 21-33-3, 21-33-5, 21-33-9,
471 21-33-13, 21-33-43, 21-33-45, 21-33-47, 21-33-205, 21-33-207,
472 21-33-209, 21-45-21, 25-1-73, 25-1-87, 25-3-1, 25-3-3, 25-3-15,
473 25-15-9, 25-17-9, 25-53-151, 25-55-15, 25-58-21, 25-60-1, 25-65-5,
474 25-65-7, 27-5-101, 27-5-103, 27-5-155, 27-5-159, 27-7-901,
475 27-7-903, 27-8-19, 27-17-423, 27-19-11, 27-19-27, 27-19-31,
476 27-19-39, 27-19-40, 27-19-41, 27-21-7, 27-21-19, 27-31-1,
477 27-31-31, 27-31-37, 27-31-38, 27-31-87, 27-31-101, 27-31-107,
478 27-31-109, 27-31-113, 27-35-15, 27-35-17, 27-35-19, 27-35-23,
479 27-35-25, 27-35-35, 27-35-50, 27-35-55, 27-35-75, 27-35-77,
480 27-35-81, 27-35-97, 27-35-111, 27-35-119, 27-35-123, 27-35-127,
481 27-35-131, 27-35-133, 27-35-135, 27-35-141, 27-35-143, 27-35-145,
482 27-35-147, 27-35-165, 27-35-167, 27-35-301, 27-35-303, 27-35-305,
483 27-35-307, 27-35-310, 27-35-313, 27-35-321, 27-35-327, 27-35-337,
484 27-35-509, 27-35-511, 27-35-513, 27-35-515, 27-35-519, 27-35-525,
485 27-35-527, 27-35-531, 27-37-19, 27-37-21, 27-37-23, 27-37-27,
486 27-37-29, 27-37-31, 27-37-301, 27-37-303, 27-38-5, 27-38-7,



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

513 (6) The terms "Chairman of the Mississippi State Tax
514 Commission," "Chairman of the State Tax Commission," "Chairman of
515 the Tax Commission" and "chairman" appearing in the laws of this
516 state in connection with the performance of the duties and
517 functions by the Chairman of the Mississippi State Tax Commission,
518 the Chairman of the State Tax Commission or the Chairman of the
519 Tax Commission shall mean the Commissioner of Revenue of the



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

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

528 1-1-11. (1) Except as provided in subsection (2) of this
529 section, the Joint Committee on Compilation, Revision and
530 Publication of Legislation shall distribute or provide for the
531 distribution of the sets of the compilation of the Mississippi
532 Code of 1972 purchased by the state as follows:

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

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

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



553 state for the use of the chancery clerk and the board of
554 supervisors; each sheriff in the state for the use of his office
555 and the county officers; and each county for the county library
556 (and an additional set shall be given to each circuit clerk,
557 chancery clerk, sheriff and county library in counties having two
558 (2) judicial districts).

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

580 One (1) set to each state junior or community college; three
581 (3) sets to the Department of Wildlife, Fisheries and Parks; two
582 (2) sets to the Department of Environmental Quality; two (2) sets
583 to the Department of Marine Resources; two (2) sets to the
584 Mississippi Ethics Commission; six (6) sets to the Mississippi
585 Workers' Compensation Commission; four (4) sets to the State



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

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

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

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

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

614 Before the joint committee delivers or provides for delivery
615 of a copy of the Mississippi Code of 1972 to an individual
616 officeholder, the joint committee shall prepare and submit a
617 written agreement to the officeholder. The agreement shall, among
618 other provisions, state that the code is the property of the State



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

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

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

649 (2) The joint committee, in its discretion, may determine
650 whether electronic access to the Mississippi Code of 1972 is
651 available and a sufficient substitute for actual bound volumes of



652 the code and, if so, may omit furnishing any one or more sets
653 otherwise required by this section.

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

656 25-41-3. For purposes of this chapter, the following words
657 shall have the meaning ascribed herein, to wit:

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

667 (i) The judiciary, including all jury
668 deliberations;

669 (ii) Public and private hospital staffs, public and
670 private hospital boards and committees thereof;

671 (iii) Law enforcement officials;

672 (iv) The military;

673 (v) The State Probation and Parole Board;

674 (vi) The Workers' Compensation Commission;

675 (vii) Legislative subcommittees and legislative
676 conference committees;

677 (viii) The arbitration council established in
678 Section 69-3-19;

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

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



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

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

692 27-3-1. (1) There is hereby created a Department of
693 Revenue, the head of which shall be the Commissioner of
694 Revenue, * * * who shall be appointed by the Governor, * * * with
695 the advice and consent of the Senate. * * * Each term of office
696 of * * * the Commissioner of Revenue shall be for six (6) years,
697 or until his successor shall be appointed and qualified. The
698 Governor shall include in his appointment, * * * the expiration
699 date of the appointment. * * * Vacancies shall be filled by the
700 Governor for the unexpired portion of the term in which the
701 vacancy occurs.

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

708 (3) The Commissioner of Revenue shall, before entering upon
709 the discharge of the duties of his office, take and subscribe to
710 the oath of office prescribed by the constitution, shall file the
711 oath in the Office of the Secretary of State, and * * * shall
712 execute a bond in some surety company authorized to do business in
713 the state, to be approved by the Governor, and filed in the Office
714 of the Secretary of State in the penal sum of Two Hundred Fifty
715 Thousand Dollars (\$250,000.00), conditioned for the faithful and
716 impartial discharge of the duties of his office * * *. The



717 premium on the bond shall be paid as provided by law out of funds
718 appropriated to the Department of Revenue * * *.

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

725 * * *

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

728 27-3-2. (1) No person appointed by the Governor as
729 Commissioner of Revenue under the terms of Section 27-3-1 shall be
730 eligible to take office unless his name shall have been submitted
731 to the Mississippi Senate for its advice and consent at least
732 thirty (30) days prior to the scheduled adjournment of the regular
733 session of the Legislature being held in the calendar year in
734 which the term of the office of the incumbent shall expire. * * *

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

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



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

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

754 27-3-3. The Commissioner of Revenue of the Department of
755 Revenue shall be the executive officer * * * of the Department of
756 Revenue. He shall have the power and authority to perform all
757 duties and powers prescribed by the laws of this state to be
758 performed by the Chairman of the State Tax Commission, the
759 Commissioner of Revenue, the State Tax Commission or the
760 Department of Revenue * * *. The commissioner shall have the
761 power and authority to enforce all rules and regulations
762 promulgated by him, the Chairman of the State Tax Commission or
763 the State Tax Commission.

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

766 27-3-9. The Commissioner of Revenue shall receive an annual
767 salary fixed by the State Personnel Board. The actual traveling
768 expenses of the commissioners and of the employees of the
769 Department of Revenue incurred in the performance of their
770 official duties shall be allowed, and such salaries and expenses
771 shall be payable out of funds appropriated for the expenses of the
772 Department of Revenue. * * *

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

775 27-3-13. The Commissioner of Revenue is * * * empowered to
776 employ * * * such accountants, appraisers, information systems
777 programmers, information systems technicians, information systems
778 managers, clerical help, stenographers, and such other assistants
779 and/or attorneys as he may deem necessary to the proper discharge
780 of the duties of the Department of Revenue, to prescribe their
781 duties and to fix the compensation of each employee within the



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

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

797 27-3-15. The Commissioner of Revenue may require such of his
798 employees as authorized by this chapter to execute bonds in some
799 surety company authorized to do business in the State of
800 Mississippi in such sum as it may order not to exceed for any one
801 (1) employee the sum of Twenty-five Thousand Dollars (\$25,000.00),
802 and the premium on the bond shall be paid out of any money
803 appropriated for the general expenses of the Department of
804 Revenue.

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

807 27-3-17. It is the duty of the Department of Finance and
808 Administration to provide suitable and adequate quarters and
809 equipment for the Department of Revenue, for its office force and
810 for filing its records, books, papers, and assessment rolls.

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

813 27-3-19. (1) The Department of Revenue shall have a seal
814 which shall be in the form of a circle with the image of an eagle



815 in the center and around the margin the words: "Commissioner,
816 Mississippi Department of Revenue," and under the image of the
817 eagle the word: "Official." The seal, in the discretion of the
818 Commissioner of Revenue, may be of a raised or engraved design or
819 printed.

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

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

837 27-3-23. The Commissioner of Revenue may forthwith have
838 prepared a complete audit and survey of the books, records,
839 accounts, operations and affairs of the Department of Revenue to
840 the end of obtaining a comprehensive outline of the conditions
841 thereof, and of securing a more economical administration of the
842 business, duties and operations of the department. The expense
843 incident to such audit and survey shall be paid out of the
844 contingent fund of the department.

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



847 27-3-31. (1) It shall specifically be the duty of the
848 Commissioner of Revenue, and he shall have power and authority:

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

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

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

860 (d) To organize the offices, bureaus and divisions of
861 the Department of Revenue.

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

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

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

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

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

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

877 (k) To confer with and advise assessing officers,
878 boards of supervisors and other county officers as to their duties
879 relative to ad valorem taxation under the law; and to advise them



880 in the collection, filing and preservation of data relative to
881 matters of assessment.

882 * * *

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

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

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

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

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

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



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

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

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

920 * * *

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

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

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

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

933 27-3-33. (1) The Commissioner of Revenue shall have the
934 power, authority and duty to direct that proceedings, actions and
935 prosecutions be instituted to enforce the laws relating to the
936 penalties, liabilities, and punishment of all persons, officers or
937 agents or corporations, or others required by law to make returns
938 of taxable property, for failure or neglect to comply with such
939 provisions of the tax law; and to cause complaints to be made
940 against assessors, boards of supervisors, and other officers,
941 whose duties concern assessments, in any court of competent
942 jurisdiction for their removal for official misconduct or neglect
943 of such duty, as provided by law in such cases.



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

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

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



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

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

992 27-3-35. In all cases of valuation or ownership of property
993 which has escaped taxation, the Commissioner of Revenue may have
994 subpoenaed witnesses to testify before any board of supervisors,
995 board of mayor and aldermen, or other municipal governing
996 authority, or before the commissioner himself, his designee or any
997 other lawful taxing authority.

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

1000 27-3-39. The Commissioner of Revenue shall investigate and
1001 ascertain what property, if any, is escaping taxation or
1002 assessment. After the first day of February should the
1003 Commissioner of Revenue discover that any person, corporation,
1004 property, business, occupation or calling has escaped taxation for
1005 the previous calendar year or years by reason of not being
1006 assessed by either a county or municipality, it shall be his duty
1007 to give notice to the county or municipal tax assessor in writing,
1008 and the assessor shall, within ten (10) days thereafter, make the
1009 proper assessment by way of an additional assessment and file the

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

1032 **SECTION 22.** Section 27-3-41, Mississippi Code of 1972, is
1033 amended as follows:

1034 27-3-41. The power of the Commissioner of Revenue to
1035 institute proceedings for the assessment of property which has
1036 escaped taxation by reason of not being assessed shall expire at
1037 the end of seven (7) years from the date when his right so to do
1038 first accrued, and it shall bring all suits he is authorized to
1039 bring within six (6) years after the cause of action accrues and
1040 not thereafter.

1041 **SECTION 23.** Section 27-3-43, Mississippi Code of 1972, is
1042 amended as follows:



1043 27-3-43. When land is purchased by the Commissioner of
1044 Revenue as the successful bidder in accordance with Section
1045 27-7-63, 27-13-37 or 27-65-65, the Commissioner of Revenue may
1046 then sell the state's interest in the land at a public or private
1047 sale to the best interest of the state. If after such purchase,
1048 the Commissioner of Revenue determines that it is not in the best
1049 interest of the state for him to sell the state's interest in the
1050 land, he shall, after the expiration of any applicable redemption
1051 period, render a full description of the land to the land
1052 commissioner, and after such rendering, the land shall be
1053 registered at the land office and sold as other state lands. * * *

1054 **SECTION 24.** Section 27-3-45, Mississippi Code of 1972, is
1055 amended as follows:

1056 27-3-45. The Department of Revenue shall settle with the
1057 State Treasurer, and pay over daily to the State Treasurer all
1058 monies collected by it each day; and it shall make a report to the
1059 State Auditor at the end of the fiscal year, giving a full account
1060 of all collections by it under the provisions of Sections 27-3-33,
1061 27-3-37, 27-3-39, 27-3-43, 27-3-47 and 27-3-71 during the
1062 preceding fiscal year and of whom and on whose account collected.
1063 For a failure to render such account and settle and pay over all
1064 collections made by it, as required by law, the Commissioner of
1065 Revenue shall be suspended from office by the Governor in the same
1066 manner as in the case of a defaulting State Treasurer.

1067 **SECTION 25.** Section 27-3-47, Mississippi Code of 1972, is
1068 amended as follows:

1069 27-3-47. No county, municipality, drainage district, levee
1070 board, or other administrative body, shall be chargeable with any
1071 fees or expenses on account of any investigation, demand or suit
1072 made or instituted by the Commissioner of Revenue; nor shall any
1073 fees or commissions be deducted or retained from any funds
1074 collected for or belonging to the state, any county, municipality,
1075 drainage district, levee district or other political subdivision,



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

1082 **SECTION 26.** Section 27-3-49, Mississippi Code of 1972, is
1083 amended as follows:

1084 27-3-49. The Commissioner of Revenue shall investigate all
1085 matters of taxation and recommend to the Legislature, at each
1086 regular session, such changes and alterations in the tax laws of
1087 the state as in his judgment he may deem best to bring about a
1088 more perfect, equitable, adequate, just and thorough system of
1089 taxation and valuation of property for state and county taxation.

1090 **SECTION 27.** Section 27-3-51, Mississippi Code of 1972, is
1091 amended as follows:

1092 27-3-51. (1) In order that the Commissioner of Revenue may
1093 be familiar with the character and values of the several classes
1094 of property within each of the several counties of the state and
1095 of the economic conditions therein, and throughout the state, the
1096 Commissioner of Revenue, or his designees, shall annually visit
1097 each of the several counties of the state. In the course of his
1098 visitation within each county, the Commissioner of Revenue, or his
1099 designees, shall perform the duties enumerated in Sections 27-3-39
1100 and 27-3-53, and he shall investigate the work and methods adopted
1101 by the board of supervisors and county tax assessors and confer
1102 with such officers and other well-informed persons, ascertain
1103 wherein existing laws are defective or improperly or negligently
1104 administered and shall be authorized to exercise the authority
1105 granted under Sections 27-1-21 and 27-1-23. * * * However, * * *
1106 any language in Section 27-1-21 and Section 27-1-23 relative to
1107 the actual assessing or appraising of property by the county or
1108 municipal tax assessor is not granted to the Commissioner of



1109 Revenue. He shall report the results of his investigation and the
1110 facts ascertained to the Governor, from time to time, when
1111 required by him, and to each session of the Legislature.

1112 (2) The chancery clerk shall require that the current
1113 mailing address and current business or employment telephone
1114 number, if any, and current residential telephone number, if any,
1115 of each grantor and grantee be included on all deeds as a
1116 prerequisite for the deed to be filed for record after July 1,
1117 1987. If the residential telephone number is unlisted, the
1118 grantor or grantee shall include on the deed a telephone number
1119 where he or she can be reached during business hours. If the
1120 grantee may receive mail at the address of the property
1121 transferred, then the address of the transferred property shall be
1122 the mailing address of the grantee for the purposes of this
1123 section. The information provided by the grantor and grantee
1124 shall be true and correct and complete to the best of his or her
1125 knowledge and belief under penalty of perjury under Section
1126 97-9-61. The chancery clerk may refuse to accept delivery of any
1127 deed for filing that does not contain on the deed the information
1128 required in this section. The fact that the information provided
1129 by the grantor or grantee may be incorrect, incomplete or false,
1130 however, shall not invalidate the deed or the filing thereof for
1131 record. The Commissioner of Revenue shall annually audit the
1132 deeds filed with the chancery clerk of each county and assess a
1133 penalty of One Hundred Dollars (\$100.00) against the county for
1134 each deed filed in violation of this section, and the aggregate of
1135 such sum shall be withheld by the Commissioner of Revenue from the
1136 next installment of homestead exemption reimbursement due under
1137 Section 27-33-41.

1138 (3) The Commissioner of Revenue or his designees are hereby
1139 authorized to verify sales data regarding the transfer of real
1140 property by obtaining such information from the grantor or
1141 grantee. The information provided by the grantor or grantee to



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

1147 (4) The Commissioner of Revenue may request sales data of
1148 Class I and Class II property from the county tax assessors in
1149 order to develop sales ratios. If a county tax assessor fails to
1150 supply accurate information requested by the Commissioner of
1151 Revenue, the commissioner shall reject the county's tax roll. The
1152 avails of the one (1) mill levy as provided for in Section
1153 27-39-329(2) (b) shall not be expended until the county complies
1154 with such request.

1155 **SECTION 28.** Section 27-3-52, Mississippi Code of 1972, is
1156 amended as follows:

1157 27-3-52. (1) The Department of Revenue shall promulgate
1158 rules and regulations setting forth the minimum requirements for
1159 which tax assessors and/or their deputy assessors or assistants,
1160 appropriate state employees, employees of planning and development
1161 districts or other persons may attain certification as an
1162 appraiser. The Department of Revenue shall establish and conduct
1163 such educational and training programs as may be appropriate to
1164 assist such persons in attaining such certification.

1165 (2) Counties having not more than five thousand (5,000)
1166 applicants for homestead exemption shall have at least one (1)
1167 certified appraiser, and counties having more than five thousand
1168 (5,000) applicants for homestead exemption shall have at least two
1169 (2) certified appraisers; however, any county may employ any
1170 certified appraiser on a part-time basis.

1171 (3) When any tax assessor and/or his deputies or assistants
1172 travel outside of their county to attend an appraisal school,
1173 seminar or workshop approved by the Department of Revenue, such
1174 persons shall receive as reimbursement of expenses of such travel



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

1180 (4) The county board of supervisors shall reimburse the
1181 assessors, tax collectors and deputies for reasonable and
1182 necessary expenses sustained in attending annual conferences,
1183 regional conferences, schools and seminars. The Department of
1184 Revenue shall have the authority to prescribe forms and to
1185 promulgate rules and regulations necessary to implement the
1186 provisions of this section. No expenses authorized herein shall
1187 be reimbursed unless the expenses have been authorized or approved
1188 by an order of the board duly made and spread upon the minutes of
1189 such board.

1190 (5) When any tax assessor and/or his deputies or assistants
1191 attend and successfully complete all qualifications pursuant to
1192 the Mississippi Education and Certification Program and receive
1193 the certification level of Track II, Evaluator I, they shall
1194 receive an additional One Thousand Dollars (\$1,000.00) annually
1195 beginning the next fiscal year after completion.

1196 (6) When any tax assessor and/or his deputies or assistants
1197 attend and successfully complete all qualifications pursuant to
1198 the Mississippi Education and Certification Program and receive
1199 the certification level of Track II, Evaluator II, they shall
1200 receive an additional One Thousand Dollars (\$1,000.00) annually
1201 beginning the next fiscal year after completion.

1202 (7) When any tax assessor and/or his deputies or assistants
1203 attend and successfully complete all qualifications pursuant to
1204 the Mississippi Education and Certification Program and receive
1205 the certification level of Mississippi Assessment Evaluator (MAE),
1206 they shall receive an additional One Thousand Five Hundred Dollars



1207 (\$1,500.00) annually beginning the next fiscal year after
1208 completion.

1209 (8) When any deputy tax assessor successfully completes all
1210 qualifications to become a licensed certified residential real
1211 estate appraiser under Sections 73-34-1 through 73-34-63, on the
1212 recommendation of the tax assessor, the county board of
1213 supervisors may pay, in its discretion, an additional amount not
1214 to exceed Three Thousand Dollars (\$3,000.00) annually to the
1215 deputy beginning the next fiscal year after the completion of such
1216 qualifications.

1217 (9) When any deputy tax assessor successfully completes all
1218 qualifications to become a licensed certified general real estate
1219 appraiser under Sections 73-34-1 through 73-34-63, on the
1220 recommendation of the tax assessor, the county board of
1221 supervisors may pay, in its discretion, an additional amount not
1222 to exceed Five Thousand Dollars (\$5,000.00) annually to the deputy
1223 beginning the next fiscal year after the completion of such
1224 qualifications.

1225 (10) The accumulative total of all educational increases
1226 authorized under * * * subsections (5), (6), (7), (8) and (9) of
1227 this section shall not exceed Eight Thousand Five Hundred Dollars
1228 (\$8,500.00) and shall be paid out of the common county fund from
1229 proceeds of the one (1) mill ad valorem tax as provided in Section
1230 27-39-329.

1231 (11) In order to receive the additional annual payment or
1232 payments provided for in * * * subsections (5), (6), (7), (8) and
1233 (9) of this section, the tax assessor or deputies or assistants
1234 who completed the Mississippi Education and Certification Program
1235 and were certified as provided herein shall be personally involved
1236 in the conduct, administration and/or supervision of the appraisal
1237 of the property of the county and in the maintenance of such
1238 appraisal.



1239 **SECTION 29.** Section 27-3-53, Mississippi Code of 1972, is
1240 amended as follows:

1241 27-3-53. The Department of Revenue shall prepare and furnish
1242 forms for obtaining the information hereinafter provided for,
1243 whenever they may deem it necessary.

1244 (a) Amount of fire insurance carried on all buildings
1245 and on personal property of every description.

1246 (b) All individuals, firms, partnerships and
1247 corporations engaged wholly or in part in mercantile,
1248 manufacturing or any other business, (except banks and insurance
1249 companies) occupation or calling, shall, on demand by the
1250 Department of Revenue in writing, furnish a sworn statement of
1251 their taxable property, as of January first of each year; and of
1252 their assets and liabilities on that date. Any person or concern
1253 failing or refusing to furnish the information required within
1254 thirty (30) days after written notice so to do from the Department
1255 of Revenue shall be guilty of a misdemeanor, and on conviction
1256 shall be punished as for a misdemeanor. The information herein
1257 provided for shall be confidential, and shall not be given anyone
1258 by the Department of Revenue, except to county and municipal tax
1259 assessors. And for the illegal disclosure of any information
1260 provided for under this section, the injured party shall have a
1261 right of action against the Commissioner of Revenue or the
1262 assessor, on their or his official bond, for any actual damages
1263 sustained.

1264 **SECTION 30.** Section 27-3-57, Mississippi Code of 1972, is
1265 amended as follows:

1266 27-3-57. All funds collected by the Commissioner of Revenue
1267 and by the Department of Revenue under the provisions of any law
1268 are designated as public funds of the State of Mississippi. All
1269 such funds shall be deposited in the State Treasury on the same
1270 day in which the funds are collected, in accordance with Section
1271 7-9-21. The State Treasurer shall transfer such monies to



1272 municipalities, counties and other special accounts, as provided
1273 by law.

1274 The Commissioner of Revenue shall determine amounts due all
1275 municipalities, counties and such special funds as provided by law
1276 and shall certify to the State Treasurer at the end of each month
1277 the amount due each municipality, county or special fund. All tax
1278 collections to be apportioned by the Department of Revenue
1279 pursuant to Sections 27-65-75, 27-19-159, 27-5-101 and 27-5-103
1280 shall be distributed to the proper sources as provided by law by
1281 the State Treasurer upon the certification of apportionment by the
1282 Department of Revenue. The State Treasurer shall requisition
1283 monies from the Treasury in such amounts as determined and
1284 certified by the Department of Revenue. The Department of Finance
1285 and Administration shall deliver the warrant to the State
1286 Treasurer who shall transfer such funds to each municipality,
1287 county or other such special fund by warrant or by electronic
1288 funds transfer on the due date.

1289 Officers charged with the responsibility of handling such
1290 funds shall be required to provide fidelity bonds in the amount
1291 provided by law.

1292 **SECTION 31.** Section 27-3-58, Mississippi Code of 1972, is
1293 amended as follows:

1294 27-3-58. For any tax levied and collected under the
1295 authority of a local and private law of the State of Mississippi,
1296 and collected and paid to the Department of Revenue in the same or
1297 similar manner that state sales taxes are collected and paid, the
1298 Department of Revenue may retain three percent (3%) of the
1299 proceeds of such tax for the purpose of defraying the costs
1300 incurred by the Department of Revenue in the collection of the
1301 tax.

1302 **SECTION 32.** Section 27-3-59, Mississippi Code of 1972, is
1303 amended as follows:



1304 27-3-59. It shall be the duty of the Department of Revenue
1305 to call an annual conference of the county tax assessors and
1306 collectors. The meeting shall be held within the State of
1307 Mississippi for the purpose of giving systematic instruction in
1308 finding, listing and for the fair and just valuation and
1309 assessment of every kind of property subject to taxation under the
1310 laws of this state, and as to their practical duty in every step
1311 in connection therewith and for instruction in the administration
1312 of the Homestead Exemption Law. The conference shall continue not
1313 more than five (5) days. It shall be the duty of every county tax
1314 assessor and collector to attend and participate in the meeting
1315 and if by reason of illness or other unavoidable cause, any tax
1316 assessor or collector is unable to attend, he shall require one
1317 (1) of his deputies to attend and participate in his place. The
1318 Department of Revenue shall prepare, in advance, subjects for
1319 discussion by the conference, which shall include the revenue laws
1320 of the state, questions relating to matters of assessment of
1321 property for taxation and the duties of the tax assessors and
1322 collectors, and the Commissioner of Revenue or his designee shall
1323 preside as chairman of the conference and the secretary of the
1324 conference shall be appointed by the presiding chairman of the
1325 conference. The Department of Revenue may call regional
1326 conferences during the year for the aforesaid purposes and it
1327 shall be the duty of the tax assessors and collectors, or
1328 deputies, to attend and participate in these regional conferences
1329 and each tax assessor and collector, or his deputy, who attends
1330 and participates in these regional conferences shall be reimbursed
1331 for his expenses in the same manner as those attending the annual
1332 conference.

1333 Each tax assessor and collector attending and participating
1334 in the annual or regional conferences in person, or by deputy,
1335 shall be entitled to receive as expenses for attending the
1336 conferences, travel, meals, lodging and other necessary expenses



1337 at the rate provided for in Section 25-3-41, which expenses shall
1338 be paid from the county general fund or proceeds from the levy
1339 imposed for the maintenance of the reappraisal program in such
1340 county.

1341 The Department of Revenue shall have the authority to
1342 prescribe forms and to promulgate rules and regulations necessary
1343 to implement the provisions of this section.

1344 Forms to be used for payment and reimbursement of expenses
1345 and forms of certificate of attendance to be furnished the tax
1346 assessors and collectors by the Department of Revenue, requisition
1347 and expense vouchers to be made on the State Auditor, the entire
1348 expense to be paid from the county general fund. The requisition
1349 and voucher shall be supported by a certificate of attendance to
1350 the conferences from the Department of Revenue before any payment
1351 shall be made. A newly elected county tax assessor or collector
1352 who has not qualified and taken office shall be entitled to
1353 receive the same payment and reimbursement for expenses in
1354 attending the conferences as the retiring county tax assessor or
1355 collector is entitled to receive.

1356 **SECTION 33.** Section 27-3-61, Mississippi Code of 1972, is
1357 amended as follows:

1358 27-3-61. (1) The Department of Revenue and the Commissioner
1359 of Revenue shall file and preserve for the time specified by this
1360 section, and as required by any other laws of this state, complete
1361 and full records of their official acts with respect to the laws
1362 which the Department of Revenue and/or the Commissioner of Revenue
1363 are required to enforce and administer, including, but not limited
1364 to, copies or reproductions of such copies of the land and
1365 personal assessment rolls, and the assessment rolls of railroads
1366 and other persons, corporations and associations required to be
1367 assessed by the * * * Commissioner of Revenue as the state
1368 assessor of railroad * * *. The Department of Revenue and the
1369 Commissioner of Revenue shall preserve, in their office, copies or



1370 reproductions of such copies of the land assessment rolls of the
1371 counties in this state for ten (10) years, and copies or
1372 reproductions of such copies of the personal assessment rolls of
1373 the counties in this state for three (3) years, the time to begin
1374 on the first day of January of the year in which such assessment
1375 rolls were made, the assessment rolls of railroads, persons,
1376 corporations or associations assessed by the commissioner for ten
1377 (10) years, and all other records, documents and papers for three
1378 (3) years. The records and documents required by this subsection
1379 to be filed and preserved by the Department of Revenue and the
1380 Commissioner of Revenue may be preserved digitally and/or
1381 electronically * * *.

1382 (2) When the records, documents, rolls, or reproductions of
1383 such rolls, papers and correspondence have been preserved by the
1384 Department of Revenue and the Commissioner of Revenue for the
1385 period of time required by subsection (1) of this section, all of
1386 the records, or such parts thereof as may be considered useless,
1387 may be disposed of in accordance with approved records control
1388 schedules. No records, however, may be destroyed without the
1389 approval of the Director of the Department of Archives and
1390 History. Nothing in this subsection shall prevent the Department
1391 of Revenue and/or the Commissioner of Revenue from destroying the
1392 paper copy of any record or document after it has been preserved
1393 digitally or electronically.

1394 **SECTION 34.** Section 27-3-63, Mississippi Code of 1972, is
1395 amended as follows:

1396 27-3-63. When, in the judgment of the Department of Revenue,
1397 an audit, examination or inspection of the books, records,
1398 invoices, papers, memoranda or other data appears to be required
1399 or necessary to determine the assessment of a tax, or to establish
1400 a tax liability, or to verify a payment of a tax, under the
1401 income, any privilege, sales, and excise tax laws of any kind of
1402 this state, of a taxpayer doing business both within and without



1403 the state and maintaining his principal place of business outside
1404 the state; such audit, or examination, or inspection may be made
1405 at the principal place of business outside the state to the same
1406 extent and same effect as audits, examinations, or inspections are
1407 made of books, records, invoices, papers, memoranda or other data
1408 located in this state.

1409 The Department of Revenue, when directly charged with the
1410 duty of assessing and collecting any tax under any law which
1411 requires a taxpayer to keep adequate books, records, papers,
1412 invoices, memoranda or other data, at a place in this state,
1413 reflecting his liability for any tax due the state, and which
1414 taxpayer conducts his business both within and without
1415 Mississippi, and maintains his principal place of business outside
1416 this state at which his books, records, etc., are located; may
1417 elect to audit, examine or inspect all books, records, papers,
1418 invoices, memoranda or other data reflecting upon the Mississippi
1419 tax assessment and tax liability at the principal place of
1420 business of the taxpayer, rather than require the taxpayer to
1421 transport all of his books, records, papers, invoices, memoranda
1422 and other data to some place in this state.

1423 **SECTION 35.** Section 27-3-65, Mississippi Code of 1972, is
1424 amended as follows:

1425 27-3-65. When the Department of Revenue in the course of
1426 directly administering any of the tax laws enumerated in Section
1427 27-3-63 shall elect to audit, examine or inspect the books,
1428 records, papers, invoices, memoranda or other data of a taxpayer
1429 at his principal place of business outside this state, it shall
1430 designate, in writing, the agent or agents, employee or employees,
1431 to make the audit, examination or inspection at the principal
1432 place of business of the taxpayer, and shall state the kind of tax
1433 for which the audit, examination or inspection is thereby made,
1434 but for an inspection in regard to those taxes administered by the



1435 Department of Revenue there shall be no charge of any kind made
1436 against the taxpayer for the expenses of such inspection.

1437 **SECTION 36.** Section 27-3-73, Mississippi Code of 1972, is
1438 amended as follows:

1439 27-3-73. (1) Except in accordance with proper judicial
1440 order, it shall be unlawful for the Commissioner of Revenue, or
1441 any deputy, agent, clerk or other officer or employee of the
1442 Department of Revenue, to divulge or make known in any manner the
1443 amount of income or any particulars set forth or disclosed in any
1444 report or return required on any taxes collected by reports
1445 received by the Department of Revenue. This provision relates to
1446 all taxes collected by the * * * Department of Revenue and not
1447 referred to in Sections 27-7-83, 27-13-57 and 27-65-81, requiring
1448 confidentiality of income tax, franchise tax and sales tax
1449 returns. Nothing herein shall be construed to prohibit the
1450 publication of statistics, so classified as to prevent the
1451 identification of particular reports or returns and the items
1452 thereof, or the inspection by the Attorney General, or any other
1453 attorney representing the state, of the report or return of any
1454 taxpayer who shall bring action to set aside the tax thereon, or
1455 against whom an action or proceeding has been instituted to
1456 recover any tax or penalty imposed. Additionally, nothing herein
1457 shall prohibit the Commissioner of Revenue from making available
1458 information necessary to recover taxes owing the state pursuant to
1459 the authority granted in Section 27-75-16, Mississippi Code of
1460 1972.

1461 The term "proper judicial order" as used in this section
1462 shall not include subpoenas or subpoenas duces tecum but shall
1463 include only those orders entered by a court of record in this
1464 state after furnishing notice and a hearing to the taxpayer and
1465 the Department of Revenue. The court shall not authorize the
1466 furnishing of such information unless it is satisfied that the
1467 information is needed to pursue pending litigation wherein the



1468 return itself is in issue, or the judge is satisfied that the need
1469 for furnishing the information outweighs the rights of the
1470 taxpayer to have such information secreted.

1471 * * * However, * * * information relating to possible tax
1472 liability to other states or the federal government may be
1473 furnished to the revenue departments of those states or the
1474 federal government when the states or federal government grant a
1475 like comity to Mississippi.

1476 (2) The State Auditor and the employees of his office shall
1477 have the right to examine only such tax returns as are necessary
1478 for auditing the Department of Revenue, and the same prohibitions
1479 against disclosure which apply to the Department of Revenue shall
1480 apply to the State Auditor and his office.

1481 (3) Any person who violates the provisions of this section
1482 shall be guilty of a misdemeanor and on conviction thereof shall
1483 be fined not more than One Thousand Dollars (\$1,000.00) or
1484 imprisoned not more than six (6) months in the county jail, or
1485 both.

1486 **SECTION 37.** Section 27-3-79, Mississippi Code of 1972, is
1487 amended as follows:

1488 27-3-79. (1) The State Tax Commission shall develop and
1489 implement a tax amnesty program in accordance with the provisions
1490 of this section. The program shall begin on September 1, 2004,
1491 and end on December 31, 2004. The program shall apply to all
1492 taxes that are required to be collected by the State Tax
1493 Commission or commissioner and that were first due and payable for
1494 the year 1999 and after. Tax amnesty shall be available to any
1495 individuals or corporations who are liable for those taxes and who
1496 have failed to pay all or any portion of their taxes, failed to
1497 file returns or filed inaccurate returns; however, tax amnesty
1498 shall not be available to individuals or corporations subject to
1499 tax-related criminal investigations or prosecution, or where the
1500 taxes have been previously assessed by the commission, or to



1501 estimated tax payments required to be made under Section 27-7-319.
1502 All civil and criminal penalties for nonpayment of taxes,
1503 including the penalties set forth in subsection (2) of this
1504 section, shall be waived for any eligible individual or
1505 corporation who, during the tax amnesty period, makes total
1506 payment of the taxes due. The State Tax Commission is authorized
1507 to do all things necessary to carry out the tax amnesty programs
1508 that are not inconsistent with this section.

1509 (2) Any person eligible for the tax amnesty program and who
1510 fails to make total payment of the taxes due during the tax
1511 amnesty period, or any person who willfully attempts in any manner
1512 to evade or defeat any tax imposed by the State Tax Commission or
1513 the Department of Revenue, or assists in the evading of that tax
1514 or the payment thereof, including violations determined under
1515 Section 27-3-80, shall, in addition to other penalties provided by
1516 law, be guilty of a felony and, upon conviction thereof, shall be
1517 fined not more than One Hundred Thousand Dollars (\$100,000.00)
1518 and, in the case of a corporation, not more than Five Hundred
1519 Thousand Dollars (\$500,000.00), or imprisoned not more than five
1520 (5) years, or both.

1521 (3) Any prosecutions for tax evasion as described in this
1522 section shall be begun within six (6) years next after the
1523 statutory due date for the taxes in issue.

1524 **SECTION 38.** Section 27-3-80, Mississippi Code of 1972, is
1525 amended as follows:

1526 27-3-80. (1) The Attorney General, the Department of
1527 Revenue, the Department of Public Safety and the Bureau of
1528 Narcotics shall create a task force to facilitate the transfer of
1529 information from law enforcement agencies to the Attorney General
1530 indicating that an individual is a drug trafficking kingpin, is
1531 laundering money received from drug trafficking and is likely
1532 evading the income reporting requirements of state law. The
1533 Attorney General shall examine all relevant information to



1534 determine the probability that such violations of law exist. The
1535 Attorney General may enlist the aid of any other law enforcement
1536 agency in the state in an investigation under this section. If
1537 the Attorney General determines that tax evasion is probably
1538 occurring, he shall forward the information to the Department of
1539 Revenue with a request that the Department of Revenue perform a
1540 criminal tax evasion investigation. The Department of Revenue
1541 shall report its preliminary findings to the Attorney General
1542 within one hundred twenty (120) days after receiving the
1543 information.

1544 (2) If the * * * report of the Department of Revenue to the
1545 Attorney General indicates that the individual who is the subject
1546 of the investigation has failed to report income as required by
1547 law and such failure constitutes a criminal violation, the
1548 Attorney General is authorized to prosecute the individual for
1549 criminal tax violations. The Attorney General is authorized to
1550 file an ex parte petition for release of tax information to the
1551 Bureau of Narcotics for presentation to appropriate state or
1552 federal prosecutors for the prosecution of federal tax offenses or
1553 other applicable offenses.

1554 (3) Subject to available funding, the Department of Revenue
1555 is authorized to employ a criminal investigator to carry out the
1556 investigative and reporting requirements of this section.

1557 (4) Any information received by the Attorney General, the
1558 Department of Revenue, the Bureau of Narcotics or other law
1559 enforcement agency shall be confidential except to the extent that
1560 disclosure is necessary to pursue tax evasion or other criminal
1561 tax charges or unless a proper judicial order is obtained.
1562 Information received under this section is exempt from the
1563 Mississippi Public Records Act of 1983.

1564 (5) As used in this section:



1565 (a) "Drug trafficking kingpin" means an individual who
1566 directs or participates in directing the illegal activities of a
1567 kingpin organization.

1568 (b) "Kingpin organization" means a group of
1569 individuals, operating as a group either formally or informally,
1570 who sell, transport, manufacture and/or deliver controlled
1571 substances in felony violation of the Uniform Controlled
1572 Substances Law. To qualify as a kingpin organization, the group
1573 would either have to distribute major quantities of controlled
1574 substances, or their trafficking activities would have to occur in
1575 or affect more than one (1) circuit court district.

1576 **SECTION 39.** Section 27-3-81, Mississippi Code of 1972, is
1577 amended as follows:

1578 27-3-81. The Department of Revenue may require, consistent
1579 with the cash management policies of the State Treasurer, that any
1580 person owing Twenty Thousand Dollars (\$20,000.00) or more in
1581 connection with any return, report or other document to be filed
1582 with the Department of Revenue shall pay any such tax liability to
1583 the state no later than the date such payment is required by law
1584 to be made in funds which are immediately available to the state
1585 on the date of payment. Payment in immediately available funds
1586 may be made by wire transfers of funds through the Federal Reserve
1587 System or by any other means established by the Department of
1588 Revenue, with the approval of the State Treasurer, which ensures
1589 availability of such funds to the state on the date of payment.
1590 Evidence of such payment shall be furnished to the Department of
1591 Revenue on or before the due date of the tax as established by
1592 law. Failure to timely make such payment in immediately available
1593 funds or failure to provide such evidence of payment in a timely
1594 manner shall subject the taxpayer to penalty and interest as
1595 provided by law for delinquent or deficient tax payments. If
1596 payment is timely made in other than immediately available funds,
1597 penalty and interest shall be added to the amount of tax due from



1598 the due date of the tax payment to the date that the funds for the
1599 tax payment become available to the state.

1600 **SECTION 40.** Section 27-3-83, Mississippi Code of 1972, is
1601 amended as follows:

1602 27-3-83. (1) The Commissioner of Revenue may specify by
1603 rule or regulation the manner and method by which tax returns and
1604 other tax documents and information may be filed with the
1605 Department of Revenue. Such filings may be accomplished by
1606 submitting the forms or documents manually or by submitting them
1607 electronically.

1608 (2) The Commissioner of Revenue may specify by rule or
1609 regulation alternative forms of signature that may be allowed or
1610 required on tax returns and documents. Such alternative forms of
1611 signature shall have the same legal effect as that of a manual
1612 signature.

1613 (3) An electronic or paper reproduction of a form or
1614 document, or the reproduction of the information placed on
1615 computer storage devices by electronic means, shall be deemed to
1616 be an original of the form or document for all purposes and is
1617 admissible in evidence without further foundation in all courts
1618 and administrative hearings if the following certification by the
1619 Commissioner of Revenue, along with his official seal, is affixed
1620 to the reproduction:

1621 The Commissioner of Revenue, official custodian of all
1622 records of the * * * Department of Revenue, hereby certifies this
1623 document is a true reproduction of the information contained in
1624 the official records of this agency.

1625 (4) If a person fails to comply with the rules and
1626 regulations promulgated by the commissioner under the provisions
1627 of subsection (1) or (2) of this section, the commissioner may
1628 impose a penalty of Twenty-five Dollars (\$25.00) for each instance
1629 of noncompliance. Any penalty imposed under this section shall be
1630 collected in the same manner as that set forth for the collection



1631 of penalties under the Mississippi Sales Tax Law, being Section
1632 27-65-1 et seq.

1633 **SECTION 41.** Section 27-7-3, Mississippi Code of 1972, is
1634 amended as follows:

1635 27-7-3. When used in this article:

1636 (a) "Taxpayer" includes any individual, partnership,
1637 corporation, association, trust or estate, subject to a tax
1638 imposed hereunder, or whose income is, in whole or in part,
1639 subject to a tax imposed hereunder.

1640 (b) "Domestic," when applied to any corporation or
1641 association, including partnerships, means created or organized in
1642 the State of Mississippi.

1643 (c) "Foreign," when applied to any corporation or
1644 association, including partnerships, means created or organized
1645 outside the State of Mississippi.

1646 (d) "Fiduciary" means a guardian, trustee, executor,
1647 administrator, receiver, conservator, or any person, whether
1648 individual or corporate, acting in any fiduciary capacity, for any
1649 person, trust, or estate.

1650 (e) "Resident" means a natural person and includes, for
1651 the purpose of determining liability for the tax imposed by this
1652 article upon or with reference to the income of any taxable year,
1653 any person domiciled in the State of Mississippi and any other
1654 person who maintains a legal or actual residence within the state.

1655 (f) "Nonresident," when used in connection with this
1656 article, shall apply to any natural person whose domicile and
1657 place of abode is without the State of Mississippi.

1658 (g) "Foreign country" or "foreign government" means any
1659 jurisdiction other than the one embraced within the United States.
1660 The words "United States" includes the states, the District of
1661 Columbia, and the territorial possessions of the United States.

1662 (h) "State Tax Commission" or "Tax Commission" means
1663 the Department of Revenue. "Commission" or "department" also



1664 means the Department of Revenue except where such words are
1665 specifically given other meanings.

1666 (i) "Commissioner," "Chairman of the Mississippi State
1667 Tax Commission," "Chairman of the State Tax Commission," "chairman
1668 of the commission" or "chairman" means the Commissioner of Revenue
1669 of the Department of Revenue.

1670 (j) "Taxable year" means the calendar year, or fiscal
1671 year ending during such calendar year, upon the basis of which the
1672 net income is computed hereunder. "Fiscal year" means an
1673 accounting period of twelve (12) months, ending on the last day of
1674 any month other than December.

1675 (k) "Paid or accrued" means paid or accrued, or paid or
1676 incurred, and these terms, "paid or incurred" or "paid or
1677 accrued," shall be construed according to the method of accounting
1678 or the basis on which the net income is computed. The term
1679 "received for the purpose of computation of net income" means
1680 received or accrued, and the term "received or accrued" shall be
1681 construed according to the method of accounting or the basis on
1682 which the net income is computed.

1683 (l) "Dividend" means any distribution made by a
1684 corporation, association, trust or estate, to its shareholders or
1685 members, whether in cash, other property, or its own stock.

1686 **SECTION 42.** Section 27-7-45, Mississippi Code of 1972, is
1687 amended as follows:

1688 27-7-45. (1) The tax levied by this article shall be paid
1689 when the return is due except as hereinafter provided.

1690 (2) If any officer or employee of the State of Mississippi,
1691 or any political subdivision thereof, does not pay his state
1692 income tax on or before August 15 after such income tax becomes
1693 due and payable, or is in arrears in child support payments for
1694 thirty (30) days after such payments become due and payable, his
1695 wages, salary or other compensation shall be withheld and paid to
1696 the Tax Commission or the Department of Human Services, as the



1697 case may be, in satisfaction of such income tax, interest, and
1698 penalty, if any, and any child support arrearage until paid in
1699 full. This provision shall apply to any installments of income
1700 tax or child support due, after the first installment, to require
1701 payment of the entire balance of child support tax due, plus
1702 interest and penalty, if any, before an officer or employee of the
1703 State of Mississippi, or any political subdivision thereof, is
1704 eligible to draw any salary or other emoluments of office. The
1705 Commissioner of Revenue is required to furnish the State Fiscal
1706 Officer, chancery clerk, city clerk or other appropriate fiscal
1707 officer of a political subdivision, as the case may be, with
1708 notice that income taxes have not been paid. The Department of
1709 Human Services is required to furnish the officer's or the
1710 employee's employer, or other appropriate officer of the State of
1711 Mississippi or its political subdivision, as the case may be, with
1712 notice that child support payments have not been made. This
1713 notice shall serve as a lien or attachment upon any salary or
1714 compensation due any employee or officer, disregard of this notice
1715 creating personal liability against such officer for the full
1716 amount of the income tax due, plus interest and penalty. The
1717 Department of Revenue may, in its discretion * * *, waive the
1718 provisions of this subsection on behalf of any public officer or
1719 employee in the event of an extended personal illness, an extended
1720 illness in his immediate family or other emergency. Regardless of
1721 the amount designated in the Department of Human Service's notice
1722 for withholding and regardless of other fees imposed or amounts
1723 withheld pursuant to this section, the payor shall not deduct from
1724 the income of the officer or employee in excess of the amounts
1725 allowed under Section 303(b) of the Consumer Credit Protection
1726 Act, being 15 USCS 1673, as amended.

1727 (3) The tax or child support payment may be paid with
1728 uncertified check during such time and under such regulations as
1729 the commissioner or the Department of Human Services shall



1730 prescribe, but if the check so received is not paid by the bank on
1731 which it is drawn, the officer or employee for whom such check is
1732 tendered shall remain liable for the payment of the tax, child
1733 support payment and for all penalties, the same as if such check
1734 had not been tendered.

1735 (4) If a corporation is subject to LIFO recapture pursuant
1736 to Section 1363(d) of the Code, then:

1737 (a) Any increase in the tax imposed by Section 27-7-5
1738 by reason of the inclusion of the LIFO recapture amount in its
1739 income shall be payable in four (4) equal installments;

1740 (b) The first installment shall be paid on or before
1741 the due date (determined without regard to extensions) for filing
1742 the return for the first taxable year for which the corporation
1743 was subject to the LIFO recapture;

1744 (c) The three (3) succeeding installments shall be paid
1745 on or before the due date (determined without regard to
1746 extensions) for filing the corporation's return for the three (3)
1747 succeeding taxable years; and

1748 (d) For purposes of computing interest on
1749 underpayments, the last three (3) installments shall not be
1750 considered underpayments until after the payment due date
1751 specified above.

1752 (5) For purposes of this section, a political subdivision
1753 includes, but is not limited to, a county or separate school
1754 district, institution of higher learning, state college or
1755 university, or state community college.

1756 (6) The tax levied by this article and paid by a business
1757 enterprise located in a redevelopment project area under Sections
1758 57-91-1 through 57-91-11 shall be deposited into the Redevelopment
1759 Project Incentive Fund created in Section 57-91-9.

1760 **SECTION 43.** Section 27-7-51, Mississippi Code of 1972, is
1761 amended as follows:



1762 27-7-51. (1) If, upon examination of a return made under
1763 the provisions of this article, it appears that the correct amount
1764 of tax is greater or less than that shown in the return, the tax
1765 shall be recomputed. Any overpayment of tax so determined shall
1766 be credited or refunded to the taxpayer. If the correct amount of
1767 tax is greater than that shown in the return of the taxpayer, the
1768 commissioner shall make his assessment of additional tax due by
1769 mail or by personal delivery of the assessment to the taxpayer,
1770 which assessment shall constitute notice and demand for payment.
1771 The taxpayer shall be given a period of sixty (60) days from the
1772 date of the notice in which to pay the additional tax due,
1773 including penalty and interest as hereinafter provided, and if the
1774 sum is not paid within the period of sixty (60) days, the
1775 commissioner shall proceed to collect it under the provisions of
1776 Sections 27-7-55 through 27-7-67, provided that within the period
1777 of sixty (60) days the taxpayer may appeal to the board of review
1778 as provided by law.

1779 (2) In the case of an overpayment of tax, interest shall be
1780 computed under the provisions of Section 27-7-315. In the case of
1781 an underpayment of tax, interest at the rate of one percent (1%)
1782 per month from the due date of the return may be added or assessed
1783 in addition to the additional tax due as hereinabove provided in
1784 subsection (1) of this section.

1785 (3) In case of failure to pay any additional taxes as
1786 assessed under this section, there may be added to the additional
1787 amount assessed a penalty of one-half of one percent (1/2 of 1%)
1788 of the amount of the additional tax if the failure is for not more
1789 than one (1) month, with an additional one-half of one percent
1790 (1/2 of 1%) for each additional month or fraction thereof during
1791 which the failure continues, not to exceed twenty-five percent
1792 (25%) in the aggregate.

1793 (4) Where the reported net income of a taxpayer is increased
1794 by the Internal Revenue Service, a taxpayer who, without action by



1795 the commissioner, amends a return filed under this article on the
1796 basis of a change in taxable income made by the Internal Revenue
1797 Service, and pays the additional tax due within thirty (30) days
1798 after agreeing to the federal change (and has received statement
1799 of the federal changes to which agreement has been made or payment
1800 thereof), shall add interest to the additional tax at the rate of
1801 one percent (1%) per month from due date of the original return.
1802 If the additional tax, based on changes in taxable income by the
1803 Internal Revenue Service, is assessed by the commissioner under
1804 subsection (1) of this section, in addition to the interest there
1805 may be added a penalty of one-half of one percent (1/2 of 1%) of
1806 the additional tax due if the failure is for not more than one (1)
1807 month, with an additional one-half of one percent (1/2 of 1%) for
1808 each additional month or fraction thereof during which the failure
1809 to pay continues, not to exceed twenty-five percent (25%) in the
1810 aggregate, unless it is shown that the failure is due to
1811 reasonable cause and not due to willful neglect.

1812 (5) In the case of a taxpayer who files a bond when
1813 appealing the decision of the Board of Tax Appeals instead of
1814 paying the amount of the additional tax found to be due by the
1815 Board of Tax Appeals, and the tax assessment or a part of the
1816 assessment is upheld by the chancery court and/or the Supreme
1817 Court, the assessment shall bear interest at the rate of one
1818 percent (1%) per month from the due date until paid.

1819 (6) (a) Nothing in this section shall be construed as
1820 authorizing a refund of taxes for claims pursuant to the United
1821 States Supreme Court decision of Davis v. Michigan Department of
1822 Treasury, 109 S.Ct. 1500 (1989). These taxes were not incorrectly
1823 and/or erroneously collected as contemplated by this chapter.

1824 (b) In the event a court of final jurisdiction
1825 determines the above provision to be void for any reason, it is
1826 hereby declared the intent of the Legislature that affected



1827 taxpayers shall be allowed a credit against future income tax
1828 liability as opposed to a tax refund.

1829 **SECTION 44.** Section 27-7-53, Mississippi Code of 1972, is
1830 amended as follows:

1831 27-7-53. (1) (a) Except as otherwise provided in this
1832 section, if a return is timely filed by the taxpayer but the tax
1833 due is not paid, the commissioner shall make his assessment of tax
1834 due by mail or by personal delivery of the assessment to the
1835 taxpayer, which assessment shall constitute notice and demand for
1836 payment. The taxpayer shall be given a period of sixty (60) days
1837 from the date of the notice in which to pay the tax due, including
1838 penalty and interest as hereinafter provided, and if the sum is
1839 not paid within the period of sixty (60) days, the commissioner
1840 shall proceed to collect it under the provisions of Sections
1841 27-7-55 through 27-7-67 of this article; provided that within the
1842 period of sixty (60) days the taxpayer may appeal to the board of
1843 review as provided by law.

1844 (b) (i) If an individual return is timely filed by the
1845 taxpayer and the amount of tax liability (determined without
1846 regard to interest, penalties, additions to the tax and additional
1847 amounts) of the taxpayer exceeds Seventy-five Dollars (\$75.00) but
1848 does not exceed Three Thousand Dollars (\$3,000.00), the taxpayer
1849 may request to pay the tax liability through an installment
1850 agreement. The taxpayer must file such a request with the return
1851 and must provide all information required by the commissioner. If
1852 the commissioner determines a taxpayer is financially unable to
1853 pay the tax liability, the commissioner may enter into an
1854 agreement to accept payment of the tax liability in installments
1855 if:

1856 1. The taxpayer (and the taxpayer's spouse if
1857 the tax liability relates to a joint return), during any of the
1858 preceding five (5) years, has not:



1859 a. Failed to file any return required by
1860 this chapter,
1861 b. Failed to pay any tax required by
1862 this chapter, or
1863 c. Entered into an installment agreement
1864 under this paragraph (b);
1865 2. The agreement requires full payment of the
1866 tax liability in equal installments within twelve (12) months from
1867 the date the return was filed; and
1868 3. The taxpayer agrees to comply with the
1869 terms of the agreement.
1870 (ii) Payments made through an installment
1871 agreement shall be subject to the interest provisions of
1872 subsection (3) of this section.
1873 (iii) The commissioner may terminate an
1874 installment agreement entered into under this paragraph (b) if he
1875 determines the taxpayer provided inaccurate or incomplete
1876 information before the agreement was entered into or he believes
1877 the collection of the tax to which the agreement relates is in
1878 jeopardy.
1879 (iv) The commissioner may modify or terminate an
1880 installment agreement entered into under this paragraph (b) if the
1881 taxpayer fails to:
1882 1. Pay any installment due under the
1883 agreement;
1884 2. Pay any other tax liability due under this
1885 chapter when the liability is due; or
1886 3. Provide a statement of financial condition
1887 required by the commissioner.
1888 (2) If no return is made by a taxpayer required by this
1889 chapter to make a return, the commissioner shall determine the
1890 taxpayer's liability from the best information available, which
1891 determination shall be prima facie correct for the purpose of this



1892 article, and the commissioner shall forthwith make an assessment
1893 of the tax so determined to be due by mail or by personal delivery
1894 of the assessment to the taxpayer, which assessment shall
1895 constitute notice and demand for payment. The taxpayer shall be
1896 given a period of sixty (60) days from the date of the notice in
1897 which to pay the tax due, including penalty and interest as
1898 hereinafter provided, and if the sum is not paid within the period
1899 of sixty (60) days, the commissioner shall proceed to collect it
1900 under the provisions of Sections 27-7-55 through 27-7-67 of this
1901 article; provided that within the period of sixty (60) days the
1902 taxpayer may appeal to the board of review as provided by law.

1903 (3) Interest at the rate of one percent (1%) per month from
1904 the due date of the return may be added or assessed in addition to
1905 the tax due as provided in subsections (1) and (2) of this
1906 section.

1907 (4) In case of failure to file a return as required by this
1908 chapter, there may be added to the amount required to be shown as
1909 tax on the return a penalty of five percent (5%) of the amount of
1910 the tax if the failure is for not more than one (1) month, with an
1911 additional five percent (5%) for each additional month or fraction
1912 thereof during which the failure continues, not to exceed
1913 twenty-five percent (25%) in the aggregate. The failure to file a
1914 return penalty shall not be less than One Hundred Dollars
1915 (\$100.00).

1916 (5) In case of failure to pay the amount shown as tax on any
1917 return specified in subsections (1) and (2) of this section on or
1918 before the date prescribed for payment of the tax, determined with
1919 regard to any extension of time for payment or installment
1920 agreement, or both, there may be added to the amount shown as tax
1921 on the return one-half of one percent (1/2 of 1%) of the amount of
1922 the tax if the failure is for not more than one (1) month, with an
1923 additional one-half of one percent (1/2 of 1%) for each additional



1924 month or fraction thereof during which the failure continues, not
1925 to exceed twenty-five percent (25%) in the aggregate.

1926 **SECTION 45.** Section 27-7-303, Mississippi Code of 1972, is
1927 amended as follows:

1928 27-7-303. As used in this article:

1929 (a) "Commissioner" means the Commissioner of Revenue of
1930 the Department of Revenue.

1931 (b) "Commission," "State Tax Commission," "Tax
1932 Commission" or "department" means the Department of Revenue of the
1933 State of Mississippi.

1934 (c) "Employee" means any individual subject to the
1935 provisions of Article 1 of this chapter, who performs or performed
1936 services for an employer as defined herein and receives wages
1937 therefor.

1938 (d) "Employer" means a person doing business in, or
1939 deriving income from sources within, the state, who has control of
1940 the payment of wages to an individual for services performed, or a
1941 person who is the officer or agent of the person having control of
1942 the payment of wages.

1943 (e) "Estimated tax" means the amount by which the tax
1944 liability of the taxpayer under Article 1 of this chapter can
1945 reasonably be expected to exceed the amount withheld from wages of
1946 the taxpayer pursuant to this article during the income year.

1947 (f) "Income year" means the calendar or fiscal year
1948 upon the basis of which the net income of the taxpayer is computed
1949 under the provisions of Article 1 of this chapter; if no fiscal
1950 year has been established, it means the calendar year.

1951 (g) "Payroll period" means a period for which a payment
1952 of wages is made to the employee by the employer.

1953 (h) "Person" means and includes individuals,
1954 fiduciaries, corporations, partnerships, associations, the state
1955 and its political subdivisions, and the federal government, its
1956 agencies and instrumentalities.



1957 (i) "Taxpayer" means and includes any individual,
1958 fiduciary, corporation or other legal entity subject to the tax
1959 imposed by the provisions of Article 1 of this chapter.

1960 (j) "Wages" means remuneration in cash or any other
1961 form for services performed by an employee for an employer, except
1962 that it shall not include remuneration paid:

1963 (i) For domestic service in a private home, local
1964 college club, or local chapter of a college fraternity or
1965 sorority; or

1966 (ii) For services performed by an employee in
1967 connection with farming activities; or

1968 (iii) For services not in the course of the
1969 employer's trade or business performed by an employee in any
1970 calendar quarter; or

1971 (iv) For services performed by a duly ordained,
1972 commissioned or licensed minister of a church in the exercise of
1973 his ministry, or by a member of a religious order performing
1974 duties required by the order.

1975 (k) "Transient employer" means an employer who is not a
1976 resident of this state and who temporarily engages in any activity
1977 within the state for the production of income. Without intending
1978 to exclude others who may come within the foregoing definition,
1979 any nonresident employer engaging in any such activity within the
1980 state which, as of any date, cannot be reasonably expected to
1981 continue for a period of eighteen (18) consecutive months, shall
1982 be deemed to be temporarily engaged in such activity.

1983 (l) "Calendar quarter" means the period of three (3)
1984 consecutive months ending on March 31, June 30, September 30 or
1985 December 31.

1986 **SECTION 46.** Section 27-7-503, Mississippi Code of 1972, is
1987 amended as follows:

1988 27-7-503. As used in this article, unless the context
1989 requires otherwise:



1990 (a) "Claimant agency" means the State Department of
1991 Public Welfare with respect to the collection of debts due and
1992 owing for the care, support or maintenance of a child.

1993 (b) "Commission," "State Tax Commission," "Tax
1994 Commission" or "department" means the Department of Revenue of the
1995 State of Mississippi.

1996 (c) "Debtor" means any individual owing overdue support
1997 for a child as defined by federal regulations.

1998 (d) "Debt" means any overdue support for a child as
1999 defined by federal regulations.

2000 (e) "Refund" means the Mississippi income tax refund
2001 which the commission determines to be due any individual taxpayer.

2002 **SECTION 47.** Section 27-7-601, Mississippi Code of 1972, is
2003 amended as follows:

2004 27-7-601. As used in this act:

2005 (a) "Debt" means a past due, legally enforceable state
2006 or federal income tax obligation, unless otherwise indicated.

2007 (b) "Debtor" means a person who owes a state or federal
2008 income tax obligation.

2009 (c) "Past due, legally enforceable obligation" means a
2010 debt resulting from:

2011 (i) A judgment rendered by a court of competent
2012 jurisdiction which has determined an amount of income tax to be
2013 due;

2014 (ii) A determination after an administrative
2015 hearing which has determined an amount of income tax to be due and
2016 which is no longer subject to judicial review; or

2017 (iii) An income tax assessment, including
2018 self-assessments, which has become final in accordance with law,
2019 but which has not been collected.

2020 (d) "State" means the State of Mississippi acting
2021 through the Department of Revenue.



2022 (e) "State Tax Commission" or "department" means the
2023 Department of Revenue.

2024 (f) "Federal government" means the United States
2025 Department of the Treasury or any agency under its administration.

2026 (g) "Tax refund offset" means withholding or reducing a
2027 tax refund overpayment by an amount necessary to satisfy a debt
2028 owed by the payee.

2029 (h) "Tax refund payment" means any overpayment of taxes
2030 to be refunded to the person making the overpayment.

2031 **SECTION 48.** Section 27-7-701, Mississippi Code of 1972, is
2032 amended as follows:

2033 27-7-701. For the purposes of this article, the following
2034 terms shall have the respective meanings ascribed by this section:

2035 (a) "Claimant agency" means the Board of Trustees of
2036 State Institutions of Higher Learning or any institution under the
2037 jurisdiction thereof, the Mississippi Guarantee Student Loan
2038 Agency, the Mississippi Post-Secondary Education Assistance Board,
2039 or any state agency which has loaned money to an individual for
2040 educational purposes.

2041 (b) "Debtor" means any individual owing money or having
2042 a delinquent account with any claimant agency, which obligation
2043 has not been adjudicated satisfied by court order, set aside by
2044 court order, or discharged in bankruptcy.

2045 (c) "Debt" means any liquidated sum due and owing any
2046 claimant agency which has accrued through contract, subrogation,
2047 tort or operation of law, regardless of whether there is an
2048 outstanding judgment for that sum.

2049 (d) "Commission," "State Tax Commission" or
2050 "department" means the Department of Revenue of the State of
2051 Mississippi.

2052 (e) "Refund" means the Mississippi income tax refund
2053 which the commission determines to be due any individual taxpayer.



2054 **SECTION 49.** Section 27-9-3, Mississippi Code of 1972, is
2055 amended as follows:

2056 27-9-3. When used in reference to the estate tax in this
2057 chapter:

2058 (a) "Commission," "State Tax Commission" or
2059 "department" means the Department of Revenue of the State of
2060 Mississippi.

2061 (b) * * * "Commissioner," "Chairman of the State Tax
2062 Commission" or "chairman of the commission" means the Commissioner
2063 of Revenue of the Department of Revenue, or any agent appointed by
2064 law under him.

2065 (c) * * * "Executor" means the executor or
2066 administrator of the decedent, or, if there is no executor or
2067 administrator, any person who takes possession of any property of
2068 the decedent.

2069 (d) * * * "Person" means persons, corporations,
2070 associations, joint stock companies and business trusts.

2071 (e) * * * "Transfer" shall be taken to include the
2072 passing of property or any interest therein, in possession or
2073 enjoyment, present or future, by inheritance, descent, devise,
2074 succession, bequest, grant, deed, bargain, sale, gift, or
2075 appointment in the manner herein described.

2076 (f) * * * "Decedent" shall include the testator,
2077 intestate, grantor, bargainor, vendor or donor.

2078 (g) * * * "Resident" means natural persons and includes
2079 for the purpose of determining liability for the tax imposed, any
2080 person domiciled in the State of Mississippi and any other person
2081 who maintains a permanent place of abode within the state and
2082 spends in the aggregate, more than six (6) months of the taxable
2083 year within the state.

2084 (h) * * * "Nonresident" shall apply to any natural
2085 person whose domicile is without the State of Mississippi or who
2086 maintains a place of abode without the state, and spends in the



2087 aggregate, more than six (6) months of the taxable year without
2088 the state.

2089 **SECTION 50.** Section 27-9-43, Mississippi Code of 1972, is
2090 amended as follows:

2091 27-9-43. (1) As soon as practicable after the return is
2092 filed, the commissioner shall examine it, if it then appears that
2093 the correct amount of tax is greater or less than that shown in
2094 the return, the tax shall be recomputed. If the amount already
2095 paid exceeds that which should have been paid on the basis of the
2096 return so recomputed, the excess so paid shall be credited or
2097 refunded to the taxpayer in accordance with the provisions of this
2098 chapter.

2099 (2) If the amount already paid is less than the amount which
2100 should have been paid, the difference, together with interest
2101 thereon at the rate of one-half of one percent (1/2 of 1%) per
2102 month from the time the tax was due, shall be paid within sixty
2103 (60) days upon written notice and demand by the commissioner. The
2104 department, for good reason shown, may waive all or any part of
2105 the interest imposed pursuant to this subsection.

2106 (3) If any part of the deficiency is due to negligence or
2107 intentional disregard to authorized rules and regulations with
2108 knowledge thereof but without intent to defraud, there shall be
2109 added as damages ten percent (10%) of the total amount of the
2110 deficiency in the tax, and interest in such a case shall be
2111 collected at the rate of one percent (1%) per month on the amount
2112 of such deficiency in the tax from the time it was due, which
2113 interest and damages shall become due and payable upon notice and
2114 demand by the commissioner and such executor shall be liable to
2115 the estate personally and on his official bond, if any, for any
2116 damages accruing under the above provisions through his negligence
2117 or willful neglect.

2118 **SECTION 51.** Section 27-9-45, Mississippi Code of 1972, is
2119 amended as follows:



2120 27-9-45. If no return is made by an executor required to
2121 make returns, as provided herein, the commissioner shall give
2122 written notice by mail to such executor to make such returns
2123 within thirty (30) days from the date of such notice and if such
2124 executor shall fail or refuse to make such returns as he may be
2125 required to make in such notice, then such return shall be made by
2126 the commissioner from the best information available and such
2127 return shall be prima facie correct for the purposes of this
2128 chapter, and the amount of tax shown due thereby shall be a lien
2129 against all the property of the decedent until discharged by
2130 payment and if any payment be not made within sixty (60) days
2131 after the demand therefor by the commissioner, there shall be
2132 added fifty percent (50%) as damages, together with interest at
2133 the rate of one percent (1%) per month on the tax from the time
2134 such tax was due. If such tax be paid within sixty (60) days
2135 after notice by the commissioner, then there shall be added ten
2136 percent (10%) as damages and interest at the rate of one percent
2137 (1%) from the time such tax was due until paid; * * * however, in
2138 the event the executor in answer to the notice from the
2139 commissioner shall state that he is not required under the law to
2140 make such returns, the commissioner shall investigate that
2141 question fully before proceeding further under this section.

2142 The commissioner's authority to make collection of estate tax
2143 shall be determined at the end of four (4) years from the date of
2144 filing of estate tax return, but in the event that no return is
2145 filed, the commissioner's authority to make a return from any
2146 information available at that time shall be terminated at the end
2147 of ten (10) years from the due date of the return.

2148 In the event the federal estate tax or any part thereof is
2149 being contested with the federal government, the commissioner's
2150 right to make an additional assessment based on final
2151 determination of the federal estate tax assessment shall be in
2152 force for a period of two (2) years after the determination.



2153 **SECTION 52.** Section 27-13-1, Mississippi Code of 1972, is
2154 amended as follows:

2155 27-13-1. The words, terms and phrases when used in this
2156 chapter shall have the following meanings ascribed to them:

2157 (a) "Commission," "State Tax Commission," "Tax
2158 Commission" or "department" means the Department of Revenue of the
2159 State of Mississippi.

2160 (b) "Commissioner," "Chairman of the State Tax
2161 Commission," "chairman of the commission" or "chairman" means the
2162 Commissioner of Revenue of the Department of Revenue.

2163 (c) "Taxpayer" means any corporation, association or
2164 joint-stock company liable for or having paid any tax to the State
2165 of Mississippi under the provisions of this chapter or any
2166 corporation, association or joint-stock company subject to the
2167 provisions of this chapter.

2168 (d) "Domestic," when applied to a corporation or
2169 association, means created or organized under the laws of the
2170 State of Mississippi.

2171 (e) "Foreign," when applied to a corporation or
2172 association, means created or organized under some authority other
2173 than the laws of the State of Mississippi.

2174 (f) "Accounting period" or "accounting year" means a
2175 period of twelve (12) months ending on the last day of the month
2176 of December, known as a calendar year, or a period of twelve (12)
2177 months ending on the last day of any month other than December,
2178 known as a fiscal year.

2179 (g) "Corporation," "association" or "joint-stock
2180 company" means and includes each and every form of organization
2181 for pecuniary gain, having authorized capital stock, whether with
2182 or without par value, having privileges not possessed by
2183 individuals or partnerships; and whether organized with or without
2184 statutory authority; and may be referred to as "organizations."
2185 When any form of organization is treated as a corporation for



2186 federal income tax purposes it shall be treated as a corporation
2187 for purposes of this chapter.

2188 (h) "Doing business" means and includes each and every
2189 act, power or privilege, including any income-producing
2190 activities, exercised or enjoyed in this state as an incident to,
2191 or by virtue of, the powers and privileges acquired by the nature
2192 of such organization, whether the form of existence be corporate,
2193 associate, joint-stock company or common law trust. An entity
2194 that is required to file and report for federal income tax
2195 purposes the activity conducted in Mississippi of a qualified
2196 subchapter S subsidiary shall be considered to be doing business
2197 in this state for purposes of this chapter. An entity that is
2198 required to file and report for federal income tax purposes on the
2199 activity conducted in Mississippi of a single member limited
2200 liability company which is not classified as a corporation, and
2201 thus disregarded, shall be considered to be doing business in this
2202 state for purposes of this chapter.

2203 (i) "Holding corporation" means a corporation,
2204 association or joint-stock company: (i) owning capital stock of
2205 one or more other corporations, associations or joint-stock
2206 companies, which stock ownership represents at least eighty
2207 percent (80%) of the value and at least eighty percent (80%) of
2208 the combined voting power of all classes of issued and outstanding
2209 capital stock of such other corporation, association or
2210 joint-stock company; except that for purposes of this definition
2211 the term "stock" does not include nonvoting stock which is limited
2212 and preferred as to dividends; and (ii) deriving at least
2213 ninety-five percent (95%) of its gross receipts from dividends,
2214 interest, royalties, rents, services provided to members of an
2215 affiliated group (as defined in Section 27-7-37(2)(d)) to the
2216 extent of the cost of providing such services, and from such
2217 additional sources as the commissioner may specify by regulation.
2218 The definition of the various sources of gross receipts referred



2219 to herein shall be governed by applicable provisions of Chapter 7,
2220 Title 27, Mississippi Code of 1972, and regulations thereunder and
2221 shall include only passive categories of receipts in the
2222 computation of gross receipts.

2223 (j) "Subsidiary corporation" means a corporation,
2224 association or joint-stock company of which at least eighty
2225 percent (80%) of the value and at least eighty percent (80%) of
2226 the combined voting power of all classes of its issued and
2227 outstanding capital stock is owned by a holding corporation,
2228 except that for purposes of this definition the term "stock" does
2229 not include nonvoting stock which is limited and preferred as to
2230 dividends.

2231 (k) "Stock or securities" means any share of stock,
2232 certificate of stock, or interest in a corporation, note, bond,
2233 debenture, or evidence of indebtedness, or any evidence of an
2234 interest in or right to subscribe to or purchase any of the
2235 foregoing.

2236 **SECTION 53.** Section 27-13-23, Mississippi Code of 1972, is
2237 amended as follows:

2238 27-13-23. (1) If a return is timely filed by the taxpayer
2239 but the tax is not paid, the commissioner shall make his
2240 assessment of tax due by mail or by personal delivery of the
2241 assessment to the taxpayer, which assessment shall constitute
2242 notice and demand for payment. The taxpayer shall be given a
2243 period of sixty (60) days from the date of the notice in which to
2244 pay the tax due, including penalty and interest as provided in
2245 this section, and if the sum is not paid within the sixty-day
2246 period, the commissioner shall proceed to collect it under the
2247 provisions of Sections 27-13-29 through 27-13-41 of this chapter;
2248 provided that within the sixty-day period the taxpayer may appeal
2249 to the board of review as provided by law.

2250 (2) If no return is made by a taxpayer required by this
2251 chapter to make a return, the commissioner shall determine the



2252 taxpayer's liability from the best information available, which
2253 determination shall be prima facie correct for the purpose of this
2254 chapter, and the commissioner shall forthwith make an assessment
2255 of the tax so determined to be due by mail or by personal delivery
2256 of the assessment to the taxpayer, which assessment shall
2257 constitute notice and demand for payment. The taxpayer shall be
2258 given a period of sixty (60) days from the date of the notice in
2259 which to pay the tax due, including penalty and interest as
2260 provided in this section, and if the sum is not paid within the
2261 sixty-day period, the commissioner shall proceed to collect it
2262 under the provisions of Sections 27-13-29 through 27-13-41 of this
2263 chapter; provided that within the sixty-day period the taxpayer
2264 may appeal to the board of review as provided by law.

2265 (3) Interest at the rate of one percent (1%) per month from
2266 the due date of the return shall be added or assessed in addition
2267 to the tax due as provided in subsections (1) and (2) of this
2268 section.

2269 (4) In case of failure to file a return as required by this
2270 chapter, unless it can be shown that the failure is due to
2271 reasonable cause and not due to willful neglect, there shall be
2272 added to the amount required to be shown as tax on the return a
2273 penalty of five percent (5%) of the amount of the tax if the
2274 failure is for not more than one (1) month, with an additional
2275 five percent (5%) for each additional month or fraction thereof
2276 during which the failure continues, not to exceed twenty-five
2277 percent (25%) in the aggregate.

2278 (5) In case of failure to pay the amount shown as tax on any
2279 return specified in subsections (1) and (2) of this section on or
2280 before the date prescribed for payment of the tax, determined with
2281 regard to any extension of time for payment, unless it is shown
2282 that the failure is due to reasonable cause and not due to willful
2283 neglect, there shall be added to the amount shown as tax on the
2284 return one-half of one percent (1/2 of 1%) of the amount of the



2285 tax if the failure is for not more than one (1) month, with an
2286 additional one-half of one percent (1/2 of 1%) for each additional
2287 month or fraction thereof during which the failure continues, not
2288 to exceed twenty-five percent (25%) in the aggregate.

2289 **SECTION 54.** Section 27-13-25, Mississippi Code of 1972, is
2290 amended as follows:

2291 27-13-25. (1) If, upon examination of a return made under
2292 the provisions of this chapter, it appears that the correct amount
2293 of tax is greater or less than that shown in the return, the tax
2294 shall be recomputed. Any overpayment of tax so determined shall
2295 be credited or refunded to the taxpayer. If the correct amount of
2296 tax is greater than that shown in the return of the taxpayer, the
2297 commissioner shall make his assessment of additional tax due
2298 by * * * mail or by personal delivery of the assessment to the
2299 taxpayer, which assessment shall constitute notice and demand for
2300 payment. The taxpayer shall be given a period of sixty (60) days
2301 from the date of the notice in which to pay the additional tax
2302 due, including penalty and interest as provided in this section,
2303 and if the sum is not paid within the sixty-day period, the
2304 commissioner shall proceed to collect it under the provisions of
2305 Sections 27-13-29 through 27-13-41, provided that within the
2306 sixty-day period the taxpayer may appeal to the board of review as
2307 provided by law.

2308 (2) In the case of an overpayment of tax, interest shall be
2309 computed under the provisions of Section 27-7-315. In the case of
2310 an underpayment of tax, interest at the rate of one percent (1%)
2311 per month from the due date of the return shall be added or
2312 assessed in addition to the additional tax due as provided in
2313 subsection (1) of this section.

2314 (3) In case of failure to pay any additional taxes as
2315 assessed under this section, unless it is shown that the failure
2316 is due to reasonable cause and not due to willful neglect, there
2317 shall be added to the additional amount assessed a penalty of



2318 one-half of one percent (1/2 of 1%) of the amount of the
2319 additional tax if the failure is for not more than one (1) month,
2320 with an additional one-half of one percent (1/2 of 1%) for each
2321 additional month or fraction thereof during which the failure
2322 continues, not to exceed twenty-five percent (25%) in the
2323 aggregate.

2324 **SECTION 55.** Section 27-15-3, Mississippi Code of 1972, is
2325 amended as follows:

2326 27-15-3. As used in this chapter:

2327 (a) * * * "Population" means the population as shown by
2328 the last census made by the United States; provided, that when any
2329 municipality makes and certifies an enumeration, as provided by
2330 law, it shall mean the population shown by such enumeration.

2331 (b) * * * "Person" or "company," herein used
2332 interchangeably, shall be taken to include any individual, firm,
2333 partnership, joint adventure, association, corporation, estate,
2334 trust, or any other group or combination acting as a unit, and
2335 includes the plural as well as the singular number, unless the
2336 intention to give a more limited meaning is disclosed by the
2337 context.

2338 (c) * * * "Year" and "annually" means either the
2339 calendar year, or a period of twelve (12) calendar months.

2340 (d) * * * "Capacity," when used with reference to
2341 manufacturing establishments, means and shall be determined from
2342 the rated capacity of the machinery installed by the manufacturer
2343 thereof.

2344 (e) * * * "Business" shall include all activities or
2345 acts personal, professional, or corporate, engaged in or caused to
2346 be engaged in with the object of gain, profit, benefit, or
2347 advantage, either direct or indirect, or following or engaging in
2348 any trade, calling or profession, and all things which occupy the
2349 time, attention and labor of men for the purpose of a livelihood
2350 or profit.



2351 (f) * * * "Place of business" means a store, shop,
2352 counting room, office, factory, or other location or locations
2353 whether in a building, enclosed space, or in any undefined place
2354 or places where any business as herein defined is done, conducted,
2355 or carried on.

2356 (g) * * * "State-wide license" means a license issued
2357 by the Commissioner of Revenue, Commissioner of Insurance, or
2358 other officer required to collect the tax usable, good and valid,
2359 in each and every county in the state, unless otherwise limited
2360 and it shall be the authority of the licensee to engage in the
2361 business designated for the period of time under the conditions
2362 specified therein, and at the place or places stated, if the
2363 business carried on be at a definite place.

2364 (h) * * * "State-wide tax" means the tax paid or
2365 imposed for a state-wide license.

2366 (i) * * * "Officer" or "collector" when used with
2367 reference to officers whose duty it is to collect privilege taxes,
2368 means and includes every officer of the state of Mississippi,
2369 subdivisions or departments thereof whose duty it is to collect
2370 privilege taxes as by law provided.

2371 (j) "Commission," "State Tax Commission" or "Tax
2372 Commission" means the Department of Revenue.

2373 (k) * * * "Tax commissioner," "State Tax Commissioner,"
2374 "Chairman of the State Tax Commission," "chairman" or
2375 "commissioner" means the Commissioner of Revenue of the Department
2376 of Revenue.

2377 (l) * * * "Taxpayer" means any person liable for any
2378 tax hereunder in addition to the usual meaning of such word.

2379 **SECTION 56.** Section 27-15-205, Mississippi Code of 1972, is
2380 amended as follows:

2381 27-15-205. Upon the receipt of the application herein
2382 required, and payment of the amount shown thereby to be due for
2383 the privilege to be exercised, the officer to whom the application



2384 is made shall determine if the application is in proper form, and
2385 if the correct amount be tendered, and may require the applicant
2386 to furnish such other and further information as in his opinion is
2387 necessary to ascertain the correct amount of tax due. When the
2388 correct amount of the tax has been so ascertained, the * * *
2389 officer shall issue to the applicant taxpayer a privilege license
2390 according to such application, and shall date the same as of the
2391 first day of the month of its issuance. The officer issuing the
2392 license shall countersign the same when issued by him, and he
2393 shall enter the same in the register prescribed by law therefor.
2394 The license issued by collectors as herein provided shall be
2395 executed in duplicate, the original shall be delivered to the
2396 licensee by the officer, and the duplicate shall be attached to
2397 the application therefor, and preserved by the officer as a public
2398 record.

2399 If, however, such officer, shall, before issuing the * * *
2400 license, or at any time thereafter, have reason to believe that
2401 the statements of the business contained in the application are
2402 incorrect or false in any material particular, the * * * officer
2403 shall duly notify the applicant wherein the supposed discrepancy
2404 lies, and he is hereby empowered to require the applicant to
2405 render such other information as will enable him to determine the
2406 proper tax due. After making such determination of the proper tax
2407 due, if the license has not been issued, the officer shall
2408 forthwith proceed to collect the amount of tax due; and if the
2409 license shall have been issued under the original application, he
2410 shall collect the difference between the sum shown to be properly
2411 due, and the sum paid with the original application, and shall
2412 issue an additional license therefor which shall expire at the
2413 same time as the original. If the additional tax is paid within
2414 sixty (60) days after the determination by the office of the
2415 proper amount due, no penalty shall be applied. If the taxpayer
2416 shall willfully fail or refuse to furnish the information



2417 requested by such officer, he shall be liable for damages as in
2418 other cases of payment of an insufficient privilege tax, and may
2419 be proceeded against civilly or criminally as otherwise provided
2420 herein, and shall suffer the penalties provided herein therefor.

2421 The license issued pursuant to this section shall be good,
2422 usable, and valid for one (1) year after the date thereof, or for
2423 such other period as is fixed by law for the privilege, which
2424 period shall be so designated in the license. All statewide
2425 licenses shall be issued for a period no longer than one (1) year.

2426 The officer issuing the license shall be authorized to
2427 suspend any license issued to any person pursuant to this section
2428 for being out of compliance with an order for support, as defined
2429 in 93-11-153. The procedure for suspension of a license for being
2430 out of compliance with an order for support, and the procedure for
2431 the reissuance or reinstatement of a license suspended for that
2432 purpose, and the payment of any fees for the reissuance or
2433 reinstatement of a license suspended for that purpose, shall be
2434 governed by Section 93-11-157 or Section 93-11-163, as the case
2435 may be. If there is any conflict between any provision of Section
2436 93-11-157 or Section 93-11-163 and any provision of this chapter,
2437 the provisions of Section 93-11-157 or Section 93-11-163, as the
2438 case may be, shall control.

2439 **SECTION 57.** Section 27-19-1, Mississippi Code of 1972, is
2440 amended as follows:

2441 27-19-1. The Department of Revenue, hereinafter called the
2442 "commission" or the "State Tax Commission," is hereby vested with
2443 the sole power and authority, and is charged with the duty of
2444 administering and enforcing the terms and provisions of this
2445 article. As used in this article, the term "commissioner,"
2446 "Chairman of the State Tax Commission" or "chairman" means the
2447 Commissioner of Revenue of the Department of Revenue.

2448 **SECTION 58.** Section 27-19-3, Mississippi Code of 1972, is
2449 amended as follows:



2450 27-19-3. (a) The following words and phrases when used in
2451 this article for the purpose of this article have the meanings
2452 respectively ascribed to them in this section, except in those
2453 instances where the context clearly describes and indicates a
2454 different meaning:

2455 (1) "Vehicle" means every device in, upon or by which
2456 any person or property is or may be transported or drawn upon a
2457 public highway, except devices moved by muscular power or used
2458 exclusively upon stationary rails or tracks.

2459 (2) "Commercial vehicle" means every vehicle used or
2460 operated upon the public roads, highways or bridges in connection
2461 with any business function.

2462 (3) "Motor vehicle" means every vehicle as defined in
2463 this section which is self-propelled, including trackless street
2464 or trolley cars. The term "motor vehicle" shall not include
2465 electric personal assistive mobility devices as defined in Section
2466 63-3-103.

2467 (4) "Tractor" means every vehicle designed, constructed
2468 or used for drawing other vehicles.

2469 (5) "Motorcycle" means every vehicle designed to travel
2470 on not more than three (3) wheels in contact with the ground,
2471 except vehicles included within the term "tractor" as herein
2472 classified and defined.

2473 (6) "Truck tractor" means every motor vehicle designed
2474 and used for drawing other vehicles and so constructed as to carry
2475 a load other than a part of the weight of the vehicle and load so
2476 drawn and has a gross vehicle weight (GVW) in excess of ten
2477 thousand (10,000) pounds.

2478 (7) "Trailer" means every vehicle without motive power,
2479 designed to carry property or passengers wholly on its structure
2480 and which is drawn by a motor vehicle.

2481 (8) "Semitrailer" means every vehicle (of the trailer
2482 type) so designed and used in conjunction with a truck tractor.



2483 (9) "Foreign vehicle" means every motor vehicle,
2484 trailer or semitrailer, which shall be brought into the state
2485 otherwise than by or through a manufacturer or dealer for resale
2486 and which has not been registered in this state.

2487 (10) "Pneumatic tires" means all tires inflated with
2488 compressed air.

2489 (11) "Solid rubber tires" means every tire made of
2490 rubber other than pneumatic tires.

2491 (12) "Solid tires" means all tires, the surface of
2492 which in contact with the highway is wholly or partly of metal or
2493 other hard, nonresilient material.

2494 (13) "Person" means every natural person, firm,
2495 copartnership, corporation, joint-stock or other association or
2496 organization.

2497 (14) "Owner" means a person who holds the legal title
2498 of a vehicle or in the event a vehicle is the subject of an
2499 agreement for the conditional sale, lease or transfer of the
2500 possession, the person with the right of purchase upon performance
2501 of conditions stated in the agreement, and with an immediate right
2502 of possession vested in the conditional vendee, lessee, possessor
2503 or in the event such or similar transaction is had by means of a
2504 mortgage, and the mortgagor of a vehicle is entitled to
2505 possession, then such conditional vendee, lessee, possessor or
2506 mortgagor shall be deemed the owner for the purposes of this
2507 article.

2508 (15) "School bus" means every motor vehicle engaged
2509 solely in transporting school children or school children and
2510 teachers to and from schools; however, such vehicles may transport
2511 passengers on weekends and legal holidays and during summer months
2512 between the terms of school for compensation when the
2513 transportation of passengers is over a route of which not more
2514 than fifty percent (50%) traverses the route of a common carrier



2515 of passengers by motor vehicle and when no passengers are picked
2516 up on the route of any such carrier.

2517 (16) "Dealer" means every person engaged regularly in
2518 the business of buying, selling or exchanging motor vehicles,
2519 trailers, semitrailers, trucks, tractors or other character of
2520 commercial or industrial motor vehicles in this state, and having
2521 an established place of business in this state.

2522 (17) "Highway" means and includes every way or place of
2523 whatever nature, including public roads, streets and alleys of
2524 this state generally open to the use of the public or to be opened
2525 or reopened to the use of the public for the purpose of vehicular
2526 travel, and notwithstanding that the same may be temporarily
2527 closed for the purpose of construction, reconstruction,
2528 maintenance or repair.

2529 (18) "State Tax Commission," "commission" or
2530 "department" means the Commissioner of Revenue of the Department
2531 of Revenue of this state, acting directly or through his duly
2532 authorized officers, agents, representatives and employees.

2533 (19) "Common carrier by motor vehicle" means any person
2534 who or which undertakes, whether directly or by a lease or any
2535 other arrangement, to transport passengers or property or any
2536 class or classes of property for the general public in interstate
2537 or intrastate commerce on the public highways of this state by
2538 motor vehicles for compensation, whether over regular or irregular
2539 routes. The term "common carrier by motor vehicle" shall not
2540 include passenger buses operating within the corporate limits of a
2541 municipality in this state or not exceeding five (5) miles beyond
2542 the corporate limits of the municipality, and hearses, ambulances,
2543 school buses as such. In addition, this definition shall not
2544 include taxicabs.

2545 (20) "Contract carrier by motor vehicle" means any
2546 person who or which under the special and individual contract or
2547 agreements, and whether directly or by a lease or any other



2548 arrangement, transports passengers or property in interstate or
2549 intrastate commerce on the public highways of this state by motor
2550 vehicle for compensation. The term "contract carrier by motor
2551 vehicle" shall not include passenger buses operating wholly within
2552 the corporate limits of a municipality in this state or not
2553 exceeding five (5) miles beyond the corporate limits of the
2554 municipality, and hearses, ambulances, school buses as such. In
2555 addition, this definition shall not include taxicabs.

2556 (21) "Private commercial and noncommercial carrier of
2557 property by motor vehicle" means any person not included in the
2558 terms "common carrier by motor vehicle" or "contract carrier by
2559 motor vehicle," who or which transports in interstate or
2560 intrastate commerce on the public highways of this state by motor
2561 vehicle, property of which such person is the owner, lessee, or
2562 bailee, other than for hire. The term "private commercial and
2563 noncommercial carrier of private property by motor vehicle" shall
2564 not include passenger buses operated wholly within the corporate
2565 limits of a municipality of this state, or not exceeding five (5)
2566 miles beyond the corporate limits of the municipality, and
2567 hearses, ambulances, school buses as such. In addition, this
2568 definition shall not include taxicabs.

2569 Haulers of fertilizer shall be classified as private
2570 commercial carriers of property by motor vehicle.

2571 (22) "Private carrier of passengers" means all other
2572 passenger motor vehicle carriers not included in the above
2573 definitions. The term "private carrier of passengers" shall not
2574 include passenger buses operating wholly within the corporate
2575 limits of a municipality in this state, or not exceeding five (5)
2576 miles beyond the corporate limits of the municipality, and
2577 hearses, ambulances, and school buses as such. In addition, this
2578 definition shall not include taxicabs.

2579 (23) "Operator" means any person, partnership,
2580 joint-stock company or corporation operating on the public



2581 highways of the state one or more motor vehicles as the beneficial
2582 owner or lessee.

2583 (24) "Driver" means the person actually driving or
2584 operating such motor vehicle at any given time.

2585 (25) "Private carrier of property" means any person
2586 transporting property on the highways of this state as defined
2587 below:

2588 (a) Any person, or any employee of such person,
2589 transporting farm products, farm supplies, materials and/or
2590 equipment used in the growing or production of his own
2591 agricultural products in his own truck.

2592 (b) Any person transporting his own fish,
2593 including shellfish, in his own truck.

2594 (c) Any person, or any employee of such person,
2595 transporting unprocessed forest products, or timber harvesting
2596 equipment wherein ownership remains the same, in his own truck.

2597 (26) "Taxicab" means any passenger motor vehicle for
2598 hire with a seating capacity not greater than ten (10) passengers.
2599 For purposes of this paragraph (26), seating capacity shall be
2600 determined according to the manufacturer's suggested seating
2601 capacity for a vehicle. If there is no manufacturer's suggested
2602 seating capacity for a vehicle, the seating capacity for the
2603 vehicle shall be determined according to regulations established
2604 by the Department of Revenue.

2605 (27) "Passenger coach" means any passenger motor
2606 vehicle with a seating capacity greater than ten (10) passengers,
2607 operating wholly within the corporate limits of a municipality of
2608 this state or within five (5) miles of the corporate limits of the
2609 municipality, or motor vehicles substituted for abandoned electric
2610 railway systems in or between municipalities. For purposes of
2611 this paragraph (27), seating capacity shall be determined
2612 according to the manufacturer's suggested seating capacity for a
2613 vehicle. If there is no manufacturer's suggested seating capacity



2614 for a vehicle, the seating capacity for the vehicle shall be
2615 determined according to regulations established by the Department
2616 of Revenue.

2617 (28) "Empty weight" means the actual weight of a
2618 vehicle including fixtures and equipment necessary for the
2619 transportation of load hauled or to be hauled.

2620 (29) "Gross weight" means the empty weight of the
2621 vehicle, as defined herein, plus any load being transported or to
2622 be transported.

2623 (30) "Ambulance and hearse" shall have the meaning
2624 generally ascribed to them. A hearse or funeral coach shall be
2625 classified as a light carrier of property, as defined in Section
2626 27-51-101.

2627 (31) "Regular seats" means each seat ordinarily and
2628 customarily used by one (1) passenger, including all temporary,
2629 emergency, and collapsible seats. Where any seats are not
2630 distinguished or separated by separate cushions and backs, a seat
2631 shall be counted for each eighteen (18) inches of space on such
2632 seats or major fraction thereof. In the case of a regular
2633 passenger-type automobile which is used as a common or contract
2634 carrier of passengers, three (3) seats shall be counted for the
2635 rear seat of such automobile and one (1) seat shall be counted for
2636 the front seat of such automobile.

2637 (32) "Ton" means two thousand (2,000) pounds
2638 avoirdupois.

2639 (33) "Bus" means any passenger vehicle with a seating
2640 capacity of more than ten (10) but shall not include "private
2641 carrier of passengers" and "school bus" as defined in paragraphs
2642 (15) and (22) of this section. For purposes of this paragraph
2643 (33), seating capacity shall be determined according to the
2644 manufacturer's suggested seating capacity for a vehicle. If there
2645 is no manufacturer's suggested seating capacity for a vehicle, the



2646 seating capacity for the vehicle shall be determined according to
2647 regulations established by the Department of Revenue.

2648 (34) "Corporate fleet" means a group of two hundred
2649 (200) or more marked private carriers of passengers or light
2650 carriers of property, as defined in Section 27-51-101, trailers,
2651 semitrailers, or motor vehicles in excess of ten thousand (10,000)
2652 pounds gross vehicle weight, except for those vehicles registered
2653 for interstate travel, owned or leased on a long-term basis by a
2654 corporation or other legal entity. In order to be considered
2655 marked, the motor vehicle must have a name, trademark or logo
2656 located either on the sides or the rear of the vehicle in sharp
2657 contrast to the background, and of a size, shape and color that is
2658 legible during daylight hours from a distance of fifty (50) feet.

2659 (35) "Individual fleet" means a group of five (5) or
2660 more private carriers of passengers or light carriers of property,
2661 as defined in Section 27-51-101, owned or leased by the same
2662 person and principally garaged in the same county.

2663 (b) (1) No lease shall be recognized under the provisions
2664 of this article unless it shall be in writing and shall fully
2665 define a bona fide relationship of lessor and lessee, signed by
2666 both parties, dated and be in the possession of the driver of the
2667 leased vehicle at all times.

2668 (2) Leased vehicles shall be considered as domiciled at
2669 the place in the State of Mississippi from which they operate in
2670 interstate or intrastate commerce, and for the purposes of this
2671 article shall be considered as owned by the lessee, who shall
2672 furnish all insurance on the vehicles and the driver of the
2673 vehicles shall be considered as an agent of the lessee for all
2674 purposes of this article.

2675 **SECTION 59.** Section 27-19-303, Mississippi Code of 1972, is
2676 amended as follows:



2677 27-19-303. The following words and phrases, when used in
2678 this article, shall for purposes thereof have the meaning
2679 respectively ascribed thereto as follows:

2680 (a) "Motor vehicle" shall mean every vehicle intended
2681 primarily for use and operation on the public highways, which is
2682 self-propelled and every vehicle intended primarily for operation
2683 on the public highways, which is not driven or propelled by its
2684 own power, but which is designed either to be attached to and
2685 become a part of or to be drawn by a self-propelled vehicle, but
2686 not including farm tractors and other machines and tools used in
2687 production, harvesting and care of farm products.

2688 (b) "Person" shall mean every natural person, firm,
2689 copartnership, association or corporation.

2690 (c) "Motor vehicle dealer" shall mean any business
2691 engaged in the selling or exchanging of new or new and used motor
2692 vehicles or used vehicles; and, which has an established place of
2693 business open for inspection at any time by any peace officer or
2694 the Commissioner of Revenue of the Department of Revenue or one
2695 (1) of his authorized representatives during reasonable hours;
2696 and, which buys and sells or exchanges at least twenty-four (24)
2697 motor vehicles per year that are the same motor vehicle type for
2698 which distinguishing number tags are being sought under this
2699 article. For purposes of this paragraph each of the following
2700 categories shall be considered a different motor vehicle type:

2701 (i) Motor vehicles (as defined under Section
2702 27-19-3) with a gross vehicle weight (as defined under Section
2703 27-19-3) of less than sixteen thousand (16,000) pounds, not
2704 including motorcycles;

2705 (ii) Motorcycles;

2706 (iii) Trailers, semitrailers and house trailers;

2707 and

2708 (iv) Motor vehicles not included in subparagraphs
2709 (i), (ii) and (iii) of this paragraph.



2710 (d) "Dealer" shall mean such of the principal officers
2711 of a corporation registered as a motor vehicle dealer, and such of
2712 the partners of a copartnership registered as a motor vehicle
2713 dealer as are actively and principally engaged in the motor
2714 vehicle business. The term "dealer" shall not include:

2715 (i) Directors, stockholders or inactive partners;

2716 or

2717 (ii) Receivers, trustees, administrators,
2718 executors, guardians, or other persons appointed by or acting
2719 under any judgment or order of any court, whether state or
2720 federal; or

2721 (iii) Public officers while performing their
2722 official duties; or

2723 (iv) Persons disposing of motor vehicles acquired
2724 for their own use and actually so used when the same shall have
2725 been used, so acquired in good faith, and not for the purpose of
2726 avoiding the provisions of this article; or

2727 (v) Persons who shall sell motor vehicles as an
2728 incident to their principal business but who are not engaged
2729 primarily in selling motor vehicles. The foregoing shall include
2730 only finance companies or banks which sell repossessed motor
2731 vehicles, and insurance companies which sell motor vehicles which
2732 they have taken into their possession as an incident of payment
2733 made under policies of insurance, and which do not maintain a used
2734 car lot or building with one (1) or more employed motor vehicle
2735 salesmen.

2736 (e) "New motor vehicle dealer" shall mean a business
2737 dealing in new motor vehicles, tractors, trailers or semitrailers,
2738 or new and used motor vehicles, tractors, trailers or
2739 semitrailers.

2740 (f) "Used motor vehicle dealer" shall mean a business
2741 dealing in used motor vehicles, tractors, trailers or



2742 semitrailers. "Automobile dismantlers" shall also be classified
2743 as used motor vehicle dealers.

2744 (g) "Established place of business" shall mean any
2745 place owned or leased and regularly occupied by any person for the
2746 primary and principal purpose of engaging in selling, buying,
2747 bartering, exchanging or dealing in motor vehicles, tractors,
2748 trailers or semitrailers, whether same may be displayed or offered
2749 for sale and where the books and records required of the conduct
2750 of such business are maintained and kept. Established places of
2751 business shall be open for inspection at any time by any peace
2752 officer or employee of the Department of Revenue during reasonable
2753 hours. To constitute a place of business, it shall be apparent
2754 that there is a holding out to the general public that an
2755 establishment is offering motor vehicles, tractors, trailers and
2756 semitrailers for sale. There shall be an office separate from and
2757 not in conjunction with or related to any other business for the
2758 purpose of transacting the business of offering motor vehicles,
2759 tractors, trailers or semitrailers for sale, or in lieu of such
2760 office there shall be an adequate display of identification as a
2761 motor vehicle dealer as specified by the Commissioner of Revenue
2762 of the Department of Revenue.

2763 (h) "Automobile dismantler" shall mean any person who
2764 maintains an established place of business and who is engaged in
2765 the business of buying, selling or exchanging used motor vehicles,
2766 mobile homes or house trailers for the purpose of remodeling,
2767 taking apart or rebuilding same or buying and selling of parts of
2768 used motor vehicles and shall be classified as a used motor
2769 vehicle dealer.

2770 (i) "Automobile auction" shall mean any person, firm,
2771 association, corporation or trust, resident or nonresident, acting
2772 as an agent for the purchaser or seller of motor vehicles.

2773 (j) "Department" or "commission" shall mean the
2774 Commissioner of Revenue of the Department of Revenue.



2775 (k) "Limited motor vehicle dealer" or "limited dealer"
2776 shall mean any business engaged in the selling or exchanging of
2777 new or used motor vehicles, or both, which buys and sells or
2778 exchanges fewer than the number of motor vehicles required to be
2779 sold or exchanged in order to fall within the definition of the
2780 term "motor vehicle dealer" and is granted a limited license at
2781 the discretion of the Commissioner of Revenue of the Department of
2782 Revenue. Such limited dealer shall be awarded all privileges of a
2783 "motor vehicle dealer," except for the purchase and use of
2784 distinguishing number tags. A limited dealer shall abide by all
2785 provisions and requirements of this article associated with a
2786 "motor vehicle dealer."

2787 (l) "Wholesale motor vehicle dealer" or "wholesale
2788 dealer" shall mean any business engaged in the selling or
2789 exchanging of new or used motor vehicles, or both, strictly on a
2790 wholesale basis with no inventory being maintained which is
2791 granted a wholesale license at the discretion of the Commissioner
2792 of Revenue of the Department of Revenue. Such wholesale dealer
2793 shall be awarded all privileges of a "motor vehicle dealer,"
2794 except for the purchase and use of distinguishing number tags. A
2795 wholesale dealer shall abide by all provisions and requirements of
2796 this article associated with a "motor vehicle dealer," except for
2797 the requirement of the "established place of business" and the
2798 requirement to buy, sell or exchange a certain number of motor
2799 vehicles per year.

2800 **SECTION 60.** Section 27-21-1, Mississippi Code of 1972, is
2801 amended as follows:

2802 27-21-1. The administration of this chapter is vested in and
2803 shall be exercised by the Commissioner of Revenue of the
2804 Department of Revenue, hereinafter referred to as commissioner,
2805 and who may do any act required in the administration of the law
2806 by and through his duly appointed and constituted deputies or
2807 agents, who shall serve under him, and shall perform such duties



2808 as may be required by the commissioner, including the signing of
2809 notices, warrants and such other documents as may be specifically
2810 designated by the commissioner, not inconsistent with this
2811 chapter. The Commissioner of Revenue of the Department of
2812 Revenue, as commissioner, may require the assistance of and act
2813 through the Attorney General, prosecuting attorney of any county,
2814 or any district attorney, or any attorney for the department.
2815 The * * * commissioner may, with the assent of the Governor,
2816 employ special counsel in any county to aid the prosecuting
2817 attorney of such county or the Attorney General or district
2818 attorney, and the compensation of such special counsel shall be
2819 fixed by and paid only upon the approval of the Governor; but the
2820 Attorney General, district attorney or prosecuting attorney of any
2821 county shall receive no fees or compensation for services rendered
2822 in enforcing this chapter in addition to the salary paid such
2823 officer.

2824 **SECTION 61.** Section 27-25-3, Mississippi Code of 1972, is
2825 amended as follows:

2826 27-25-3. The following words, terms and phrases, when used
2827 in this article, shall have the meanings as defined in this
2828 section, except where the context clearly indicates otherwise:

2829 (a) "Commissioner," "State Tax Commissioner" or "Tax
2830 Commissioner" means the Commissioner of Revenue of the Department
2831 of Revenue.

2832 (b) "Grower" means any person owning or leasing lands
2833 on which timber or timber products are grown or produced.

2834 (c) "Logs" means stems or trunks of trees cut into
2835 convenient lengths for the manufacture of lumber or other timber
2836 products.

2837 (d) "Lumber" means products sawed or hewed from logs,
2838 and shall be measured by actual board measure in units of board
2839 feet, but does not mean other products manufactured from logs such



2840 as veneer sheets, tight or slack cooperage, hardwood shuttle
2841 blocks, hickory, furniture or handle dimension blanks.

2842 (e) "Person" means any individual, firm, copartnership,
2843 association, corporation, receiver, trustee or any other group or
2844 combination acting as a unit, and the plural as well as the
2845 singular.

2846 (f) "Producer" means any person engaging in or
2847 continuing to engage in this state in the business of severing or
2848 purchasing timber or timber products from the soil or water.

2849 (g) "Pulpwood" means any timber or timber products
2850 severed, produced or used by the manufacturers in the production
2851 of pulp and pulp products and shall be measured in units of cords
2852 four (4) feet high, four (4) feet wide, and eight (8) feet long,
2853 containing one hundred twenty-eight (128) cubic feet, and shall be
2854 measured green with bark, as at the date of severance.

2855 (h) "Sever" means to cut, fell, or otherwise separate
2856 or produce from the soil or water any timber or timber products.

2857 (i) "Timber" means timber after severance or
2858 production.

2859 (j) "Timber products" means timber of all kinds,
2860 species, or sizes, after severance, including logs, lumber, poles,
2861 piling, posts, blocks, bolts, cordwood, and pulpwood, pine
2862 stumpwood, pine knots or other distillate wood, crossties,
2863 turpentine (crude gum), and all other products derived from timber
2864 which have a sale or commercial value.

2865 **SECTION 62.** Section 27-25-303, Mississippi Code of 1972, is
2866 amended as follows:

2867 27-25-303. The words, terms and phrases used in this article
2868 shall have the meanings ascribed to them herein.

2869 (a) "Tax commission," State Tax Commission or
2870 "department" means the Department of Revenue of the State of
2871 Mississippi.



2872 (b) "Commissioner" or "Chairman of the State Tax
2873 Commission" means the Commissioner of Revenue of the Department of
2874 Revenue.

2875 (c) "Person" means and includes any individual, firm,
2876 copartnership, joint venture, association, corporation, estate,
2877 trust or other group or combination acting as a unit, and includes
2878 the plural as well as the singular in number.

2879 (d) "Taxpayer" means any person liable for or having
2880 paid any tax to the State of Mississippi under the provisions of
2881 this article.

2882 (e) "Producer" means any person who produces or severs
2883 or who is responsible for the production of salt from the earth or
2884 water for sale, profit or commercial use.

2885 (f) "Production" means the total amount or quantity of
2886 marketable salt produced by whatever measurement used.

2887 (g) "Value" means and includes the purchase price or
2888 royalty, cost, and any other expense as determined by generally
2889 accepted accounting principles of underground mining and handling
2890 of production to the point where processing begins.

2891 (h) "Processing" means an activity of an industrial or
2892 commercial nature wherein labor or skill is applied, by hand or
2893 machinery, to raw materials so that a more useful product or
2894 substance of trade or commerce is produced for sale.

2895 (i) "Engaging in business" means any act or acts
2896 engaged in by producers, or parties at interest which results in
2897 the production of salt from the soil or water, for storage,
2898 transport or further processing.

2899 (j) "Salt" means a substance which is chemically
2900 classified as sodium chloride.

2901 **SECTION 63.** Section 27-25-501, Mississippi Code of 1972, is
2902 amended as follows:

2903 27-25-501. Whenever used in this article, the following
2904 words and terms shall have the definition and meaning ascribed to



2905 them in this section, unless the intention to give a more limited
2906 meaning is disclosed by the context:

2907 (a) "Tax commission" or "department" means the
2908 Department of Revenue of the State of Mississippi.

2909 (b) "Commissioner" means the Commissioner of Revenue of
2910 the Department of Revenue.

2911 (c) "Annual" means the calendar year or the taxpayer's
2912 fiscal year when permission is obtained from the commissioner to
2913 use a fiscal year as a tax period in lieu of a calendar year.

2914 (d) "Value" means the sale price, or market value, at
2915 the mouth of the well. If the oil is exchanged for something
2916 other than cash, or if there is no sale at the time of severance,
2917 or if the relation between the buyer and the seller is such that
2918 the consideration paid, if any, is not indicative of the true
2919 value or market price, then the commissioner shall determine the
2920 value of the oil subject to tax, considering the sale price for
2921 cash of oil of like quality. With respect to salvaged crude oil
2922 as hereinafter defined, the term "value" shall mean the sale price
2923 or market value of such salvaged crude oil at the time of its sale
2924 after such salvaged crude oil has been processed or treated so as
2925 to render it marketable.

2926 (e) "Taxpayer" means any person liable for the tax
2927 imposed by this article. With respect to the tax imposed upon
2928 salvaged crude oil as hereafter defined, the term "taxpayer" shall
2929 mean the person having title to the salvaged crude oil at the time
2930 it is being processed or treated so as to render it marketable.

2931 (f) "Oil" means petroleum, other crude oil, natural
2932 gasoline, distillate, condensate, casinghead gasoline, asphalt or
2933 other mineral oil which is mined, or produced, or withdrawn from
2934 below the surface of the soil or water, in this state. Any type
2935 of salvaged crude oil which, after any treatment, becomes
2936 marketable shall be defined as crude oil which has been severed
2937 from the soil or water.



2938 (g) "Severed" means the extraction or withdrawing from
2939 below the surface of the soil or water of any oil, whether such
2940 extraction or withdrawal shall be by natural flow, mechanically
2941 enforced flow, pumping or any other means employed to get the oil
2942 from below the surface of the soil or water, and shall include the
2943 withdrawing by any means whatsoever of oil upon which the tax has
2944 not been paid, from any surface reservoir, natural or artificial,
2945 or from a water surface. Provided, however, that in the case of
2946 salvaged crude oil, "severed" means the process of treating such
2947 oil so that it will become marketable and the time of severance
2948 shall occur upon completion of the treatment.

2949 (h) "Person" means any natural person, firm,
2950 copartnership, joint venture, association, corporation, estate,
2951 trust or any other group, or combination acting as a unit, and the
2952 plural as well as the singular number.

2953 (i) "Producer" means any person owning, controlling,
2954 managing or leasing any oil property, or oil well, and any person
2955 who produces in any manner any oil by taking it from the earth or
2956 water in this state, and shall include any person owning any
2957 royalty or other interest in any oil or its value, whether
2958 produced by him, or by some other person on his behalf, either by
2959 lease contract or otherwise.

2960 (j) "Engaging in business" means any act or acts
2961 engaged in (personal or corporate) by producers, or parties at
2962 interest, the result of which, oil is severed from the soil or
2963 water, for storage, transport or manufacture, or by which there is
2964 an exchange of money, or goods, or thing of value, for oil which
2965 has been or is in process of being severed, from the soil or
2966 water.

2967 (k) "Barrel" for oil measurement, means a barrel of
2968 forty-two (42) United States gallons of two hundred thirty-one
2969 (231) cubic inches per gallon, computed at a temperature of sixty
2970 (60) degrees Fahrenheit.



2971 (1) "Production" means the total gross amount of oil
2972 produced, including all royalty or other interest; that is, the
2973 amount for the purpose of the tax imposed by this article shall be
2974 measured or determined by tank tables compiled to show one hundred
2975 percent (100%) of the full capacity of tanks without deduction for
2976 overage or losses in handling. Allowance for any reasonable and
2977 bona fide deduction for basic sediment and water, and for
2978 correction of temperature to sixty (60) degrees Fahrenheit will be
2979 allowed. If the amount of oil produced has been measured or
2980 determined by tank tables compiled to show less than one hundred
2981 percent (100%) of the full capacity of tanks, then such amount
2982 shall be raised to a basis by one hundred percent (100%) for the
2983 purpose of the tax imposed by this article.

2984 (m) "Gathering system" means the pipelines, pumps and
2985 other property used in gathering oil from the property on which it
2986 is produced, the tanks used for storage at a central place,
2987 loading racks and equipment for loading oil into tank cars or
2988 other transporting media, and all other equipment and
2989 appurtenances necessary to a gathering system for transferring oil
2990 into trunk pipelines.

2991 (n) "Discovery well" means any well producing oil from
2992 a single pool in which a well has not been previously produced in
2993 paying quantities after testing.

2994 (o) "Development wells" means all oil producing wells
2995 other than discovery wells and replacement wells.

2996 (p) "Replacement well" means a well drilled on a
2997 drilling and/or production unit to replace another well which is
2998 drilled in the same unit and completed in the same pool.

2999 (q) "Three-dimensional seismic" means data which is
3000 regularly organized in three (3) orthogonal directions and thus
3001 suitable for interpretation with a three-dimensional software
3002 package on an interactive work station.



3003 (r) "Two-year inactive well" means any oil or gas well
3004 certified by the State Oil and Gas Board as having not produced
3005 oil or gas in more than a total of thirty (30) days during a
3006 twelve (12) consecutive month period in the two (2) years before
3007 the date of certification.

3008 **SECTION 64.** Section 27-25-701, Mississippi Code of 1972, is
3009 amended as follows:

3010 27-25-701. Whenever used in this article, the following
3011 words and terms shall have the definition and meaning ascribed to
3012 them in this section, unless the intention to give a more limited
3013 meaning is disclosed by the context:

3014 (a) "Tax commission" or "department" means the
3015 Department of Revenue of the State of Mississippi.

3016 (b) "Commissioner" means the Commissioner of Revenue of
3017 the Department of Revenue.

3018 (c) "Annual" means the calendar year or the taxpayer's
3019 fiscal year when permission is obtained from the commissioner to
3020 use a fiscal year as a tax period in lieu of a calendar year.

3021 (d) "Value" means the sale price, or market value, at
3022 the mouth of the well. If the gas is exchanged for something
3023 other than cash, or if there is no sale at the time of severance,
3024 or if the relation between the buyer and the seller is such that
3025 the consideration paid, if any, is not indicative of the true
3026 value or market price, then the commissioner shall determine the
3027 value of the gas subject to tax, considering the sale price for
3028 cash of gas of like quality in the same or nearest gas-producing
3029 field.

3030 (e) "Taxpayer" means any person liable for the tax
3031 imposed by this article.

3032 (f) "Gas" means natural and casinghead gas and any gas
3033 or vapor taken from below the surface of the soil or water in this
3034 state, regardless of whether produced from a gas well or from a



3035 well also productive of oil or any other product; provided,
3036 however, the term "gas" shall not include carbon dioxide.

3037 (g) "Casinghead gas" means any gas or vapor indigenous
3038 to an oil stratum and produced from such stratum with oil.

3039 (h) "Severed" means the extraction or withdrawing by
3040 any means whatsoever, from below the surface of the soil or water,
3041 of any gas.

3042 (i) "Person" means any natural person, firm,
3043 copartnership, joint venture, association, corporation, estate,
3044 trust, or any other group, or combination acting as a unit, and
3045 the plural as well as the singular number.

3046 (j) "Producer" means any person owning, controlling,
3047 managing or leasing any oil or gas property, or oil or gas well,
3048 and any person who produces in any manner any gas by taking it
3049 from the earth or water in this state, and shall include any
3050 person owning any royalty or other interest in any gas or its
3051 value, whether produced by him, or by some other person on his
3052 behalf, either by lease contract or otherwise.

3053 (k) "Engaging in business" means any act or acts
3054 engaged in (personal or corporate) by producers, or parties at
3055 interest, the result of which gas is severed from the soil or
3056 water, for storage, transport or manufacture, or by which there is
3057 an exchange of money, or goods, or thing of value, for gas which
3058 has been or is in process of being severed from the soil or water.

3059 (l) "Production" means the total gross amount of gas
3060 produced, including all royalty or other interest; that is, the
3061 amount for the purpose of the tax imposed by this article shall be
3062 measured or determined by meter readings showing one hundred
3063 percent (100%) of the full volume expressed in cubic feet at a
3064 standard base and flowing temperature of sixty (60) degrees
3065 Fahrenheit and at the absolute pressure at which the gas is sold
3066 and purchased; correction to be made for pressure according to
3067 Boyle's law, and for specific gravity according to the gravity at



3068 which the gas is sold and purchased or if not so specified,
3069 according to test made by the balance method.

3070 (m) "Gathering system" means the pipelines,
3071 compressors, pumps, regulators, separators, dehydrators, meters,
3072 metering installations and all other property used in gathering
3073 gas from the well from which it is produced if such properties are
3074 owned by other than the operator, and all such properties, if
3075 owned by the operator, beyond the first metering installation that
3076 is nearest the well.

3077 (n) "Discovery well" means any well producing gas from
3078 a single pool in which a well has not been previously produced in
3079 paying quantities after testing.

3080 (o) "Development wells" means all gas producing wells
3081 other than discovery wells and replacement wells.

3082 (p) "Replacement well" means a well drilled on a
3083 drilling and/or production unit to replace another well which is
3084 drilled in the same unit and completed in the same pool.

3085 (q) "Three-dimensional seismic" means data which is
3086 regularly organized in three (3) orthogonal directions and thus
3087 suitable for interpretation with a three-dimensional software
3088 package on an interactive work station.

3089 (r) "Two-year inactive well" means any oil or gas well
3090 certified by the State Oil and Gas Board as having not produced
3091 oil or gas in more than a total of thirty (30) days during a
3092 twelve (12) consecutive month period in the two (2) years before
3093 the date of certification.

3094 **SECTION 65.** Section 27-33-11, Mississippi Code of 1972, is
3095 amended as follows:

3096 27-33-11. The subject words and terms of this section, for
3097 the purpose of this article, shall have meaning as follows:

3098 (a) "Tax loss" means the exemption from ad valorem
3099 taxes allowed homeowners in this article. "Reimbursement of tax



3100 loss" means the amount of tax losses to be reimbursed to each
3101 taxing unit as determined by Sections 27-33-77 and 27-33-79.

3102 (b) "Taxing unit" means (i) any county, (ii) any
3103 special municipal separate school district with or without added
3104 territory, (iii) any municipal separate school district with or
3105 without added territory, and (iv) any municipality.

3106 (c) "Added territory" means territory or land lying
3107 outside of a municipality, added or annexed to and being a part of
3108 a municipal separate school district and subject to the tax
3109 permitted to be imposed by the district for school purposes as
3110 provided by Chapter 57, Title 37, Mississippi Code of 1972.

3111 (d) "Municipality" means a city, town or village which
3112 is legally incorporated and which has not been automatically
3113 abolished according to the provisions of Sections 21-1-49 and
3114 21-1-51 or by other lawful process, and in which taxes are
3115 assessed, levied and collected.

3116 (e) "Depository" means the bank or institution and
3117 place officially designated as the depository for funds of a
3118 county.

3119 (f) "Apartment" means rooms in an eligible dwelling
3120 with space and facilities for sleeping and with space and
3121 facilities, or equipment, for preparing and serving meals, which
3122 equipment is supplied by the owner or tenant, or both: (1) in a
3123 building constructed as a dwelling for two (2) or more families,
3124 or (2) in an ordinary dwelling, consisting of three (3) or more
3125 rooms, exclusive of a bathroom; in either case rented or leased or
3126 available for rent or lease, or occupied by a family group other
3127 than the owner. One (1) or two (2) rooms rented and used for
3128 housekeeping shall be counted as rented rooms.

3129 (g) "Commission," "Tax Commission" or "department"
3130 means the Department of Revenue of the State of Mississippi.

3131 (h) "Auditor" means the Auditor of Public Accounts of
3132 the State of Mississippi.



3133 (i) "Treasurer" means the Treasurer of the State of
3134 Mississippi.

3135 (j) "Officer or officers" includes the county tax
3136 assessor, the members of the county board of supervisors, the
3137 clerk of the board of supervisors, the chancery clerk, the county
3138 tax collector, and the legally authorized deputies of each.

3139 (k) "Eligible" when used in this article, (1) with
3140 reference to persons means those persons who are eligible under
3141 the terms of this article for homestead exemption, or (2) with
3142 reference to property means the real property eligible for
3143 exemption as a homestead under the terms of this article as to
3144 title, quantity, occupancy, use to which put, and other conditions
3145 required by this article, or (3) with reference to title or
3146 ownership means title to or ownership of real property as defined
3147 in Section 27-33-17.

3148 (l) "He" and other pronouns in the masculine gender
3149 embrace a female as well as a male, unless a contrary intention is
3150 disclosed by the context.

3151 (m) "Adjoining land, or land actually joined" means two
3152 (2) separately described tracts of land having at one or more
3153 points a common boundary, or where the corners of the two (2)
3154 tracts actually touch, but two (2) tracts connected by an easement
3155 or by a narrow strip of land as a right-of-way for ingress and
3156 egress shall not be treated as adjoining, or actually joined.

3157 (n) "Supplemental roll" means a list containing the
3158 amount of the assessment of all lands and buildings which are all,
3159 or a part, of exempt homesteads, and a list of the homeowners to
3160 whom a homestead exemption has been allowed by the board for the
3161 current year, and showing in strict alphabetical order the names
3162 of all applicants to whom the exemption was granted, and in
3163 vertical columns the amount of the assessment, the assessed value
3164 of the exempted land and buildings, the assessed value of the land
3165 and buildings not exempted, the page and line number of the



3166 regular land roll where entered, the number of acres exempted, the
3167 dollar amount of exemption allowed and such other information as
3168 the Department of Revenue may require. The department shall
3169 prescribe the form of the supplemental roll and may require such
3170 rolls to be prepared and maintained on electronic media. The
3171 supplemental roll, as herein defined, is hereby made a legal
3172 supplement to and a part of the complete land assessment roll of
3173 the county or municipality and shall be subject to all laws
3174 relating to assessment rolls and particularly Sections 27-35-117,
3175 27-35-123 and 27-35-125 as far as applicable and not inconsistent
3176 with the provisions of this article.

3177 The supplemental roll, when certified by the clerk of the
3178 board of supervisors and delivered to the tax collector, shall be
3179 his warrant to allow the amount of the tax exemption to each
3180 person as a credit on or deduction from the gross amount of the
3181 taxes charged to that person on the assessment roll.

3182 (o) "Ad valorem tax" means any tax where the amount
3183 levied is based upon or determined by the value of the property
3184 subject to the tax.

3185 **SECTION 66.** Section 27-33-37, Mississippi Code of 1972, is
3186 amended as follows:

3187 27-33-37. The board of supervisors shall perform the duties
3188 imposed by this article on the members, the president, and the
3189 board as a unit, with the powers and authority granted and as
3190 necessary for the proper administration of the article, and
3191 specifically as set out in this section.

3192 (a) At each regular monthly meeting the president of
3193 the board shall require of and receive from the clerk of the board
3194 all applications for homestead exemption having come into his
3195 hands as provided in Section 27-33-35 of this article.

3196 (b) As soon as practicable after convening, at each
3197 regular monthly meeting, the board, in the light of public
3198 records, personal knowledge, information given by the assessor,



3199 and any other reliable source of information that may be
3200 available, shall examine each application which has been delivered
3201 to the clerk by the tax assessor, and pass upon its correctness
3202 and the eligibility of the property and of the person, under the
3203 law, as fully as may be done before final approval, after the land
3204 roll has been finally approved of minute record; and the board
3205 shall carefully consider and construe the relationship between
3206 buyers and sellers of property on which homestead exemption is
3207 sought, and the terms, conditions, rate of interest, payments made
3208 and to be made, of all conveyances doubtful in such respect. One
3209 (1) member of the board shall check each application prior to the
3210 time for final approval, and shall indicate if it should be
3211 approved, disapproved, or if it requires further investigation.

3212 (c) If any application be found incorrect or incomplete
3213 in any particular required by law, or deficient in any respect,
3214 the board shall give notice immediately to the applicant, in
3215 writing, by mail, advising the applicant of the defect and the
3216 nature thereof, so that the applicant may correct it, if it can be
3217 corrected, before the time for final action by the board.

3218 (d) The year in which the land roll is made, at the
3219 meeting of the board of supervisors at which the certificate of
3220 the department finally approving the land assessment roll is
3221 received and entered in its minutes, and at the September meeting
3222 the board of supervisors shall complete the consideration of each
3223 and every application for homestead exemption; and all
3224 applications, or claims, not clearly within the provisions and
3225 requirements of this article shall be disallowed by the board.
3226 Where it appears to the board, in a case or cases involving
3227 transactions completed after July 1, 1938, that conveyances have
3228 been made without bona fide consideration, and liens taken with
3229 questionable consideration or values, or where the payments on the
3230 principal have not been made as required, or there is evidence of
3231 any kind that the transactions were not bona fide in every



3232 particular, and were entered into for the purpose of obtaining a
3233 homestead exemption contrary to the letter and spirit of law, the
3234 application shall be disallowed.

3235 (e) Each application shall be plainly endorsed
3236 "allowed" or "disallowed" as the case may be, over the date, and
3237 the signature of the president of the board, who may use a
3238 facsimile stamp for the purposes; and, in the space provided on
3239 the application for that purpose, there shall be entered for each
3240 assessment, (1) the page and line number of the assessment on the
3241 land roll, (2) the total number of acres, (3) the total assessed
3242 value of the land, (4) the assessed value of the buildings, (5)
3243 the total assessed value of the exempted land and buildings, (6)
3244 the assessed value of the land and buildings not exempted, (7) the
3245 name of the road district, if any, in which the property lies, and
3246 (8) the name of the school district in which the property lies.

3247 (f) All applicants, whose applications are finally
3248 disallowed by the board, shall be given notice immediately by the
3249 board, in writing, by mail. Petitions and objections by
3250 applicants for correction or amendment shall be heard by the board
3251 at the next regular meeting of the board after notice that the
3252 application was finally disallowed.

3253 (g) It shall not be necessary that an order be entered
3254 on the minutes of the board which allows or disallows an
3255 application as provided by paragraph (f) of this section, unless
3256 there be a division among the board members, then an order shall
3257 be entered on the minutes recording the aye and nay vote.

3258 (h) The board of supervisors shall have, and is hereby
3259 given, the power and authority to summon and examine witnesses
3260 under oath, to examine records, and to do any and all other things
3261 necessary and proper to ascertain the facts with respect to any
3262 application, or claim, for homestead exemption presented to it.
3263 The board shall disallow any application for homestead exemption
3264 when it is found that the person or the property was ineligible,



3265 after the supplemental roll is approved and within one (1) year
3266 after that in which the application was executed; and it shall
3267 correct, likewise, any and all errors found in the supplemental
3268 roll. When an application is disallowed by the board after the
3269 supplemental roll has been approved, it shall give notice and
3270 proceed as in the case of a rejection by the department. A
3271 certified copy of the order finally disallowing an application,
3272 and making a correction in the supplemental roll must be adopted
3273 before the last Monday of August and shall be received by the
3274 department no later than September 15 of the year following the
3275 year in which the supplemental roll was made.

3276 (i) At the first regular or special meeting of the
3277 board of supervisors held after the supplemental roll, required by
3278 Section 27-33-35 of this article, has been made, it shall examine
3279 the * * * roll, and if found correct shall enter in the minutes an
3280 order approving the roll; and the applications disallowed shall be
3281 listed in the minutes by name and amount, with the reason for
3282 disallowance. A copy of the order shall be attached to the
3283 supplemental roll and sent to the department.

3284 (j) All applicants whose applications are rejected for
3285 reimbursement of tax loss by the department, after having been
3286 allowed by the board, shall be given notice immediately by the
3287 board, in writing, by mail, with the reasons for the rejection by
3288 the department, and the applicants shall have thirty (30) days in
3289 which to file objections thereto, which objections shall be heard
3290 by the board at the same or the next regular meeting after
3291 objections are filed by the applicant. If the board finds that in
3292 its opinion the application should be allowed, it shall continue
3293 the matter in its record, and present its objection to the
3294 rejection, with evidence in support of it, to the department. All
3295 applications finally rejected by the department or by the Board of
3296 Tax Appeals shall be disallowed by the board, and entered of
3297 minute record.



3298 (k) When the board shall receive notice from the
3299 department that an application for homestead exemption has been
3300 rejected by the department for reimbursement of tax loss, the
3301 board shall proceed in the manner prescribed in paragraph (j) of
3302 this section. Upon the hearing of objections of the applicant, if
3303 the board finds that the application should be disallowed, it
3304 shall so order and notify the department that its rejection has
3305 been "accepted." If the board is of the opinion that the
3306 application should be allowed, it shall notify the department that
3307 it objects to the rejection of the application, and shall submit,
3308 in writing, its reasons for the "objection." All such matters
3309 between the board and the department may be concluded by
3310 correspondence, or by personal appearance of the board, or one or
3311 more of its members, the clerk, or the assessor, or by a
3312 representative of the department present at any meeting of the
3313 board. If upon consideration of the objection, the department
3314 determines that the application for homestead exemption should be
3315 allowed; it will reverse the adjustment resulting from the
3316 department's rejection of the application and advise the board of
3317 this reversal. If upon consideration of the objection, the
3318 department determines that it had properly rejected the
3319 application for homestead exemption; it shall advise the board
3320 that its objection has been denied by the department. Within
3321 thirty (30) days from the date of the notice from the department
3322 advising the board that its objection had been denied, the board
3323 can appeal this denial of the objection by the department to the
3324 Board of Tax Appeals. The decision of the Board of Tax Appeals on
3325 the appeal by the board from the denial by the department of the
3326 board's objection to the department's rejection of an application
3327 for reimbursement of the tax loss shall be final, and the board
3328 and the department will either allow or disallow the application
3329 based on the decision of the Board of Tax Appeals * * *.



3330 (1) It shall be the duty of the board, and it is hereby
3331 given the power to order the tax collector, by an order entered on
3332 its minutes, to reassess, and list as subject to all taxes, the
3333 property described in an application for homestead exemption and
3334 as entered on the regular land assessment roll, under the
3335 following circumstances:

3336 (i) When an application for homestead exemption is
3337 finally rejected by the department for reimbursement of tax loss
3338 which has been regularly approved by the board and entered on the
3339 supplemental roll; or

3340 (ii) Where an application has been wrongfully
3341 allowed by the board.

3342 When any property has been reassessed as herein provided, all
3343 additional taxes due as a result of such reassessment shall become
3344 due and be payable on or before the first day of February of the
3345 year following that in which notice to make the reassessment is
3346 issued; and if not paid, the tax collector shall proceed to sell
3347 the property for the additional taxes in the same manner and at
3348 the same time other property is sold for the current year's taxes,
3349 or he may collect the taxes by all methods by which other taxes on
3350 real estate may be collected. Provided, no penalty or interest
3351 shall be applied for any period prior to February 1 of the year
3352 following that in which the reassessment is made, and provided
3353 further, that such reassessment shall not take effect or become a
3354 lien on the property of bona fide purchasers or encumbrancers for
3355 value without notice thereof, unless there shall have been filed
3356 prior to their attaining such status a notice of rejection in the
3357 chancery clerk's office in the county in which the property is
3358 located, which notice shall be recorded and indexed as are deeds;
3359 but the applicant shall in all cases remain personally liable for
3360 such reassessment.

3361 (m) The board of supervisors may employ the clerk of
3362 the board to collect and assemble data and information and to



3363 perform the services required of the board by paragraph (e) of
3364 this section and to make investigations required in connection
3365 with the duties of the board in determining the eligibility of
3366 homestead exemptions and to perform all other ministerial duties
3367 required of the board in connection with administering the
3368 Homestead Exemption Law and as directed by the board. If the
3369 board employs the clerk, he shall be paid out of the general
3370 county fund as follows: for the first two thousand (2,000)
3371 applications he may, in the discretion of the board, be paid not
3372 exceeding One Dollar (\$1.00) each, for the next two thousand
3373 (2,000) applications he may be paid not exceeding Seventy-five
3374 Cents (75¢) each, for the next two thousand (2,000) applications
3375 he may be paid not exceeding Fifty Cents (50¢) each, for the next
3376 two thousand (2,000) applications he may be paid not exceeding
3377 Thirty-five Cents (35¢) each, all over the above number he shall
3378 be paid not exceeding Twenty-five Cents (25¢) each. The board
3379 shall require the assessor to correctly describe all lands
3380 included in any applications for homestead exemption, and to
3381 assess all such lands on the land assessment roll, separately from
3382 other lands, as required by this article; and to present to the
3383 board all proper and necessary notices for the correction of land
3384 descriptions on the roll, changes in ownership, and for increases
3385 and decreases in the assessments of exempt homes.

3386 **SECTION 67.** Section 27-33-41, Mississippi Code of 1972, is
3387 amended as follows:

3388 27-33-41. The administration of this article is hereby
3389 vested in the Department of Revenue, and it shall have the power
3390 and the authority necessary to secure compliance with its
3391 provisions uniformly throughout the state. The department shall,
3392 in addition to its general duties of administration of the
3393 article, do the specific things set out in this section:

3394 (a) It shall adopt and issue to tax assessors, clerks,
3395 boards of supervisors, and all other officers or offices to which



3396 this article applies, rules and regulations, not inconsistent with
3397 the provisions of the article, affecting the applications and all
3398 proceedings, records, hearings and other pertinent subjects,
3399 relating to property for which a homestead exemption is claimed;
3400 and such rules and regulations shall be observed by such officers,
3401 boards and offices, in all respects, and in the performance of any
3402 and all duties imposed and powers granted by this article.

3403 (b) It shall prescribe the form of and furnish suitable
3404 application forms, or blanks, for the purpose of carrying out the
3405 provisions of this article, and shall deliver to each assessor a
3406 sufficient number of such blanks for the use of homeowners.

3407 (c) It shall have authority and it shall be its duty to
3408 examine all applications for homestead exemption allowed under
3409 this article, to determine if the provisions of the article have
3410 been complied with by the applicant, the tax assessor, the board
3411 of supervisors, the clerk, and all others, and if the exemptions
3412 have been lawfully allowed; and it shall reject for reimbursement
3413 of tax loss any exemption allowed by the board which does not
3414 conform to the requirements of law in every substantial particular
3415 or for which no application has been sent to the department as
3416 required in Section 27-33-35(a), and shall correct or have
3417 corrected any errors; and the tax loss to be reimbursed shall be
3418 adjusted to accord with the findings of the department.

3419 When an application is rejected, notice thereof shall be
3420 given as provided by this section, and the acceptance or objection
3421 by the board shall be determined as provided by Section
3422 27-33-37(k).

3423 (d) It shall have authority to examine the assessment
3424 rolls, any account register, file, document, record or paper
3425 relating to receipts and disbursements of the taxing unit or any
3426 and all matters relating to homestead exemptions allowed and tax
3427 losses to be reimbursed. It shall also have the authority to



3428 examine any report or return received by the department to verify
3429 any claims made on homestead exemption applications.

3430 (e) It shall have the authority to summon and examine
3431 under oath any officer or other person with respect to any matter
3432 bearing upon the exemption of a home or homes, and to do any and
3433 all other things necessary and proper to ascertain the facts with
3434 respect to any application or claim for homestead exemption; and
3435 it may require the board to furnish any information or document
3436 necessary to the performance of its duties or the correct
3437 determination of any question before it to which the board is a
3438 party.

3439 (f) The reimbursement for the annual tax loss to the
3440 taxing units shall be due and payable in two (2) installments; the
3441 first on March 1 and the second on September 1 of each year. The
3442 clerk's certificate of tax loss when in accord with the
3443 supplemental roll and the applications as filed with the
3444 department shall constitute a request by the board for
3445 reimbursement of the tax loss.

3446 (g) It shall, on or before the first day of March each
3447 year, certify to the Department of Finance and Administration the
3448 amount of the first installment to be paid to each taxing unit in
3449 the state, which shall be one-half (1/2) of the amount due, with
3450 adjustments, which is the amount of the first installment less any
3451 charges against the account and plus any credits by reason of
3452 previous charges which have been cancelled. However, if the copy
3453 of the county land roll, the supplemental roll and the clerk's
3454 certificate of tax loss have not been filed with and approved by
3455 the department by February 1, the department shall be allowed
3456 thirty (30) days after the filing of the rolls and the said
3457 certificate in which to perform the duties hereby imposed.

3458 (h) It shall, on or before the first day of September
3459 each year, certify to the Department of Finance and Administration
3460 the amount of the second installment to be paid to each taxing



3461 unit in the state, which shall be the remainder of the amount due
3462 with adjustments, which is an amount equal to the first
3463 installment less any charges against the account and plus any
3464 credits by reason of previous charges which have been cancelled.
3465 Adjustments, either charges or credits, against the amount of tax
3466 loss to any taxing unit may be made at any time as provided in
3467 subsection (j) of this section.

3468 (i) In the event an adjustment in the amount of the tax
3469 loss has been determined by the department, it shall give notice,
3470 in writing, to the board of supervisors, which notice shall be
3471 considered by the board at its next meeting, regular, adjourned or
3472 special. If the board accepts the adjustment, it shall promptly
3473 so advise the department, using such form as may be prescribed and
3474 furnished by the department. If the board objects to the
3475 adjustment, it shall promptly so advise the department, using such
3476 forms as may be prescribed and furnished by the department,
3477 stating in detail the grounds for its objection and providing any
3478 supporting documentation for its objection. Upon receipt of the
3479 board's objection, the department will consider same and determine
3480 whether or not the objection is valid. All such matters between
3481 the board and the department on this objection may be concluded by
3482 correspondence, or by personal appearance of the board, or one or
3483 more of its members, the clerk, or the assessor, or by a
3484 representative of the department present at any meeting of the
3485 board. If upon consideration of the objection, the department
3486 determines that the application for homestead exemption should be
3487 allowed; it will reverse the adjustment resulting from the
3488 department's rejection of the application and advise the board of
3489 this reversal. If upon consideration of the objection, the
3490 department determines that it had properly rejected the
3491 application for homestead exemption; it shall advise the board
3492 that its objection has been denied by the department. Within
3493 thirty (30) days from the date of the notice from the department



3494 advising the board that its objection had been denied, the board
3495 can appeal this denial of the objection by the department to the
3496 Board of Tax Appeals. At any hearing on the appeal by the board
3497 to the Board of Tax Appeals on the department's denial of the
3498 board's objection to the department's rejection of an application
3499 for homestead exemption, the decision of the department to reject
3500 the homestead exemption application shall be prima facie correct.

3501 (j) It shall be the duty of the department and it shall
3502 have authority to charge the account of any taxing unit with
3503 amounts of homestead exemption tax loss claimed by the taxing unit
3504 in the certificate of tax loss and the supplemental roll and to
3505 deduct the amount from subsequent installments, either first or
3506 second. Such charges shall be made when homestead exemption
3507 applications are rejected in whole or in part for reimbursement of
3508 tax loss or when errors are discovered in the supplemental roll or
3509 clerk's certificate of tax loss.

3510 (k) The authority of the department to reject an
3511 application for reimbursement of tax loss shall not be exercised
3512 later than one (1) year after the first day of January of the year
3513 next following that in which the application was filed by the
3514 applicant; but this limitation shall not apply in cases of fraud,
3515 nor where the same person was granted exemption on two (2)
3516 separate homes.

3517 Notice of adjustments in tax loss payments and notice of
3518 applications rejected shall be given by mail, addressed to the
3519 clerk of the board, and the notice directed to the president of
3520 the board of supervisors of the county. The date of mailing shall
3521 be the date of the notice.

3522 (l) The department shall file and preserve full,
3523 complete and accurate records of all tax loss payments and
3524 adjustments in tax loss payments made under the provisions of this
3525 article, including the certificates of tax loss for a period of
3526 three (3) years from the date thereof. The department shall file



3527 and preserve for a period of three (3) years all applications for
3528 homestead exemption filed with it and copies of all supplemental
3529 rolls, counting from the first day of January of the year in which
3530 they are required to be executed or made. All records enumerated
3531 may be destroyed by the department, when kept for the time
3532 required. All other documents, records, papers and correspondence
3533 may be destroyed in accordance with approved record retention
3534 schedules.

3535 (m) The department shall, on or before June 1 of any
3536 year, pay the second installment, or a part thereof, to any school
3537 taxing unit upon submission to the department of proof, in the
3538 form of a certificate of necessity, executed by the county
3539 superintendent of education for the county general school fund, or
3540 for a county school district fund, and by the city superintendent
3541 of schools for a municipal separate school district, that there is
3542 not sufficient money in the maintenance fund of the taxing unit to
3543 pay the salaries of teachers and school bus drivers for the
3544 current school term. Such payment shall be made as provided in
3545 paragraph (h) of this section.

3546 (n) The county tax collectors shall enter, or cause to
3547 be entered, all transactions regarding the titling or registration
3548 of vehicles into the statewide telecommunications system in
3549 compliance with the provisions of Section 63-21-18. Failure of
3550 any tax collector to comply with the provisions of this paragraph
3551 shall subject the county to the withholding of reimbursements of
3552 homestead exemption tax loss as provided under Section 63-21-18.

3553 **SECTION 68.** Section 27-35-81, Mississippi Code of 1972, is
3554 amended as follows:

3555 27-35-81. (1) If the assessment is conducted by or under
3556 the direction of the assessor, the assessor shall complete the
3557 assessment of both real and personal property and file the roll or
3558 rolls with the clerk of the board of supervisors on or before the
3559 first Monday in July of each year. He shall make an affidavit and



3560 append it to each roll, showing that he has faithfully endeavored
3561 to ascertain and assess all the persons and property in his
3562 county, that he has not omitted any person or thing, or placed
3563 upon, or accepted an under valuation of any property, through
3564 fear, favor or partiality, and that he has required every taxpayer
3565 to make the oath required to be taken by the person rendering a
3566 list of his taxable property wherever possible. The assessor
3567 shall file with the roll or rolls, under oath, a list showing the
3568 name of every taxpayer who has failed or refused to make oath to
3569 his tax lists.

3570 (2) If the roll or rolls are not filed as required by this
3571 section on or before the first Monday in July of each year, the
3572 board of supervisors at its July meeting shall adopt an order
3573 showing the failure of the roll or rolls to be filed and shall
3574 certify to the Department of Revenue a statement showing such
3575 failure and the time necessary to complete the roll or rolls.

3576 (3) Upon receipt of such certificate from the board of
3577 supervisors of any county, the Department of Revenue shall * * *
3578 provide when such roll shall be completed and filed, and the date
3579 when the board of supervisors shall meet to equalize the roll or
3580 rolls, and the time when objections to the assessments contained
3581 in such roll or rolls, shall be heard by the board of supervisors,
3582 provided that not less than ten-days' notice shall be given prior
3583 to the hearing of such objections. When such roll or rolls shall
3584 be filed, they shall be dealt with in all respects as now provided
3585 by law except as to the time.

3586 **SECTION 69.** Section 27-35-113, Mississippi Code of 1972, is
3587 amended as follows:

3588 27-35-113. (1) It shall be the duty of the Department of
3589 Revenue to carefully examine the recapitulations of the assessment
3590 rolls of the counties, when received, to compare the assessed
3591 valuation of the various classes of property in the respective
3592 counties, to investigate and determine if the assessed valuation



3593 of any classes of property in any one or more counties of the
3594 state is not equal and uniform with the assessed values fixed upon
3595 the same classes of property in other counties of the state, and
3596 to ascertain if any class of property in any one or more counties
3597 is assessed contrary to law.

3598 (2) The department shall, by regulation, establish
3599 performance standards and acceptable parameters for evaluation of
3600 the accuracy of assessments. These standards shall include, but
3601 not be limited to, the following:

3602 (a) Assessment level: The ratio of assessments to
3603 current true value or market value;

3604 (b) Assessment uniformity: The test of uniformity or
3605 fairness of individual assessments; and

3606 (c) Assessment equity: The test of price-related bias.

3607 (3) To perform its examination of the recapitulations of the
3608 assessment rolls of the counties, the department shall annually
3609 conduct assessment/ratio studies of each county or utilize other
3610 means, as determined appropriate by the department, to determine
3611 if each county's assessment records comply with acceptable
3612 performance standards. The department shall send notice of the
3613 results of this examination to the assessor and the board of
3614 supervisors of each county no later than thirty (30) days after
3615 receipt of the board of supervisors' recapitulation. Any county
3616 not in compliance with the acceptable performance standards shall,
3617 within ninety (90) days from the date of the notice concerning the
3618 department's examination of the county's assessments records,
3619 adopt and submit to the department for approval a plan for
3620 achieving compliance and begin the implementation of the plan so
3621 that compliance can be achieved by the second succeeding year's
3622 assessment roll after the tax year for which the department's
3623 notice of noncompliance with performance standards was issued.

3624 Failure to adopt and submit an approved plan for achieving
3625 compliance or failure to properly implement and follow an approved



3626 plan shall cause the department to withhold the county's homestead
3627 exemption reimbursement monies until such time as the county has
3628 complied with this provision. In the event the county has not
3629 complied with this provision by the end of the state's fiscal
3630 year, then the department shall place the funds so held in a
3631 special escrow account. All interest shall accrue to the benefit
3632 of the county on this account.

3633 (4) The department shall approve the recapitulation of the
3634 assessment rolls and the property tax rolls of any county
3635 operating under a supervised plan to achieve compliance within the
3636 first two (2) roll years as provided for in the paragraph above,
3637 notwithstanding that the county may be failing a test or tests of
3638 the accuracy or equity of assessment.

3639 (5) Any county failing to achieve such compliance for the
3640 second succeeding year's assessment roll as outlined above shall
3641 be subject to the following restrictions until such time as said
3642 tax rolls come into compliance:

3643 (a) The department shall place into escrow all
3644 homestead exemption reimbursements;

3645 (b) The county shall levy and pay over to the
3646 department, for purposes of being placed in the escrow account,
3647 the proceeds of the one (1) mill levy provided for in Section
3648 27-39-329(1)(b). All interest shall accrue to the benefit of the
3649 county on any funds placed in an escrow account; and

3650 (c) The department shall identify the class or classes
3651 of property whose assessment level is not in conformity with the
3652 regulation of the department governing same, and shall have the
3653 authority to adjust and equalize that class or classes of property
3654 by, either requiring a fixed percent (1) to be added to the
3655 assessed valuation of any class of property in any county found
3656 too low; or (2) to be deducted from the assessed valuation of any
3657 class of property found too high; in order that the class or



3658 classes of property are being assessed in conformity with the
3659 department's regulation.

3660 (6) Once the county achieves compliance with the standard of
3661 performance as to assessment level, uniformity and equity as
3662 established by the rules and regulations of the Department of
3663 Revenue, the department shall release to the county all funds held
3664 in escrow on its behalf during the period of noncompliance.

3665 (7) The board of supervisors of any county aggrieved by the
3666 decision of the department regarding the department's examination
3667 of the recapitulations of its assessment rolls may appeal such
3668 decision to the Board of Tax Appeals within thirty (30) days from
3669 the date of the notice from the department advising the county of
3670 the results of the department's examination of the recapitulation
3671 of the assessment rolls of the county. The Board of Tax Appeals
3672 shall hear the objections by the board of supervisors and grant
3673 whatever relief it deems appropriate; however, the Board of Tax
3674 Appeals shall not have the authority to grant relief which is
3675 inconsistent with this section. The decision of the Board of Tax
3676 Appeals shall be final.

3677 (8) It is the intent of this section and that of this
3678 chapter to vest the Department of Revenue with authority to
3679 investigate and determine the assessed valuation of classes of
3680 property, and to further establish and/or clarify that tax
3681 assessors and the boards of supervisors are vested with the
3682 absolute authority to investigate and determine the assessed
3683 valuations of individual parcels of property located in their
3684 particular county in a manner consistent with the laws of this
3685 state.

3686 **SECTION 70.** Section 27-35-115, Mississippi Code of 1972, is
3687 amended as follows:

3688 27-35-115. When the Department of Revenue has completed its
3689 examination of the recapitulations, and within thirty (30) days
3690 after the receipt of recapitulations from each of the counties of



3691 the state, it shall * * * direct what action the county must take
3692 in order to comply with the provisions of Section 27-35-113. On
3693 the other hand, if the department finds that the assessment of any
3694 county or counties is reasonably equal and uniform with the
3695 assessment of other counties, and in proportion to the true value
3696 of the property and does not require an increase or decrease in
3697 the assessment of any class of property, in order to secure such
3698 equality and uniformity, the department, shall * * * approve
3699 the * * * assessment roll or rolls, or reproductions thereof, and
3700 direct the board of supervisors thereof, to have copies of
3701 the * * * rolls made as required by law. Like determinations
3702 shall be made by the department with respect to the
3703 recapitulations of all the remaining counties as they are received
3704 by the department. The department shall send notice of the
3705 results of its examination of the recapitulation of the assessment
3706 rolls and the action taken in regard the recapitulation by United
3707 States mail to the president of the board of supervisors * * * of
3708 the county whose recapitulation was examined.

3709 **SECTION 71.** Section 27-35-117, Mississippi Code of 1972, is
3710 amended as follows:

3711 27-35-117. When the president of the board of supervisors
3712 shall receive notice from the Department of Revenue concerning the
3713 results of the examination and action taken by the department in
3714 regard to the recapitulation of the assessment rolls of his
3715 county, he shall immediately call a meeting of the board of
3716 supervisors of his county and shall give notice thereof by
3717 publication, five (5) days before the date of the meeting and
3718 shall set forth in the notice the purpose of the meeting and
3719 notifying all taxpayers that at the * * * meeting the board of
3720 supervisors will carry out the instructions of the department and
3721 that any taxpayer aggrieved by the action of the board may present
3722 objections to that action. When the board of supervisors convenes
3723 pursuant to the * * * call and notice of the president, it shall



3724 proceed to consider the instructions of the Department of Revenue,
3725 and if the board be dissatisfied with the decision of the
3726 Department of Revenue, the board may, by order, appeal the
3727 decision of the department as provided in Section 27-35-113. The
3728 members of the board, its attorney, tax assessor and chancery
3729 clerk may appear before the Board of Tax Appeals and give evidence
3730 with reference to the * * * decision of the department. In its
3731 aforesaid order, the board may fix a day for its meeting for the
3732 further performance of its duties required under this section.
3733 The * * * witnesses shall appear before the Board of Tax Appeals
3734 at the location set by the Board of Tax Appeals for the hearing on
3735 the board's appeal at the time established by the Board of Tax
3736 Appeals, or they shall lose their right to be heard. The
3737 compensation and expenses, if any, shall be paid by the board of
3738 supervisors of the county affected. The Board of Tax Appeals
3739 shall hear the complaints and objections of any board of
3740 supervisors and witnesses and may adopt an order modifying or
3741 rescinding the decision of the department as the evidence so
3742 requires but not inconsistent with the provisions of Section
3743 27-35-113. Unless appealed, the decision of the department when
3744 made shall be final and it shall be the duty of the board of
3745 supervisors to immediately take the appropriate action in
3746 accordance with the instructions of the department. If the
3747 department's decision is appealed, the decision of the Board of
3748 Tax Appeals shall be final and it shall be the duty of the board
3749 of supervisors to immediately take the appropriate action in
3750 accordance with the decision of the Board of Tax Appeals.

3751 **SECTION 72.** Section 27-35-129, Mississippi Code of 1972, is
3752 amended as follows:

3753 27-35-129. The board of supervisors, at its July meeting,
3754 shall carefully examine the assessment roll, or rolls, returned by
3755 the tax assessor and shall then decide if a new assessment be
3756 necessary. If it be found that the assessor is incapable, or that



3757 his assessment is so imperfect that it ought not to be approved,
3758 even if objections be not filed, the board may appoint some
3759 suitable person to proceed immediately to make the assessment.
3760 The board of supervisors shall in such case adopt an order setting
3761 forth the true facts and conditions and the time necessary for
3762 making of a new assessment roll, or rolls, and shall certify the
3763 order to the Department of Revenue. The Department of Revenue
3764 shall, upon receipt of the certificate from the board of
3765 supervisors, determine and notify the board of supervisors when
3766 the roll, or rolls, shall be filed, the time for equalization by
3767 the board of supervisors, the giving of notice to taxpayers and
3768 the time when objections to the roll, or rolls, shall be heard and
3769 determined by the board of supervisors. The person appointed to
3770 make the assessment shall proceed immediately to make the
3771 assessment in the same manner and with the same powers of the tax
3772 assessor when assessments are made at the time provided by law,
3773 and shall prepare and file the assessment roll, or rolls, within
3774 the time prescribed by the order of the department. The person so
3775 appointed and discharging the duty shall be allowed the
3776 compensation allowed by law to the assessor for like services, and
3777 shall have the same deputies allowed by law to the tax assessor.
3778 The board of supervisors shall require of the persons appointed
3779 the same bond as is required of the tax assessor. The roll, or
3780 rolls, made under the provisions of this section shall be the
3781 legal assessment roll and the old one shall be thereby annulled.

3782 **SECTION 73.** Section 27-35-163, Mississippi Code of 1972, is
3783 amended as follows:

3784 27-35-163. (1) Except as otherwise provided in subsection
3785 (2) of this section, any person, firm or corporation aggrieved by
3786 an order of the Board of Tax Appeals affirming, in whole or in
3787 part, the assessment of property by the Department of Revenue for
3788 the purpose of ad valorem taxation may, within thirty (30) days
3789 from the date of this order, appeal with supersedeas as to the



3790 amount of taxes in controversy to the Circuit Court of the First
3791 Judicial District of Hinds County, or to the circuit court of any
3792 county in which the property, or any part thereof, is located, or
3793 to the circuit court of any county in which such person, firm or
3794 corporation whose property is assessed resides, upon giving bond
3795 with sufficient sureties, to be approved by the clerk of such
3796 court, in a sum equal to the amount of taxes due on the contested
3797 value of such property as affirmed by the Board of Tax Appeals,
3798 but never less than One Hundred Dollars (\$100.00), payable to the
3799 state and conditioned to perform the judgment of the circuit
3800 court. The ad valorem taxes due on the uncontested portion of the
3801 value as determined by the Board of Tax Appeals shall be due and
3802 payable at the same time as all other ad valorem taxes are for
3803 real and personal property. The person, firm or corporation who
3804 appeals shall file with the clerk of the circuit court a petition
3805 for appeal and review, together with the bond herein provided for,
3806 and the clerk shall thereupon give notice to the Department of
3807 Revenue, who will be the appellee in the appeal, and to the Board
3808 of Tax Appeals. The Department of Revenue shall file with the
3809 clerk of the circuit court where the petition is pending a
3810 certified copy of * * * the assessment in issue and the Board of
3811 Tax Appeals shall file a certified copy of its order or orders in
3812 regard to this assessment. The assessment by the Department of
3813 Revenue and the order or orders of the Board of Tax Appeals are to
3814 be filed with the circuit clerk within thirty (30) days from the
3815 date that each respective agency and board received the notice
3816 from the clerk of the circuit court concerning the filing of the
3817 appeal. * * * The matter of assessing such property shall be
3818 heard de novo by the circuit court at the first term of the court
3819 thereafter, or by the judge of the circuit court in vacation, by
3820 agreement of the parties, without a jury, and such proceeding
3821 shall be given preference over other pending matters in the court.
3822 After hearing the evidence, the circuit court, or the judge



3823 thereof in vacation, shall make an order setting aside, modifying
3824 or affirming the order of the Board of Tax Appeals. A copy of
3825 such order shall be certified by the clerk of the court to the
3826 Department of Revenue, which shall conform thereto.

3827 If the order of the Board of Tax Appeals * * * is affirmed,
3828 then the person, firm or corporation who appealed, and the
3829 sureties on the appeal bond, shall be liable to the state for
3830 damages at the rate of ten percent (10%) on the amount of taxes in
3831 controversy, and all cost of such appeal.

3832 If the Department of Revenue shall be aggrieved by an order
3833 of the Board of Tax Appeals regarding an assessment by the
3834 department for ad valorem tax purposes, the department may, within
3835 thirty (30) days from the date of the order of the Board of Tax
3836 Appeals regarding this assessment, appeal to the circuit court of
3837 any county in which the property being assessed, or any part
3838 thereof, is located or of any county in which the taxpayer
3839 resides, in like manner as in the case of any person, firm or
3840 corporation aggrieved as provided in this subsection, except no
3841 bonds shall be required of the Department of Revenue. Upon the
3842 filing of a petition for appeal or review as provided in this
3843 subsection, the clerk of the court in which the petition is filed
3844 shall thereupon issue process to the person, firm or corporation
3845 whose property is assessed, and such person, firm or corporation
3846 shall plead to the petition within thirty (30) days after the
3847 receipt of the notice.

3848 If the state shall be aggrieved by an assessment for ad
3849 valorem tax purposes by the Department of Revenue or by an order
3850 of the Board of Tax Appeals regarding an assessment by the
3851 Department of Revenue for ad valorem taxes purposes, the Attorney
3852 General or the district attorney, if all the property sought to be
3853 taxed is located within the judicial district for which such
3854 district attorney is elected, may, within thirty (30) days from
3855 the date of the notice from the Department of Revenue to the tax



3856 assessor or tax assessors in the county or counties where the
3857 property being assessed is located of the amount of the final
3858 assessment, appeal to the circuit court of any county in which the
3859 property, or any part thereof, is located or of any county in
3860 which the taxpayer resides, in like manner as in the case of any
3861 person, firm or corporation aggrieved as hereinbefore provided,
3862 except no bonds shall be required of the Attorney General or
3863 district attorney who may appeal. Upon the filing of a petition
3864 for appeal or review as herein provided, the clerk of the court in
3865 which the petition is filed shall thereupon issue process to the
3866 person, firm or corporation whose property is assessed, and such
3867 person, firm or corporation shall plead to the petition within
3868 twenty (20) days after the receipt of the notice.

3869 In the event more than one (1) person appeals an assessment
3870 by the Department of Revenue for ad valorem tax purposes or an
3871 order of the Board of Tax Appeals regarding an assessment by the
3872 Department of Revenue for ad valorem tax purposes under this
3873 section, * * * the matter shall be heard by the circuit court of
3874 the county in which the petition for appeal was first filed,
3875 unless otherwise agreed by the parties.

3876 Any taxpayer aggrieved by an order of the circuit court may
3877 appeal, with supersedeas, to the Supreme Court by giving bond in
3878 the amount and conditioned as provided in the preceding paragraphs
3879 of this section.

3880 The officer who appealed the matter from the ad valorem
3881 assessment of the Department of Revenue or from the order of the
3882 Board of Tax Appeals concerning an ad valorem assessment by the
3883 Department of Revenue may have an appeal to the Supreme Court
3884 without bond.

3885 If the Department of Revenue appeals the matter from the
3886 order of the Board of Tax Appeals concerning an assessment by the
3887 Department of Revenue for ad valorem tax purposes, it may have an
3888 appeal to the Supreme Court without bond.



3889 In the event the appeal by the taxpayer delays the collection
3890 of the tax due by him, then the taxpayer shall be liable for and
3891 shall pay, at the time the taxes are paid to the tax collector
3892 whose duty it is to collect the taxes, interest at the rate of
3893 twelve percent (12%) per annum from the date the taxes were due
3894 until paid.

3895 (2) Any telephone company operating in more than six (6)
3896 counties, which is aggrieved by an assessment by the Department of
3897 Revenue for ad valorem tax purposes, may, within thirty (30) days
3898 from the date of the order of the Board of Tax Appeals regarding
3899 this assessment, appeal without bond as to the amount of taxes in
3900 controversy to the Circuit Court of the First Judicial District of
3901 Hinds County, or to the circuit court of any county in which the
3902 property, or any part thereof, is located, or to the circuit court
3903 of any county in which such telephone company resides.
3904 Notwithstanding such appeal, all of the ad valorem taxes due on
3905 the value as set by the Department of Revenue as adjusted by the
3906 Board of Tax Appeals shall be due and payable at the same time as
3907 all other ad valorem taxes are for real and personal property;
3908 provided, however, that the ad valorem taxes due on the contested
3909 portion of such value shall be paid under protest. Such telephone
3910 company shall file with the clerk of the circuit court a petition
3911 for appeal and review and the clerk shall thereupon give notice to
3912 the Department of Revenue, who will be the appellee in the appeal,
3913 and to the Board of Tax Appeals. The Department of Revenue shall
3914 file with the clerk of the circuit court where the petition is
3915 pending a certified copy of the assessment in issue and the Board
3916 of Tax Appeals shall file a certified copy of its order or orders
3917 in regard to this assessment. The assessment by the Department of
3918 Revenue and the order or orders of the Board of Tax Appeals are to
3919 be filed with the circuit clerk within thirty (30) days from the
3920 date that each respective agency and board received the notice
3921 from the clerk of the circuit court concerning the filing of the



3922 appeal. * * * The matter of assessing such property shall be
3923 heard de novo by the circuit court at the first term of the court
3924 thereafter, or by the judge of the circuit court in vacation, by
3925 agreement of the parties, without a jury, and such proceeding
3926 shall be given preference over other pending matters in the court.
3927 After hearing the evidence, the circuit court, or the judge
3928 thereof in vacation, shall make an order setting aside, modifying
3929 or affirming the order of the Board of Tax Appeals. A copy of
3930 such order shall be certified by the clerk of the court to the
3931 Department of Revenue, which shall conform thereto.

3932 If the Department of Revenue shall be aggrieved by an order
3933 of the Board of Tax Appeals regarding an assessment by the
3934 department for ad valorem tax purposes, the department may, within
3935 thirty (30) days from the date of the order of the Board of Tax
3936 Appeals regarding this assessment, appeal to the circuit court of
3937 any county in which the property being assessed, or any part
3938 thereof, is located or of any county in which the taxpayer
3939 resides, in like manner as in the case of any person, firm or
3940 corporation aggrieved as provided in this subsection, except no
3941 bonds shall be required of the Department of Revenue. Upon the
3942 filing of a petition for appeal or review as provided in this
3943 subsection, the clerk of the court in which the petition is filed
3944 shall thereupon issue process to the person, firm or corporation
3945 whose property is assessed, and such person, firm or corporation
3946 shall plead to the petition within thirty (30) days after the
3947 receipt of the notice.

3948 If the state shall be aggrieved by an assessment for ad
3949 valorem purposes by the Department of Revenue or by an order of
3950 the Board of Tax Appeals regarding an assessment by the Department
3951 of Revenue for ad valorem tax purposes, the Attorney General or
3952 the district attorney, if all the property sought to be taxed is
3953 located within the judicial district for which such district
3954 attorney is elected, may, within thirty (30) days from the date of



3955 the notice from the Department of Revenue to the tax assessor or
3956 tax assessors in the county or counties where the property being
3957 assessed is located of the amount of the final assessment, appeal
3958 without bond to the circuit court of any county in which the
3959 property, or any part thereof, is located or of any county in
3960 which such telephone company resides. Upon the filing of a
3961 petition for appeal or review as herein provided, the clerk of the
3962 court in which the petition is filed shall thereupon issue process
3963 to such telephone company, and such telephone company shall plead
3964 to the petition within thirty (30) days after the receipt of the
3965 notice.

3966 In the event more than one (1) person appeals an assessment
3967 of a telephone company by the Department of Revenue for ad valorem
3968 tax purposes or an order of the Board of Tax Appeals regarding an
3969 assessment of a telephone company by the Department of Revenue for
3970 ad valorem tax purpose, * * * the matter shall be heard by the
3971 circuit court of the county in which the petition for appeal was
3972 first filed, unless otherwise agreed by the parties.

3973 Any such telephone company aggrieved by an order of the
3974 circuit court may appeal without bond to the Supreme Court.

3975 The officer who appealed the matter from ad valorem
3976 assessment of the Department of Revenue of a telephone company or
3977 from the order of the Board of Tax Appeals concerning an ad
3978 valorem tax assessment by the Department of Revenue of a telephone
3979 company may have an appeal to the Supreme Court without bond.

3980 If the Department of Revenue appeals the matter from the
3981 order of the Board of Tax Appeals concerning an assessment of a
3982 telephone company by the Department of Revenue for ad valorem tax
3983 purposes, it may have an appeal to the Supreme Court without bond.

3984 If the value as set by the final assessment of the Department
3985 of Revenue of the telephone company, including any adjustment
3986 ordered by the Board of Tax Appeals, is reduced by the courts as a
3987 result of appeals filed by such telephone company, the ad valorem



3988 taxes attributable to such reduction shall be disposed of by each
3989 affected local taxing district in the following manner:

3990 (a) (i) Such local telephone company shall be entitled
3991 to a refund equal to the amount of ad valorem taxes paid by such
3992 company to the taxing district which are attributable to such
3993 reduction in value, less the portion of any refunds previously
3994 received by such telephone company pursuant to Section 27-38-5,
3995 which are attributable to such reduction in value.

3996 (ii) If the taxing district has not paid the full
3997 amount of the refund required by this subsection by the time that
3998 ad valorem taxes become due and payable by such telephone company
3999 to such taxing district for any subsequent year or years, such
4000 telephone company shall be entitled to take a credit against the
4001 ad valorem tax liability for such subsequent year or years up to
4002 the total amount of the refund owed to such telephone company
4003 pursuant to this paragraph (a).

4004 (b) (i) The remaining portion of the ad valorem taxes
4005 attributable to such reduction shall be paid by the taxing
4006 district to the state, and such amount shall be credited to the
4007 Telecommunications Ad Valorem Tax Reduction Fund.

4008 (ii) To the extent that the taxing district has
4009 not fully paid to the state the amount required by this
4010 subsection, any monies due by the state to such local taxing
4011 jurisdiction shall be offset until such amount is fully paid.

4012 **SECTION 74.** Section 27-35-309, Mississippi Code of 1972, is
4013 amended as follows:

4014 27-35-309. (1) The Department of Revenue shall, if
4015 practicable, on or before the first Monday of June of each year,
4016 make out for each person, firm, company or corporation listed in
4017 Section 27-35-303, Mississippi Code of 1972, an assessment of the
4018 company's property, both real and personal, tangible and
4019 intangible. The Department of Revenue shall apportion the
4020 assessment of value of each company's property according to the



4021 provisions of this article, except as provided in subsection (3)
4022 of this section, as follows:

4023 (a) When the property of such public service company is
4024 located in more than one (1) county in this state, the Department
4025 of Revenue shall direct the company to apportion the assessed
4026 value between the counties and municipalities and all other taxing
4027 districts therein, in the proportion which the property located
4028 therein bears to the entire value of the property of such company
4029 as valued by the department, so that to each county, municipality
4030 and taxing district therein, there shall be apportioned such part
4031 of the entire valuation as will fairly equalize the relative value
4032 of the property therein located to the whole value thereof.

4033 (b) When the property of such public utility required
4034 to be assessed by the provisions of this article is located in
4035 more than one (1) state, the assessed value thereof shall be
4036 apportioned by the Department of Revenue in such manner as will
4037 fairly and equitably determine the principal sum for the value
4038 thereof in this state, and after ascertaining such value it shall
4039 be apportioned by them as herein provided.

4040 The assessment roll shall contain all the property of any
4041 such public service company, railroad, person, firm or corporation
4042 and the value thereof, and so made that each county, municipality,
4043 and taxing district shall receive its just share of taxes
4044 proportionately to the amount of property therein situated.

4045 (2) (a) The assessment when made shall remain open for
4046 thirty (30) days in the office of the Department of Revenue, and
4047 be for such time subject to the objections thereto which may be
4048 filed with the Executive Director of the Board of Tax Appeals; but
4049 real estate belonging to railroads and which forms no part of the
4050 road, and is wholly disconnected from its railroad business, shall
4051 not be assessed by the Department of Revenue, but shall be
4052 assessed as other real estate is assessed by the tax assessor of
4053 the county where situated.



4054 (b) The apportionment of the assessed value as required
4055 by this section shall be filed with the Department of Revenue by
4056 such public service company on or before the first day of August
4057 in each year. If such company shall fail, refuse or neglect to
4058 render the apportionment of assessed value as required by this
4059 section, such company shall be subject to the penalties provided
4060 for in Section 27-35-305. The filing of an objection by such
4061 public service company shall not preclude such company from filing
4062 the property apportionment as required by this section.

4063 (3) Any nuclear generating plant which is located in the
4064 state, which is owned or operated by a public utility rendering
4065 electric service within the state and not exempt from ad valorem
4066 taxation under any other statute and which is not owned or
4067 operated by an instrumentality of the federal government shall be
4068 exempt from county, municipal and district ad valorem taxes. In
4069 lieu of the payment of county, municipal and district ad valorem
4070 taxes, such public utility shall pay to the Department of Revenue
4071 a sum based on the assessed value of such nuclear generating plant
4072 in an amount to be determined and distributed as follows:

4073 (a) The Department of Revenue shall annually assign an
4074 assessed value to any nuclear generating plant described in this
4075 subsection in the same manner as for ad valorem tax purposes by
4076 using accepted industry methods for appraising and assessing
4077 public utility property. The assessed value assigned shall be
4078 used for the purpose of determining the in-lieu tax due under this
4079 section and shall not be included on the ad valorem tax rolls of
4080 the situs taxing authority nor be subject to ad valorem taxation
4081 by the situs taxing authority nor shall the assessed value
4082 assigned be used in determining the debt limit of the situs taxing
4083 authority. However, the assessed value so assigned may be used by
4084 the situs taxing authority for the purpose of determining salaries
4085 of its public officials.



4086 (b) On or before February 1, 1987, for the 1986 taxable
4087 year and on or before February 1 of each year through the 1989
4088 taxable year, such utility shall pay to the Department of Revenue
4089 a sum equal to two percent (2%) of the assessed value as
4090 ascertained by the Department of Revenue, but such payment shall
4091 not be less than Sixteen Million Dollars (\$16,000,000.00) for any
4092 of the four (4) taxable years; all such payments in excess of
4093 Sixteen Million Dollars (\$16,000,000.00) for these four (4)
4094 taxable years shall be paid into the General Fund of the state.
4095 On or before February 1, 1991, for the 1990 taxable year and on or
4096 before February 1 of each year thereafter, such utility shall pay
4097 to the Department of Revenue a sum equal to two percent (2%) of
4098 the assessed value as ascertained by the Department of Revenue,
4099 but such payment shall not be less than Twenty Million Dollars
4100 (\$20,000,000.00) for any taxable year for as long as such nuclear
4101 power plant is licensed to operate and is not being permanently
4102 decommissioned; all such payments in excess of Sixteen Million
4103 Dollars (\$16,000,000.00) for taxable years 1990 and thereafter
4104 shall be paid as follows:

4105 (i) An amount of Three Million Forty Thousand
4106 Dollars (\$3,040,000.00) annually, beginning with fiscal year 1991,
4107 shall be transferred by the Department of Revenue to Claiborne
4108 County. Such payments may be expended by the Board of Supervisors
4109 of Claiborne County for any purpose for which a county is
4110 authorized by law to levy an ad valorem tax and shall not be
4111 included or considered as proceeds of ad valorem taxes for the
4112 purposes of the growth limitation on ad valorem taxes under
4113 Sections 27-39-305 and 27-39-321. * * * However, should the Board
4114 of Supervisors of Claiborne County withdraw its support of the
4115 Grand Gulf Nuclear Station off-site emergency plan or otherwise
4116 fail to satisfy its off-site emergency plan commitments as
4117 determined by the Mississippi Emergency Management Agency and the
4118 Federal Emergency Management Agency, Five Hundred Thousand Dollars



4119 (\$500,000.00) annually of the funds designated for Claiborne
4120 County as described by this subsection (i) shall be deposited in
4121 the Grand Gulf Disaster Assistance Fund as provided in Section
4122 33-15-51.

4123 (ii) An amount of One Hundred Sixty Thousand
4124 Dollars (\$160,000.00) annually, beginning with fiscal year 1991,
4125 shall be transferred by the Department of Revenue to the City of
4126 Port Gibson, Mississippi. Such payments may be expended by the
4127 Board of Aldermen of the City of Port Gibson for any purpose for
4128 which a municipality is authorized by law to levy an ad valorem
4129 tax and shall not be included or considered as proceeds of ad
4130 valorem taxes for the purposes of the growth limitation on ad
4131 valorem taxes under Sections 27-39-305 and 27-39-321. * * *
4132 However, should the Board of Aldermen of the City of Port Gibson
4133 withdraw its support of the Grand Gulf Nuclear Station off-site
4134 emergency plan or otherwise fail to satisfy its off-site emergency
4135 plan commitment, as determined by the Mississippi Emergency
4136 Management Agency and the Federal Emergency Management Agency,
4137 Fifty Thousand Dollars (\$50,000.00) annually of the funds
4138 designated for the City of Port Gibson as described by this
4139 subsection (ii) shall be deposited in the Grand Gulf Disaster
4140 Assistance Fund as provided in Section 33-15-51.

4141 (iii) The remaining balance of the payments in
4142 excess of Sixteen Million Dollars (\$16,000,000.00) annually, less
4143 amounts transferred under (i) and (ii) of this subsection,
4144 beginning with fiscal year 1991, shall be allocated in accordance
4145 with subsection (3) (f) of this section.

4146 (c) Pursuant to certification by the Attorney General
4147 to the State Treasurer and the State Tax Commission that the suit
4148 against the State of Mississippi pending on the effective date of
4149 House Bill 8, First Extraordinary Session of 1990, [Laws, 1990 Ex
4150 Session, Ch. 12, eff June 26, 1990], in the Chancery Court for the
4151 First Judicial District of Hinds County, Mississippi, styled



4152 Albert Butler et al v. the Mississippi State Tax Commission et al,
4153 has been voluntarily dismissed with prejudice as to all plaintiffs
4154 at the request of the complainants and that no attorney's fees or
4155 court costs have been assessed against the state and each of the
4156 parties, including Claiborne County and each municipality and
4157 school district located in the county, have signed and delivered
4158 to the Attorney General a full and complete release in favor of
4159 the State of Mississippi and its elected officials of all claims
4160 that have been asserted or may be asserted in the suit pending on
4161 the effective date of House Bill 8, First Extraordinary Session of
4162 1990, [Laws, 1990 Ex Session, Ch. 12, eff June 26, 1990], in the
4163 Chancery Court for the First Judicial District of Hinds County,
4164 Mississippi, styled Albert Butler et al v. the Mississippi State
4165 Tax Commission et al, and the deposit into the State General Fund
4166 of in-lieu payments and interest thereon due the state under
4167 subsection (3)(b) of this section but placed in escrow because of
4168 the lawsuit described above, the state shall promptly transfer to
4169 the Board of Supervisors of Claiborne County out of the State
4170 General Fund an amount of Two Million Dollars (\$2,000,000.00)
4171 which shall be a one-time distribution to Claiborne County from
4172 the state. Such payment may be expended by the Board of
4173 Supervisors of Claiborne County for any purposes for which a
4174 county is authorized by law to levy an ad valorem tax and shall
4175 not be included or considered as proceeds of ad valorem taxes for
4176 the purposes of the growth limitation on ad valorem taxes for the
4177 1991 fiscal year under Sections 27-39-321 and 27-39-305.

4178 (d) After distribution of the one-time payment to
4179 Claiborne County as set forth in subsection (3)(c) of this
4180 section, the Department of Revenue upon certification that the
4181 pending lawsuit as described in subsection (3)(c) of this section
4182 has been voluntarily dismissed shall promptly deposit an amount of
4183 Five Hundred Thousand Dollars (\$500,000.00) into the Grand Gulf
4184 Disaster Assistance Trust Fund as provided for in Section



4185 33-15-51, which shall be a one-time payment, to be utilized in
4186 accordance with the provisions of such section.

4187 (e) After distribution of the one-time payment to
4188 Claiborne County as set forth in subsection (3)(c) of this section
4189 and the payment to the Grand Gulf Disaster Assistance Trust Fund
4190 as set forth in subsection (3)(d) of this section, the Department
4191 of Revenue upon certification that the pending lawsuit as
4192 described in subsection (3)(c) of this section has been
4193 voluntarily dismissed shall promptly distribute ten percent (10%)
4194 of the remainder of the prior payments remaining in escrow to the
4195 General Fund of the state and the balance of the prior payments
4196 remaining in escrow shall be distributed to the counties and
4197 municipalities in this state wherein such public utility has
4198 rendered electric service in the proportion that the amount of
4199 electric energy consumed by the retail customers of such public
4200 utility in each county, excluding municipalities therein, and in
4201 each municipality, for the next preceding fiscal year bears to the
4202 total amount of electric energy consumed by all retail customers
4203 of such public utility in the State of Mississippi for the next
4204 preceding fiscal year. The payments distributed to the counties
4205 and municipalities under this paragraph (e) may be expended by
4206 such counties and municipalities for any lawful purpose and shall
4207 not be included or considered as proceeds of ad valorem taxes for
4208 the purposes of the growth limitation on ad valorem taxes under
4209 Sections 27-39-321 and 27-39-305.

4210 (f) After distribution of the payments for fiscal year
4211 1991 as set forth in Section 19-9-151 and distribution of the
4212 payments as provided for in subsection (3)(b) of this section, the
4213 Department of Revenue shall distribute ten percent (10%) of the
4214 remainder of the payments to the General Fund of the state and the
4215 balance to the counties and municipalities in this state wherein
4216 such public utility renders electric service in the proportion
4217 that the amount of electric energy consumed by the retail



4218 customers of such public utility in each county, excluding
4219 municipalities therein, and in each municipality for the next
4220 preceding fiscal year bears to the total amount of electric energy
4221 consumed by all retail customers of such public utility in the
4222 State of Mississippi for the next preceding fiscal year.

4223 (g) No county, including municipalities therein, shall
4224 receive in excess of twenty percent (20%) of the funds distributed
4225 under paragraph (f) of this subsection.

4226 (h) The revenues received by counties and
4227 municipalities under paragraph (f) of this subsection shall not be
4228 included or considered as proceeds of ad valorem taxes for the
4229 purposes of the growth limitation on ad valorem taxes under
4230 Sections 27-39-305 and 27-39-321.

4231 **SECTION 75.** Section 27-35-311, Mississippi Code of 1972, is
4232 amended as follows:

4233 27-35-311. (1) It shall be the duty of the Board of Tax
4234 Appeals * * * to hear and determine objections to assessments made
4235 by the Department of Revenue for ad valorem tax purposes. * * *
4236 They may, if they think objections just, sustain the same and
4237 amend assessments, if necessary accordingly.

4238 (2) Any objection shall be in writing and filed with the
4239 Executive Director of the Board of Tax Appeals within the
4240 thirty-day period set out in Section 27-35-309(2)(a). At the time
4241 of filing the objection with the Executive Director of the Board
4242 of Tax Appeals, the taxpayer shall also file a copy of his written
4243 objection with the Department of Revenue.

4244 **SECTION 76.** Section 27-35-313, Mississippi Code of 1972, is
4245 amended as follows:

4246 27-35-313. So soon as the assessment rolls have remained
4247 subject to objection for thirty (30) days, and when all
4248 objections, if any, are disposed of, the assessment rolls shall be
4249 approved by the Department of Revenue, and a certified copy of the
4250 assessment rolls shall be sent immediately to the clerks of the



4251 board of supervisors of the respective counties, who shall file
4252 and preserve it as a record.

4253 **SECTION 77.** Section 27-35-325, Mississippi Code of 1972, is
4254 amended as follows:

4255 27-35-325. The Department of Revenue is hereby authorized
4256 and empowered and it shall be its duty to assess any property
4257 required to be assessed by the Department of Revenue as the state
4258 assessor of railroads, which it discovers escaping taxation in
4259 former years by reason of not being assessed; and to assess or
4260 cause to be assessed and taxed, any such property which it
4261 discovers escaping taxation by reason of not being assessed in or
4262 for the benefit of any road district, school district, or other
4263 taxing district or municipality, although the property may have
4264 been assessed and taxed for state and general county taxes; * * *
4265 however, * * * the right to so assess property shall expire at the
4266 end of seven (7) years from the date when the right so to do first
4267 accrued. When any property is discovered escaping assessment and
4268 taxation which, under the law, is required to be assessed by the
4269 Department of Revenue as state assessor of railroads, the
4270 Department of Revenue shall assess the same for such purpose and
4271 for the years it has escaped taxation, and shall give notice by
4272 United States mail, or otherwise, by the Commissioner of Revenue
4273 of the Department of Revenue to the owner of the property, or
4274 agent, of such owner, showing what property has escaped assessment
4275 and for what years, and all other proper information, and the
4276 owner shall have thirty (30) days in which to file objections.
4277 The Department of Revenue shall deal with the assessment in all
4278 respects with the same powers as if made at the time regular
4279 assessment of such property is made, and shall have power to
4280 require such information as it may desire for the correct
4281 determination of all questions before it. When any objection is
4282 heard and determined, the Board of Tax Appeals shall by order
4283 approve or disapprove, or may modify the assessment, and make it



4284 final * * *. If no objection is made in regard to the assessment
4285 or if the assessment is approved or modified by the Board of Tax
4286 Appeals, the Department of Revenue shall certify it to the clerk
4287 of the board of supervisors of the county or counties where the
4288 property is located, and such assessment shall be dealt with by
4289 the clerk and tax collector as is required in cases of assessments
4290 when made at the regular time. In all cases where suit is
4291 necessary, it shall be the duty of the Attorney General to
4292 represent the Department of Revenue whenever requested to do so.

4293 **SECTION 78.** Section 27-35-501, Mississippi Code of 1972, is
4294 amended as follows:

4295 27-35-501. It shall be the duty of the Commissioner of
4296 Revenue, constituting the state assessor of railroads and other
4297 public service corporations, to annually assess for taxation the
4298 property of the persons, firms, partnerships, companies,
4299 associations, or corporations, as hereinafter defined, engaged in
4300 the business of operating, furnishing or leasing cars for the
4301 transportation of freight, or to be used in the operation of any
4302 railway line or lines wholly or partially within this state.

4303 **SECTION 79.** Section 27-35-517, Mississippi Code of 1972, is
4304 amended as follows:

4305 27-35-517. (1) The assessment when made and completed shall
4306 remain open for thirty (30) days for inspection in the offices of
4307 the Department of Revenue and be subject to objections by the
4308 railcar companies for the same time period. The Board of Tax
4309 Appeals shall hear all objections, and it may increase or decrease
4310 any assessment if such action appears to be necessary and proper.

4311 (2) Any objection shall be in writing and filed with the
4312 Executive Director of the Board of Tax Appeals within the
4313 thirty-day period set out in subsection (1) of this section for
4314 objections. At the time of filing the objection with the
4315 Executive Director of the Board of Tax Appeals, the taxpayer shall



4316 also file a copy of his written objection with the Department of
4317 Revenue.

4318 **SECTION 80.** Section 27-35-701, Mississippi Code of 1972, is
4319 amended as follows:

4320 27-35-701. As used in this article, the words shall have the
4321 following meanings:

4322 (a) "Aircraft" means any contrivance, fully equipped
4323 for flight, used or designed for navigation or flight through the
4324 air.

4325 (b) "Airline company" means any person who undertakes,
4326 directly or indirectly, to engage in the scheduled transportation
4327 by aircraft of persons or property for hire in interstate,
4328 intrastate or international transportation.

4329 (c) "Operated" or "operation" means regularly scheduled
4330 landings or takeoffs of aircraft.

4331 (d) "Commission" or "department" means the Department
4332 of Revenue.

4333 (e) "Person" means any individual, corporation, firm,
4334 partnership, company or association, and includes a guardian,
4335 trustee, executor, administrator, receiver, conservator or any
4336 person acting in a fiduciary capacity therefor.

4337 **SECTION 81.** Section 27-35-703, Mississippi Code of 1972, is
4338 amended as follows:

4339 27-35-703. (1) The department shall annually assess,
4340 adjust, equalize and apportion the valuation of all aircraft of
4341 each airline company of a type or model operated in this state by
4342 such airline company by such type or model. Such aircraft shall
4343 be valued by the department in the same manner as other personal
4344 property in the state is valued.

4345 (2) Each airline company shall file with the department, on
4346 or before the first Monday in April of each year, a complete
4347 schedule of all aircraft of a type or model operated in this state
4348 by such company. Such schedule shall be made under oath on forms



4349 prescribed and furnished by the department. If any airline
4350 company shall fail, refuse or neglect to file the required
4351 schedules, such company may be penalized in the manner provided
4352 for in Section 27-35-305.

4353 (3) The assessment when made and completed shall remain open
4354 for thirty (30) days for inspection in the offices of the
4355 Department of Revenue and be subject to objections by the airline
4356 companies for the same time period. The Board of Tax Appeals
4357 shall hear all objections, and it may increase or decrease any
4358 assessment if such action appears to be necessary and proper.

4359 (4) Any objection shall be in writing and filed with the
4360 Executive Director of the Board of Tax Appeals within the
4361 thirty-day period set out in subsection (3) of this section for
4362 objections. At the time of filing the objection with the
4363 Executive Director of the Board of Tax Appeals, the taxpayer shall
4364 also file a copy of his written objection with the Department of
4365 Revenue.

4366 **SECTION 82.** Section 27-41-69, Mississippi Code of 1972, is
4367 amended as follows:

4368 27-41-69. In case of grave public emergency, to be
4369 determined by the Commissioner of Revenue of the Department of
4370 Revenue, with the approval of the Governor and Attorney General,
4371 the Commissioner of Revenue, may * * * postpone in any county the
4372 date fixed by law for the sale of lands for delinquent taxes. In
4373 the event any such sale is postponed, the Commissioner of Revenue
4374 of the Department of Revenue, with the approval of the Governor
4375 and Attorney General, * * * shall designate a date for such sale.
4376 Notice of a sale * * * shall be given by advertising it in the
4377 manner prescribed by law for the sale of land for taxes; and the
4378 same shall be made at the same place and subject to all the
4379 provisions of law applicable to such sales at the time appointed
4380 by law, and lists of lands sold to the state and to individuals
4381 shall be filed in the office of the clerk of the chancery court



4382 within the same relative period of time after the sale as is
4383 allowed for filing such lists after sales at the regular time, and
4384 the clerk shall at once record them; and such lists shall be as
4385 valid and have the same effect and be subject to all the
4386 provisions of law applicable to such lists made of lands sold at
4387 the regular sale for taxes. The Commissioner of Revenue of the
4388 Department of Revenue shall provide notice to the clerk of the
4389 board of supervisors * * * of the * * * postponement of any sale
4390 for taxes in such county and the clerk of the board of supervisors
4391 shall enter such notice on the minutes of the board, but the
4392 failure of the Commissioner of Revenue to so notify * * * the
4393 clerk of the board of supervisors to so record the same shall not
4394 invalidate any sale made hereunder.

4395 **SECTION 83.** Section 27-51-19, Mississippi Code of 1972, is
4396 amended as follows:

4397 27-51-19. The Department of Revenue shall, on or before the
4398 fifteenth day of June of each year, prepare and adopt * * * an
4399 assessment schedule of motor vehicles, as defined in this chapter,
4400 which such assessment schedule, and no other, excepting as may be
4401 hereinafter provided, shall be used by the tax collector of each
4402 county and each municipality in the state, in assessing,
4403 calculating and collecting ad valorem taxes in each respective
4404 jurisdiction on all motor vehicles liable for such tax as
4405 authorized by this chapter.

4406 In preparing the assessment schedule, the Department of
4407 Revenue may make use of, as a base, the values of the various
4408 makes, models, year of manufacture, and types of motor vehicles as
4409 adopted by some reputable nationwide agency or association which
4410 regularly compiles and furnishes such information as to actual
4411 value of the different motor vehicles as to make, model, type and
4412 year of manufacture, or by any other method or methods or
4413 combination of methods which in its judgment will tend to equalize
4414 the assessed value of property of this class with property of



4415 other classes in general. These various motor vehicles, together
4416 with any special equipment, may be grouped into as many categories
4417 as, in the judgment of the Department of Revenue, will be most
4418 practical in effecting equalization.

4419 In preparing the assessment schedule, the Department of
4420 Revenue shall apply such a percentage to the base value of such
4421 motor vehicles which, in its best judgment, will produce an
4422 assessed value which will equalize the assessed value of motor
4423 vehicles with the assessed value of other property in general,
4424 throughout the state, so far as is practical.

4425 The Department of Revenue shall also make necessary
4426 corrections and amendments to this schedule from time to time
4427 throughout the fiscal year, and in so doing the general procedure
4428 set out above shall be followed.

4429 **SECTION 84.** Section 27-51-45, Mississippi Code of 1972, is
4430 amended as follows:

4431 27-51-45. For any year, the Commissioner of Revenue is
4432 hereby authorized, in his discretion, to * * * postpone for not
4433 more than thirty (30) days the time for preparation of the
4434 assessment schedule herein referred to, the time for forwarding
4435 the schedule to the presidents of the various boards of
4436 supervisors and mayors or other presiding officers of the various
4437 municipalities, the time for the consideration of the schedule and
4438 the subsequent time for adoption and publication by these
4439 respective boards, and the time for filing objection to the
4440 schedule by any affected motor vehicle owner. In cases where any
4441 municipality elects to prepare its own independent schedule, such
4442 postponement shall also apply to its acts and duties.

4443 Notice of such postponement * * * shall be made * * * by the
4444 Commissioner of Revenue of the Department of Revenue and a
4445 certified copy shall be furnished the presiding officers of the
4446 various counties and municipalities and such postponement shall be
4447 binding on all counties and municipalities.



4448 **SECTION 85.** Section 27-51-101, Mississippi Code of 1972, is
4449 amended as follows:

4450 27-51-101. (1) As used in Sections 27-51-101 through
4451 27-51-107, unless the context requires otherwise:

4452 (a) "Private carrier of passengers" shall have the
4453 meaning ascribed to such term in Section 27-19-3, but shall not be
4454 construed to include motorcycles.

4455 (b) "Light carrier of property" means any motor vehicle
4456 with a gross weight, as defined in Section 27-19-3, of ten
4457 thousand (10,000) pounds or less that is designed and constructed
4458 for the primary purpose of transporting property on the roads and
4459 highways.

4460 (c) "Local taxing district" means any county,
4461 municipality, school district or other local entity that levies an
4462 ad valorem tax or for which an ad valorem tax is levied, to fund
4463 all or a portion of its budget.

4464 (d) "State fiscal year" means the period beginning on
4465 July 1 and ending on June 30 of the following year.

4466 (e) "Commission," "State Tax Commission" or
4467 "department" means the Department of Revenue.

4468 **SECTION 86.** Section 27-55-1, Mississippi Code of 1972, is
4469 amended as follows:

4470 27-55-1. The Department of Revenue, hereinafter called the
4471 commission or the department, is hereby vested with the sole power
4472 and authority, and is charged with the duty of administering and
4473 enforcing the terms and provisions of this article.

4474 **SECTION 87.** Section 27-55-5, Mississippi Code of 1972, is
4475 amended as follows:

4476 27-55-5. The words, terms and phrases as used in this
4477 article shall have the following meanings unless the context
4478 requires otherwise:

4479 (a) "Gasoline" means:



4480 (i) All products commonly or commercially known or
4481 sold as gasoline (excluding casinghead and absorption or natural
4482 gasoline) regardless of their classification or uses; and

4483 (ii) Any liquid prepared, advertised, offered for
4484 sale or sold for use as or commonly and commercially used as a
4485 fuel in internal combustion engines, which when subjected to
4486 distillation in accordance with the standard method of test for
4487 distillation of gasoline, naphtha, kerosene and similar petroleum
4488 products (American Society for Testing Materials Designation D-86)
4489 shows not less than ten percent (10%) distilled (recovered) below
4490 two hundred sixty (260) degrees Fahrenheit and not less than
4491 ninety-five percent (95%) distilled (recovered) below four hundred
4492 sixty-four (464) degrees Fahrenheit.

4493 The term "gasoline" shall include "aviation gasoline."

4494 The term "gasoline" shall not include:

4495 (i) Liquefied gases which would not exist as
4496 liquid at a temperature of sixty (60) degrees Fahrenheit and at a
4497 pressure of fourteen and seven-tenths (14.7) pounds per square
4498 inch absolute;

4499 (ii) Commercial solvents or naphthas or raw
4500 petroleum products or petrochemicals intermediates when used as or
4501 sold for use in production or manufacture of plastics, detergents,
4502 synthetic rubber, herbicides or other chemicals or products which
4503 are not prepared, advertised, offered for sale or sold for use or
4504 suitable for use as fuel for generating power in internal
4505 combustion engines;

4506 (iii) Racing gasoline.

4507 (b) "Aviation gasoline" means gasoline refined or
4508 manufactured, according to the specifications for aviation
4509 gasoline set forth in ASTM D-910, for exclusive use in
4510 reciprocating aviation engines.

4511 (c) "Person" means any individual, firm, copartnership,
4512 joint venture, association, corporation, estate, trust or any



4513 other group or combination acting as a unit, and the plural as
4514 well as the singular number unless the intention to give a more
4515 limited meaning is disclosed by the context.

4516 (d) "Distributor of gasoline" means:

4517 (i) Any person importing gasoline into this state;

4518 (ii) Any person receiving, purchasing, acquiring,
4519 using, storing or selling any gasoline in this state on which the
4520 gasoline excise tax imposed by this article has not been paid;

4521 (iii) Refiners, blenders, marine terminal
4522 operators or pipeline terminal operators; and

4523 (iv) Any person licensed to sell gasoline in
4524 another state or jurisdiction who is authorized by that state or
4525 jurisdiction to collect the gasoline excise tax imposed by this
4526 article.

4527 (e) "Highway" means every way or place, of whatever
4528 nature including public roads, toll roads, streets and alleys of
4529 this state generally open to the use of the public or to be opened
4530 or reopened to the use of the public for the purpose of vehicular
4531 travel, and notwithstanding that the same may be temporarily
4532 closed for the purpose of construction, reconstruction,
4533 maintenance or repair. The confines of a highway shall include
4534 the entire width and length of the right-of-way.

4535 (f) "Refiner" means every person who manufactures
4536 finished petroleum products from crude oil, unfinished oils,
4537 natural gas liquids, other hydrocarbons, or alcohol.

4538 (g) "Bonded distributor of gasoline" means any person
4539 holding a valid gasoline distributor's permit issued by the
4540 department.

4541 (h) "For agricultural or maritime purposes" means
4542 gasoline used:

4543 (i) In operating farm tractors or other farm
4544 equipment used exclusively in plowing, planting or harvesting farm
4545 products, or in operating boats, and no part of which is used in



4546 any motor vehicle or equipment driven or operated upon the public
4547 roads, streets or highways of this state; and

4548 (ii) As a fuel in a farm tractor using the
4549 highways solely in hauling or transporting farm products of the
4550 soil from the farm to a gin or market where the title to such
4551 products is still in the producer, or in transporting fertilizer
4552 or feed to the farm, where the title to such products is still in
4553 the user.

4554 (i) "For industrial purposes" means gasoline used in
4555 engines or motors of stationary or portable type for the purpose
4556 of operating machinery used for manufacturing or used for
4557 industrial purposes, and no part of which machinery is driven or
4558 operated upon the public roads, streets or highways of this state.

4559 (j) "For domestic purposes" means gasoline used for any
4560 other purpose than agricultural, maritime, industrial or
4561 manufacturing, and no part of which is used for operating motor
4562 vehicles or motor-propelled machines of any description along the
4563 public roads, streets, alleys or highways (as defined in this
4564 article) of this state.

4565 (k) "For nonhighway purposes" means gasoline used for
4566 any other purpose than agricultural, maritime, industrial,
4567 manufacturing or domestic purposes, and no part of which is used
4568 for operating motor vehicles or motor-propelled machines of any
4569 description along the public roads, streets, alleys or highways
4570 (as defined in this article) of this state.

4571 (l) "For aviation purposes" means gasoline used for the
4572 operation of aircraft.

4573 (m) "Refund gasoline" means gasoline used or to be used
4574 for agricultural, maritime, industrial, manufacturing, domestic or
4575 nonhighway purposes only, as these terms are defined in this
4576 article.



4577 (n) "Commission" or "department" means the Department
4578 of Revenue, acting either directly or through its duly authorized
4579 officers, agents or employees.

4580 (o) "United States government" means and includes all
4581 purchasing officers of the Armed Forces of the United States and
4582 the United States Property and Fiscal Officer for the State of
4583 Mississippi or any other state appointed pursuant to Section 708,
4584 Title 32, United States Code, when purchasing gasoline with
4585 federal funds for the account of and use by a component of the
4586 Armed Forces as herein defined.

4587 (p) "Armed Forces" means and includes all components of
4588 the Armed Forces of the United States including the Army National
4589 Guard, the Army National Guard of the United States, the Air
4590 National Guard and the Air National Guard of the United States, as
4591 those terms are defined in Section 101, Title 10, United States
4592 Code, and any other reserve component of the Armed Forces of the
4593 United States enumerated in Section 261, Title 10, United States
4594 Code.

4595 (q) "Blend stock" means ethanol, methanol or any other
4596 products blended with gasoline to produce motor fuel.

4597 (r) "Blender" means any person other than a refiner who
4598 blends blend stock with gasoline or who sells or distributes blend
4599 stock for the purpose of being blended with gasoline.

4600 (s) "Racing gasoline" means gasoline manufactured
4601 exclusively for use in racing and gasoline containing lead, or
4602 having an octane rating of 105 or higher that is not suitable for
4603 use on the highways.

4604 **SECTION 88.** Section 27-55-23, Mississippi Code of 1972, is
4605 amended as follows:

4606 27-55-23. Any person who shall purchase and use gasoline
4607 other than aviation gasoline for agricultural, maritime,
4608 industrial, or domestic purposes, as defined in this article,
4609 which is not used in operating motor vehicles upon the highways of



4610 this state, shall be entitled to a refund of all but Six and
4611 Four-tenths Cents (6.4¢) per gallon of the tax actually paid on
4612 gasoline which is used for agricultural, maritime, industrial,
4613 domestic, or nonhighway purposes, as herein defined, provided that
4614 no such refund shall be payable unless the provisions of this
4615 article are complied with. Provided, however, no refund shall be
4616 allowed to any person who may purchase, sell or use gasoline,
4617 either on or off the highway, in performing contracts for
4618 construction, reconstruction, maintenance or repair, where such
4619 contracts are entered into with the State of Mississippi or with
4620 any department, agency or institution of the State of Mississippi,
4621 or with any political subdivision of the State of Mississippi, or
4622 with any department, agency, or institution of such political
4623 subdivision. Also, provided that no refund of tax paid on
4624 gasoline used on the highways of this state in motor vehicles
4625 owned or operated by the federal government, State of Mississippi,
4626 or any department or political subdivision of either will be
4627 allowed.

4628 Any person who shall purchase and use gasoline other than
4629 aviation gasoline for aviation purposes, as defined in this
4630 article, shall be entitled to a refund of all but Six and
4631 Four-tenths Cents (6.4¢) per gallon of the tax actually paid on
4632 gasoline thus used.

4633 The granting of a refund privilege to any claimant under the
4634 provisions of this article is declared to be a matter of grace
4635 rather than a matter of right, and in all cases arising under this
4636 section the burden shall be on the claimant to make proof
4637 sufficient to convince the department of the claimant's compliance
4638 with the provisions of this article; otherwise, the refund claim
4639 shall be denied or the claimant's permit cancelled by the
4640 department, as the case may be.

4641 Before any person shall be entitled to claim refund of any
4642 tax paid on gasoline under the provisions of this section, he



4643 shall file an information blank for a refund permit with the
4644 department. Such information blank shall be made on forms
4645 furnished by the department and shall give a detailed description
4646 of the equipment and such other information as the department may
4647 require with respect to the equipment or machinery in which refund
4648 gasoline is to be used. If such gasoline is not to be used in
4649 equipment or machinery, the purpose for which such gasoline is to
4650 be used shall be stated. The information blank and supplements
4651 thereto shall be signed by the person desiring to use refund
4652 gasoline or his authorized agent and filed under the penalty of
4653 perjury.

4654 If additional or replacement equipment or machinery is
4655 acquired, or if the status of the claimant otherwise changes after
4656 the original information blank is filed, supplemental information
4657 reflecting these changes shall be filed at the time of filing the
4658 next refund claim. The supplemental information blank shall
4659 contain the same information with respect to the changes as is
4660 required on the original information blank.

4661 Upon approval of the information blank, the department shall
4662 assign a file number to be used by the refund user. Provided,
4663 also, that such refund user will be issued a refund certificate
4664 book to be used when purchasing refund gasoline. Each refund
4665 certificate shall carry the file number of the refund user and,
4666 upon each purchase of refund gasoline, a certificate shall be
4667 filled in and signed on the calendar day of delivery, by either
4668 the dealer or the refund user or their authorized agents, but in
4669 no case may one (1) individual sign such certificate as both the
4670 dealer and the user. Each certificate, however, must be signed by
4671 both the claimant and dealer, or their authorized agents, before a
4672 refund of tax can be allowed on the certificate. Such refund
4673 certificate book shall not be transferable or assignable and shall
4674 be kept in the possession of the refund user or in his control at
4675 all times. Upon receipt of the information blank properly



4676 completed, the department shall forward to such refund user the
4677 file number and certificate book. Should the department refuse to
4678 issue a file number and refund certificate book, or refuse to pay
4679 any refund alleged to be due, the applicant or user may, within
4680 sixty (60) days from the date of the notice of the refusal by the
4681 department, appeal to the board of review of the Department of
4682 Revenue as hereinafter provided.

4683 It shall be the duty of the consumer of gasoline for which
4684 refund application is to be made, including any distributor of
4685 gasoline using his own gasoline for a refund purpose, to have
4686 storage facilities available for delivery of refund gasoline.
4687 Such storage facilities shall be plainly marked "refund gasoline"
4688 in lettering of contrasting color and not less than four (4)
4689 inches in height. Where refund gasoline is delivered directly
4690 into the fuel tank of equipment belonging to or used by the refund
4691 user, such equipment shall be plainly marked "refund gasoline" in
4692 lettering of contrasting color as near to the fuel tank as
4693 possible. Such lettering shall not be less than four (4) inches
4694 in height. It shall also be the duty of the distributor of
4695 gasoline delivering gasoline into the tanks to dye the refund
4696 gasoline a distinctive mahogany color at the time of delivery.
4697 However, in no case shall dye be added to gasoline to be used in
4698 aircraft.

4699 The department is authorized to waive the requirement that
4700 refund gasoline be dyed in any case where damage to equipment or
4701 machinery would result from the addition of such dye, or where
4702 addition of dye would otherwise render gasoline unfit for its
4703 intended use. It shall be the obligation of the user to obtain
4704 the aforementioned waiver from the department.

4705 Any person desiring a refund on any gasoline purchased shall
4706 make claim to the department, on forms provided by the department,
4707 within three (3) years from the date the gasoline was purchased.
4708 No refund shall be allowed on any gasoline which shall not have



4709 been already used or consumed by the purchaser thereof before the
4710 filing of the claim; provided, however, when a claim is filed and
4711 there is an unused part of any purchase to be carried forward to
4712 the next claim, the dating of this carry-over shall take the same
4713 date of the first purchase entered on the next claim. No person
4714 shall file more than one (1) claim during any one (1) month. The
4715 claim shall be personally signed by the purchaser or his duly
4716 authorized agent. The claimant shall in the claim, state that the
4717 refund claim has not and will not be assigned. The original and
4718 duplicate of the certificate shall be retained by the claimant, at
4719 the time of purchase. The original certificate with vendor's
4720 invoices shall be attached to the refund claim, and the duplicate
4721 shall remain in the certificate book of the claimant and shall be
4722 subject to inspection by the department at all reasonable hours.
4723 The claimant shall preserve the duplicate certificates for three
4724 (3) years from date of purchase. The claim shall be in the name
4725 of the purchaser and shall show the purchaser's refund file
4726 number. Supporting invoices shall state that dye has been added
4727 to refund gasoline or that the requirement that dye be added has
4728 been waived by the department. The claim shall be certified under
4729 the penalty of perjury.

4730 Any person who shall file a claim for refund under the
4731 provisions of this article shall show on each refund claim filed:
4732 the names and addresses of the person or persons from whom the
4733 claimant customarily purchases motor fuel for use in propelling
4734 motor vehicles owned or operated by the claimant on the highways
4735 of this state. Until the provisions of this paragraph are
4736 complied with, the refund claim shall not be allowed.

4737 Upon receipt of the claim, the department shall determine the
4738 amount of refund due to the claimant and the amount shall be
4739 refunded to the claimant as provided in Section 27-55-19. If for
4740 any reason the department should determine that an erroneous claim
4741 has been paid, it may deduct such erroneous payment from any legal



4742 claim subsequently filed by the claimant to whom erroneous payment
4743 was made.

4744 If the department determines that any refund claim shall not
4745 be paid, it shall notify the claimant, in writing, at the earliest
4746 date possible after such determination stating the reason or
4747 reasons why such claim is disallowed.

4748 A refund claimant may, within sixty (60) days after receipt
4749 of notice of the disallowance of his claim, appeal to the board of
4750 review of the Department of Revenue as hereinafter provided.

4751 **SECTION 89.** Section 27-55-27, Mississippi Code of 1972, is
4752 amended as follows:

4753 27-55-27. When gasoline is lost or destroyed in quantities
4754 of seven hundred fifty (750) gallons or more through explosion,
4755 fire, collision, storage tank wreckage, wreckage of loading or
4756 unloading facilities, such as pumps and lines, or acts of
4757 Providence while in storage in this state or while being
4758 transported in this state, the owner of such gasoline shall be
4759 entitled to tax credit or refund of the tax paid thereon.

4760 The department shall be notified by the owner of gasoline
4761 lost or destroyed within five (5) days after the loss or
4762 destruction is discovered. The department shall make such
4763 investigation of the facts and circumstances surrounding such loss
4764 or destruction as may be reasonably necessary for the effective
4765 administration of this article.

4766 The claim shall be made in the name of the owner of gasoline
4767 lost or destroyed and shall be signed by the owner or his
4768 authorized agent and filed within three (3) years after the date
4769 of loss. All such claims must be accompanied by proof
4770 satisfactory to the department that the gasoline for which credit
4771 is claimed was destroyed by or through one of the means set forth
4772 in the first paragraph of this section, and in all cases where
4773 gasoline alleged to have been destroyed was covered by insurance,



4774 the department shall not approve such claims unless and until the
4775 insurer has acknowledged and actually paid the loss.

4776 Upon receipt of the claim, the department shall determine the
4777 amount of refund or tax credit due the claimant and in the case of
4778 refund, the amount shall be refunded to the claimant as provided
4779 in Section 27-55-19.

4780 If the department determines that any refund claim shall not
4781 be paid, it shall notify the claimant, stating the reason why such
4782 claim is disallowed. A claimant may, within sixty (60) days from
4783 the date of the written notice of the disallowance of his claims,
4784 appeal to the board of review as hereinafter provided in this
4785 article.

4786 **SECTION 90.** Section 27-55-501, Mississippi Code of 1972, is
4787 amended as follows:

4788 27-55-501. (1) This act may be cited as the "Mississippi
4789 Special Fuel Tax Law."

4790 (2) The Department of Revenue is hereby vested with the sole
4791 power and authority, and is charged with the duty of administering
4792 and enforcing the terms and provisions of this article.

4793 **SECTION 91.** Section 27-55-505, Mississippi Code of 1972, is
4794 amended as follows:

4795 27-55-505. The words, terms and phrases as used in this
4796 article shall have the following meanings unless the context
4797 requires otherwise:

4798 (a) "Special fuel" means kerosene, diesel fuel, fuel
4799 oils, and any petroleum fuel or any other product other than
4800 gasoline or compressed gas which is usable as fuel in an internal
4801 combustion engine, and any combustible liquid other than gasoline
4802 or compressed gas used or capable of being used as a fuel in
4803 aircraft. The term "special fuel" shall not include racing
4804 gasoline as defined in Section 27-55-5.

4805 (b) "Bunker oil" means a residual product obtained in
4806 the refining of crude petroleum intended for use for the



4807 generation of heat in a firebox or furnace when its flash point,
4808 as determined by use of the Pensky-Martens tester, shall not be
4809 less than one hundred fifty (150) degrees Fahrenheit and when its
4810 viscosity at one hundred (100) degrees Fahrenheit shall not be
4811 less than one hundred fifty (150) seconds when determined by use
4812 of the Saybolt Universal Tubes.

4813 (c) "Person" means any individual, firm, copartnership,
4814 joint venture, association, corporation, estate, trust, or any
4815 group or combination acting as a unit, and the plural as well as
4816 the singular number unless the intention to give a more limited
4817 meaning is disclosed by the context.

4818 (d) "Distributor of special fuel" means:

4819 (i) Any person importing special fuel into this
4820 state;

4821 (ii) Any person who shall receive, purchase,
4822 acquire, use, store or sell any special fuel in this state on
4823 which the excise tax hereinafter imposed by this article has not
4824 been paid;

4825 (iii) Any person exporting special fuel;

4826 (iv) Any person engaged in the distribution of
4827 special fuel by tank car or tank truck or both; however, no person
4828 may qualify as a distributor of special fuel for the sole purpose
4829 of using special fuel, as defined in this article, as a fuel to
4830 propel a vehicle or vehicles owned or operated by him on the
4831 highways of this state; and

4832 (v) All persons meeting the definition of
4833 "refiners," "processors," "terminal operator," "blenders" and any
4834 person licensed to sell motor fuel in another state or
4835 jurisdiction who is authorized by that state or jurisdiction to
4836 collect the special fuel excise tax imposed by this article.

4837 (e) "Bonded distributor of special fuel" means any
4838 person holding a valid distributor of special fuel permit issued
4839 by the Department of Revenue.



4840 (f) "Refiner" or "processor" means every person who
4841 shall receive, produce, manufacture, refine, distill, blend or
4842 compound special fuel in this state, when such person shall engage
4843 in any business incident to or necessary for refining or
4844 processing petroleum products in this state; provided further,
4845 that such refiner or processor must have at least two (2)
4846 ten-thousand-gallon or larger tanks for product storage, and the
4847 blending or mixing process produces a finished product that has
4848 entirely different physical and chemical properties from the
4849 original products.

4850 (g) "For nonhighway purposes" means special fuel which
4851 is not used for operating motor vehicles or motor-propelled
4852 machines of any description along the public roads, streets,
4853 alleys or highways of this state as defined in this article.

4854 (h) "Highway" means every way or place of whatever
4855 nature, including public roads, toll roads, streets and alleys of
4856 this state generally open to the use of the public or to be opened
4857 or reopened to the use of the public for the purpose of vehicular
4858 travel, and notwithstanding that the same may be temporarily
4859 closed for the purpose of construction, reconstruction,
4860 maintenance or repair. The confines of a highway shall include
4861 the entire width and length of the right-of-way.

4862 (i) "Commission" or "department" means the Department
4863 of Revenue of the State of Mississippi, acting either directly or
4864 through its duly authorized officers, agents or employees.

4865 (j) "Terminal" means a tank farm within the State of
4866 Mississippi with storage capacity for the receipt of a full barge
4867 delivery or common carrier pipeline delivery of taxable petroleum
4868 products when such products are to be distributed within the
4869 state.

4870 (k) "Marine dealer" means any person selling special
4871 fuel from marine or dockside storage facilities when such special
4872 fuel is for use in boats, vessels, barges or ships.



4873 (1) "United States government" means and includes all
4874 purchasing officers of the Armed Forces of the United States and
4875 the United States Property and Fiscal Officer for the State of
4876 Mississippi or any other state appointed pursuant to Section 708,
4877 Title 32, United States Code, when purchasing special fuel with
4878 federal funds for the account of and use by a component of the
4879 Armed Forces as herein defined.

4880 (m) "Armed Forces" means and includes all components of
4881 the Armed Forces of the United States including the Army National
4882 Guard, the Army National Guard of the United States, the Air
4883 National Guard and the Air National Guard of the United States, as
4884 those terms are defined in Section 101, Title 10, United States
4885 Code, and any other reserve component of the Armed Forces of the
4886 United States enumerated in Section 261, Title 10, United States
4887 Code.

4888 (n) "Motor vehicle" means every vehicle designed,
4889 constructed for or used on the highways of this state which is
4890 self-propelled, except a farm tractor using the highways solely in
4891 hauling or transporting farm products of the soil from the farm to
4892 a gin or market when the title to such products is still in the
4893 producer, or a farm tractor used in transporting fertilizer or
4894 food to a farm when the title to such products is still in the
4895 user.

4896 (o) "Consumer" means, in addition to its ordinary
4897 meaning, a person who purchases undyed diesel fuel to be used for
4898 nonhighway purposes and who does not resell such undyed diesel
4899 fuel.

4900 (p) "Retail dealer" means any person who operates a
4901 retail station.

4902 (q) "Dyed diesel fuel" means diesel fuel that is dyed
4903 in accordance with United States Environmental Protection Agency
4904 or Internal Revenue Service requirements.



4905 (r) "Dyed kerosene" means kerosene that is dyed in
4906 accordance with United States Environmental Protection Agency or
4907 Internal Revenue Service requirements.

4908 (s) "Undyed diesel fuel" means diesel fuel that does
4909 not meet the dyeing requirements prescribed by United States
4910 Environmental Protection Agency or Internal Revenue Service
4911 Regulations.

4912 (t) "Fuel oil" means a general classification for one
4913 of the petroleum fractions produced in conventional distillation
4914 operations. For the purposes of this article, "fuel oil" is No.
4915 1, No. 2 and No. 4 fuel oils and No. 1, No. 2 and No. 4 diesel
4916 fuels.

4917 (u) "Blender" shall mean any person who blends or
4918 compounds any product to produce special fuel.

4919 (v) "Terminal operator" means any person who owns,
4920 operates or otherwise controls a terminal.

4921 **SECTION 92.** Section 27-55-535, Mississippi Code of 1972, is
4922 amended as follows:

4923 27-55-535. When special fuel is lost or destroyed in
4924 quantities of seven hundred fifty (750) gallons or more through
4925 explosion, fire, collision, storage tank wreckage, wreckage of
4926 loading or unloading facilities, such as pumps and lines, or acts
4927 of Providence while in storage in this state or while being
4928 transported in this state, the owner of the special fuel shall be
4929 entitled to tax credit or refund of the tax paid thereon.

4930 The department shall be notified by the owner of the lost or
4931 destroyed special fuel within five (5) days after the loss or
4932 destruction is discovered. The department shall make an
4933 investigation of the facts and circumstances surrounding the loss
4934 or destruction as may be reasonably necessary for the effective
4935 administration of this article.

4936 The claim shall be made in the name of the owner of the lost
4937 or destroyed special fuel and shall be signed by the owner or his



4938 authorized agent and filed within three (3) years after the date
4939 of loss. All claims must be accompanied by proof satisfactory to
4940 the department that the special fuel for which credit is claimed
4941 was destroyed by or through one (1) of the means set forth in the
4942 first paragraph of this section, and in all cases where the
4943 special fuel alleged to have been destroyed was covered by
4944 insurance, the department shall not approve such claims unless and
4945 until the insurer has acknowledged and actually paid the loss.

4946 Upon receipt of the claim the department shall determine the
4947 amount of refund or tax credit due the claimant and in the case of
4948 refund the amount shall be refunded to the claimant as provided in
4949 Section 27-55-19.

4950 If the department determines that any refund claim shall not
4951 be paid, it shall notify the claimant stating the reason or
4952 reasons why the claim is disallowed.

4953 A claimant may, within sixty (60) days from the date of the
4954 written notice of the disallowance of his claim, appeal to the
4955 board of review as provided by law.

4956 **SECTION 93.** Section 27-57-1, Mississippi Code of 1972, is
4957 amended as follows:

4958 27-57-1. The Department of Revenue, hereinafter called the
4959 "commission" or the "department," is hereby vested with the sole
4960 power and authority, and is charged with the duty of administering
4961 and enforcing the terms and provisions of this article.

4962 **SECTION 94.** Section 27-57-5, Mississippi Code of 1972, is
4963 amended as follows:

4964 27-57-5. The words, terms and phrases as used in this
4965 article shall have the following meanings unless the context
4966 requires otherwise:

4967 (a) "Lubricating oil" means all petroleum-based oils or
4968 synthetic lubricants intended for use in the crankcase of an
4969 internal combustion engine, either spark ignition or diesel type.
4970 The purpose of "lubricating oil" is to reduce friction between two



4971 (2) solid surfaces moving relative to one another. Lubricating
4972 oil shall not mean spindle oils, cutting oils, steam cylinder
4973 oils, transmission fluids or oils, gear oils, industrial oils,
4974 electrical insulating oils, manufactured, recommended, advertised
4975 and intended for such; lubricating oil specifically designed for
4976 use in large stationary engines of five hundred (500) horsepower
4977 or more; oils specifically designed for use in aircraft or
4978 outboard motors, or lubricating oil additives and compounds,
4979 manufactured, recommended, advertised and intended for use as an
4980 additive or compound and packaged in quantities of one (1) gallon
4981 or less; oils which would cause damage to an internal combustion
4982 engine if used as a lubricant, or special purpose oils where the
4983 finished cost would make its use as a lubricating oil in an
4984 internal combustion engine economically prohibitive, or oils used
4985 as raw materials in manufacturing processes and any grease which
4986 is classified as a lubricant and which is manufactured,
4987 recommended, advertised and intended for use as such.

4988 (b) "Person" means any individual, firm, copartnership,
4989 joint venture, association, corporation, estate, trust, or any
4990 other group or combination acting as a unit, and the plural as
4991 well as the singular number unless the intention to give a more
4992 limited meaning is disclosed by the context.

4993 (c) "Class A distributor" means any person who acquires
4994 lubricating oil on which the tax levied by this article has not
4995 been paid and sells or delivers lubricating oil to wholesalers,
4996 retailers or directly to consumers.

4997 (d) "Commission" or "department" means the Department
4998 of Revenue.

4999 (e) "Refiner" or "processor" shall mean every person
5000 who shall receive, produce, manufacture, refine, distill, blend or
5001 compound lubricating oil in this state, when such person shall
5002 engage in refining or processing petroleum products in this state,
5003 and the blending or mixing process produces a finished product



5004 with different physical and chemical properties from the original
5005 products.

5006 (f) "Waters" shall mean public waters.

5007 (g) "Retailer" means every person who sells lubricating
5008 oil at retail.

5009 **SECTION 95.** Section 27-57-19, Mississippi Code of 1972, is
5010 amended as follows:

5011 27-57-19. When lubricating oil is lost or destroyed in
5012 quantities of two hundred fifty (250) gallons or more through
5013 explosion, fire, collision, storage tank wreckage, wreckage of
5014 loading or unloading facilities or other acts of Providence, only
5015 while in storage in this state or while being transported in this
5016 state, the owner of the lubricating oil shall be entitled to a
5017 refund of the tax paid thereon.

5018 The department shall be notified by the owner of lubricating
5019 oil lost or destroyed within five (5) days after the loss or
5020 destruction is discovered. The department shall make an
5021 investigation of the facts and circumstances surrounding the loss
5022 or destruction as may be reasonably necessary for the effective
5023 administration of this section.

5024 The claim shall be made in the name of the owner of the
5025 lubricating oil lost or destroyed, and shall be signed by the
5026 owner or his authorized agent and filed within three (3) years
5027 after the date of the loss. All claims must be accompanied by
5028 proof satisfactory to the department that the lubricating oil for
5029 which credit is claimed was destroyed as herein provided. In all
5030 cases where lubricating oil alleged to have been destroyed was
5031 covered by insurance, the department shall not approve such claim
5032 unless and until the insurer has acknowledged and actually paid
5033 the loss.

5034 Upon the receipt of the claim, the department shall determine
5035 the amount of refund or tax credit due to the claimant and in the
5036 case of refund the amount shall be refunded to the claimant as



5037 provided in Section 27-55-19. The refund shall be paid from
5038 current lubricating oil tax collections.

5039 If the department determines that any refund claim shall not
5040 be paid or any tax credit allowed, it shall notify the claimant at
5041 the earliest possible date after it determines the claim cannot be
5042 allowed stating the reason or reasons why the claim is rejected.

5043 A claimant may, within sixty (60) days from the date of the
5044 rejection of his claim, appeal to the board of review as provided
5045 by law.

5046 **SECTION 96.** Section 27-59-1, Mississippi Code of 1972, is
5047 amended as follows:

5048 27-59-1. The Department of Revenue, hereinafter called the
5049 "commission" or the "department," is hereby vested with the sole
5050 power and authority, and is charged with the duty of administering
5051 and enforcing the terms and provisions of this chapter.

5052 **SECTION 97.** Section 27-59-3, Mississippi Code of 1972, is
5053 amended as follows:

5054 27-59-3. The words, terms and phrases as used in this
5055 chapter shall have the following meanings unless the context
5056 requires otherwise:

5057 (a) "Person" means any individual, firm, copartnership,
5058 joint venture, association, corporation, estate, trust, or any
5059 other group or combination acting as a unit, and the plural as
5060 well as the singular number unless the intention to give a more
5061 limited meaning is disclosed by the context.

5062 (b) "Highway" means and includes every way or place, of
5063 whatever nature, including public roads, toll roads, streets, and
5064 alleys of the state generally open to the use of the public or to
5065 be opened or reopened to the use of the public for the purpose of
5066 vehicular travel, and notwithstanding that the same may be
5067 temporarily closed for the purpose of construction,
5068 reconstruction, maintenance or repair. Provided further, that the



5069 confines of a highway shall include the entire width and length of
5070 the right-of-way.

5071 (c) "Motor vehicle" means every vehicle licensed for
5072 highway use by which any person or property is transported or
5073 drawn upon the highways of this state and which is self-propelled.

5074 (d) "Liquefied compressed gas" means gases derived from
5075 petroleum or natural gas which are in the gaseous state at normal
5076 atmospheric temperature and pressure, but which may be maintained
5077 in the liquid state at normal atmospheric temperature by suitable
5078 pressure. As used herein, the term shall be deemed to mean and
5079 include methane, ethane, propane, ethylene, propylene, butylene,
5080 butane, isobutane, and any and all liquid flammable materials
5081 derived from petroleum or natural gas having a vapor pressure
5082 exceeding forty (40) pounds per square inch, absolute, at one
5083 hundred (100) degrees F. Normal storage of these gases is a
5084 liquid under pressure.

5085 (e) "Compressed natural gas" and "liquefied natural
5086 gas" mean natural gas after it has been compressed or liquefied
5087 for use as a fuel in a motor vehicle and shall not include natural
5088 gas prior to such final compression or liquefaction.

5089 (f) "Compressed gas" means "liquefied compressed gas,"
5090 "liquefied natural gas," "compressed natural gas" and any other
5091 liquefied or compressed gas that is used or is usable as fuel in a
5092 motor vehicle.

5093 (g) "Use" means, in addition to its original meaning,
5094 the receipt of compressed gas by any person into the fuel supply
5095 tank of a motor vehicle or into a receptacle from which compressed
5096 gas is supplied by any person to his own or other motor vehicles.

5097 (h) "Terminal" means a tank farm within this state with
5098 the minimum storage capacity for the receipt of a full barge
5099 delivery or common carrier pipeline delivery of compressed gas.



5100 (i) "Refiner" or "processor" means every person who
5101 shall produce, manufacture, refine, distill, compress or liquefy
5102 compressed gas in this state.

5103 (j) "Public utility" means a person engaged in the
5104 distribution of natural gas whose rates are subject to regulation
5105 by the Public Service Commission of the State of Mississippi.

5106 (k) "Distributor" means any person who sells or
5107 delivers compressed gas for use in the operation of a motor
5108 vehicle or motor vehicles on the highways of this state and any
5109 person who shall import, receive, purchase, acquire, manufacture,
5110 refine, use, store or sell any compressed gas in this state, on
5111 which the excise taxes hereinafter levied by this chapter have not
5112 been paid or the payment of which is not covered by the bond of a
5113 qualified Mississippi distributor of compressed gas. All
5114 "refiners" and "processors" shall qualify as distributors of
5115 compressed gas. All persons operating marine or pipeline
5116 terminals and all persons operating underground storage facilities
5117 exclusive of those storing natural gas shall qualify as
5118 distributors of compressed gas. No person may qualify as a
5119 distributor for the sole purpose of using compressed gas as a fuel
5120 to propel a motor vehicle or motor vehicles owned by him on the
5121 highways of this state.

5122 (l) "User" means any person who uses compressed gas to
5123 propel a motor vehicle over the highways of this state.

5124 (m) "Commission" or "department" means the Department
5125 of Revenue of the State of Mississippi, either acting directly or
5126 through its duly authorized officers, agents and employees.

5127 (n) "United States government" means and includes all
5128 purchasing officers of the Armed Forces of the United States and
5129 the United States Property and Fiscal Officer for the State of
5130 Mississippi or any other state, appointed pursuant to Section 708,
5131 Title 32, United States Code, when purchasing compressed gas with



5132 federal funds for the account of and use by a component of the
5133 Armed Forces as defined herein.

5134 (o) "Armed Forces" means and includes all components of
5135 the Armed Forces of the United States, including the Army National
5136 Guard, the Army National Guard of the United States, the Air
5137 National Guard and the Air National Guard of the United States, as
5138 those terms are defined in Section 101, Title 10, United States
5139 Code, and any other reserve component of the Armed Forces of the
5140 United States enumerated in Section 261, Title 10, United States
5141 Code.

5142 **SECTION 98.** Section 27-59-301, Mississippi Code of 1972, is
5143 amended as follows:

5144 27-59-301. The Department of Revenue, hereinafter called the
5145 commission or the department, is hereby vested with the sole power
5146 and authority, and is charged with the duty of administering and
5147 enforcing the terms and provisions of this article.

5148 **SECTION 99.** Section 27-59-303, Mississippi Code of 1972, is
5149 amended as follows:

5150 27-59-303. The words, terms and phrases as used in this
5151 article shall have the following meanings unless the context
5152 requires otherwise.

5153 (a) "Natural gas" means a mixture of hydrocarbons and
5154 small quantities of nonhydrocarbons existing in the gaseous phase.

5155 (b) "Locomotive fuel" means diesel fuel and any other
5156 fuel except gasoline used as fuel in a railroad locomotive.

5157 (c) "Person" means any individual, firm, copartnership,
5158 joint venture, association, corporation, estate, trust or any
5159 other combination acting as a unit, and the plural as well as the
5160 singular number unless the intention to give a more limited
5161 meaning is disclosed by the context.

5162 (d) "Commission" or "department" means the Department
5163 of Revenue, acting either directly or through its duly authorized
5164 officers, agents or employees.



5165 (e) "Permittee" means any person holding a user's
5166 permit issued under the provisions of this article.

5167 (f) "Industrial purposes" means the operation of
5168 machinery used for manufacturing.

5169 (g) "Engine" or "motor" means internal combustion
5170 engine.

5171 (h) "Manufacturer" means a person conducting an
5172 activity of an industrial or commercial nature wherein labor or
5173 skill is applied by hand or by machinery, to materials belonging
5174 to the manufacturer so that a new, different or more useful
5175 article of tangible personal property or article of trade or
5176 commerce is produced for sale or rental.

5177 (i) "Custom processor" means a person who performs the
5178 services of a manufacturer upon the property of a customer.

5179 (j) "Compressed gas" means gases derived from petroleum
5180 or natural gas which are in the gaseous state at normal
5181 atmospheric temperature and pressure, but which may be maintained
5182 in the liquid state at normal atmospheric temperature by suitable
5183 pressure. As used herein, the term shall be deemed to mean and
5184 include methane, ethane, propane, ethylene, propylene, butylene,
5185 butane, isobutane, and any and all liquid flammable materials
5186 derived from petroleum or natural gas having a vapor pressure
5187 exceeding forty (40) pounds per square inch, absolute, at one
5188 hundred (100) degrees Fahrenheit. Normal storage of these gases
5189 is a liquid under pressure.

5190 **SECTION 100.** Section 27-61-1, Mississippi Code of 1972, is
5191 amended as follows:

5192 27-61-1. The purpose of this chapter is to insure that all
5193 carriers specified herein, using the highways of this state, shall
5194 pay a reasonable tax for the privilege of, and as compensation
5195 for, such use.

5196 The Department of Revenue, hereinafter called the
5197 "commission" or the "department," is hereby vested with the sole



5198 power and authority, and is charged with the duty of administering
5199 and enforcing the terms and provisions of this chapter.

5200 **SECTION 101.** Section 27-61-3, Mississippi Code of 1972, is
5201 amended as follows:

5202 27-61-3. When used in this chapter, the following words and
5203 phrases shall have the meaning ascribed to them hereby, except
5204 where the context clearly describes and indicates a different
5205 meaning:

5206 (a) Person: Any individual, firm, copartnership, joint
5207 venture, association, corporation, estate, trust, or any other
5208 group or combination acting as a unit and the plural as well as
5209 the singular number unless the intention to give a more limited
5210 meaning is disclosed by the context.

5211 (b) Motor vehicle: A motor vehicle used, designed or
5212 maintained for transportation of persons or property and (i)
5213 having two (2) axles and a gross vehicle weight exceeding
5214 twenty-six thousand (26,000) pounds; (ii) having three (3) or more
5215 axles, regardless of weight; or being used in combination when the
5216 gross vehicle weight of such combination exceeds twenty-six
5217 thousand (26,000) pounds. The term "motor vehicle" does not
5218 include recreational vehicles.

5219 (c) Fuel: Any product which is used, or is capable of
5220 being used, for the generation of power for the operation of a
5221 motor vehicle.

5222 (d) Commission or department: The Department of
5223 Revenue, either acting directly or through its duly authorized
5224 officers, agents and employees.

5225 (e) Owner: A person who holds the legal title of a
5226 motor vehicle, or in the event a motor vehicle is the subject of
5227 an agreement for the conditional sale, lease or transfer of the
5228 possession, howsoever, thereof, with the right of purchase upon
5229 performance of conditions stated in the agreement, and with an
5230 immediate right of possession vested in the conditional vendee,



5231 lessee, possessor, or in the event such or similar transaction is
5232 had by means of a mortgage and the mortgagor of a motor vehicle is
5233 entitled to possession, then such conditional vendee, lessee,
5234 possessor or mortgagor shall be deemed the owner for the purposes
5235 of this chapter.

5236 (f) Highway: The entire width between boundary lines
5237 of every way in the state that is publicly maintained or any part
5238 of which is publicly maintained and is open or is to be opened to
5239 use by the public for the purpose of vehicular travel, including
5240 all streets and alleys in cities and towns.

5241 (g) Operator: Any person, partnership, joint stock
5242 company or corporation operating on the public highways of this
5243 state one or more motor vehicles as the beneficial owner or
5244 lessee.

5245 (h) Driver: Any person actually in control of, driving
5246 or operating a motor vehicle at any given time.

5247 (i) The terms "gross weight," "common carrier by motor
5248 vehicle," "contract carrier by motor vehicle," "private commercial
5249 carrier of property by motor vehicle," "private commercial carrier
5250 of passengers by motor vehicle," and "private carrier of property"
5251 shall, respectively, have the meaning ascribed to them in Sections
5252 27-19-1 through 27-19-167, Mississippi Code of 1972.

5253 (j) Retail dealer: Any person not licensed as a
5254 distributor who sells gasoline, special fuel, diesel fuel or
5255 compressed gas.

5256 (k) Motor carrier: Any person operating a motor
5257 vehicle, as defined in this section, on the highways of this
5258 state.

5259 (l) "Recreational vehicle" means vehicles such as motor
5260 homes, pickup trucks with attached campers, and buses when used
5261 exclusively for personal pleasure by an individual. In order to
5262 qualify as a recreational vehicle, the vehicle shall not be used
5263 in connection with any business endeavor.



5264 **SECTION 102.** Section 27-65-3, Mississippi Code of 1972, is
5265 amended as follows:

5266 27-65-3. The words, terms and phrases, when used in this
5267 chapter, shall have the meanings ascribed to them herein.

5268 (a) "Tax Commission" or "department" means the
5269 Department of Revenue of the State of Mississippi.

5270 (b) "Commissioner" means the Commissioner of Revenue of
5271 the Department of Revenue.

5272 (c) "Person" means and includes any individual, firm,
5273 copartnership, joint venture, association, corporation, promoter
5274 of a temporary event, estate, trust or other group or combination
5275 acting as a unit, and includes the plural as well as the singular
5276 in number. "Person" shall include husband or wife or both where
5277 joint benefits are derived from the operation of a business taxed
5278 hereunder. "Person" shall also include any state, county,
5279 municipal or other agency or association engaging in a business
5280 taxable under this chapter.

5281 (d) "Tax year" or "taxable year" means either the
5282 calendar year or the taxpayer's fiscal year.

5283 (e) "Taxpayer" means any person liable for or having
5284 paid any tax to the State of Mississippi under the provisions of
5285 this chapter. A taxpayer is required to obtain a sales tax permit
5286 under Section 27-65-27 before engaging in business in this state.
5287 If a taxpayer fails to obtain a sales tax permit before engaging
5288 in business in this state, the taxpayer shall pay the retail rate
5289 on all purchases of tangible personal property and/or services in
5290 this state, even if purchased for resale. Upon obtaining a sales
5291 tax permit, a previously unregistered taxpayer shall file sales
5292 tax returns for all tax periods during which he engaged in
5293 business in this state without a sales tax permit, and report and
5294 pay the sales tax accruing from his operation during this period
5295 and any applicable penalties and interest. On such return, the
5296 taxpayer may take a credit for any sales taxes paid during the



5297 period he operated without a sales tax permit on a purchase that
5298 would have constituted a wholesale sale if the taxpayer had a
5299 sales tax permit at the time of the purchase and if proper
5300 documentation exists to substantiate a wholesale sale. This
5301 credit may also be allowed in any audit of the taxpayer. Any
5302 penalties and interest owed by the taxpayer on the return or in an
5303 audit for a period during which he operated without a sales tax
5304 permit may be determined based on the sales tax accruing from the
5305 taxpayer's operation for that period after the taking of this
5306 credit.

5307 (f) "Sale" or "sales" includes the barter or exchange
5308 of property as well as the sale thereof for money or other
5309 consideration, and every closed transaction by which the title to
5310 taxable property passes shall constitute a taxable event.

5311 "Sale" shall also include the passing of title to property
5312 for a consideration of coupons, trading stamps or by any other
5313 means when redemption is subsequent to the original sale by which
5314 the coupon, stamp or other obligation was created.

5315 The situs of a sale for the purpose of distributing taxes to
5316 municipalities shall be the same as the location of the business
5317 from which the sale is made except that:

5318 (i) Retail sales along a route from a vehicle or
5319 otherwise by a transient vendor shall take the situs of delivery
5320 to the customer.

5321 (ii) The situs of wholesale sales of tangible
5322 personal property taxed at wholesale rates, the amount of which is
5323 allowed as a credit against the sales tax liability of the
5324 retailer, shall be the same as the location of the business of the
5325 retailer receiving the credit.

5326 (iii) The situs of wholesale sales of tangible
5327 personal property taxed at wholesale rates, the amount of which is
5328 not allowed as a credit against the sales tax liability of the
5329 retailer, shall have a rural situs.



5330 (iv) Income received from the renting or leasing
5331 of property used for transportation purposes between cities or
5332 counties shall have a rural situs.

5333 (g) "Delivery charges" shall mean and include any
5334 expenses incurred by a seller in acquiring merchandise for sale in
5335 the regular course of business commonly known as "freight-in" or
5336 "transportation costs-in." "Delivery charges" also include any
5337 charges made by the seller for delivery of property sold to the
5338 purchaser.

5339 (h) "Gross proceeds of sales" means the value
5340 proceeding or accruing from the full sale price of tangible
5341 personal property, including installation charges, carrying
5342 charges, or any other addition to the selling price on account of
5343 deferred payments by the purchaser, without any deduction for
5344 delivery charges, cost of property sold, other expenses or losses,
5345 or taxes of any kind except those expressly exempt by this
5346 chapter.

5347 "Gross proceeds of sales" includes consideration received by
5348 the seller from third parties if:

5349 (i) The seller actually received consideration
5350 from a party other than the purchaser and the consideration is
5351 directly related to a price reduction or discount on the sale;

5352 (ii) The seller has an obligation to pass the
5353 price reduction or discount through to the purchaser;

5354 (iii) The amount of the consideration attributable
5355 to the sale is fixed and determinable by the seller at the time of
5356 the sale of the item to the purchaser; and

5357 (iv) One (1) of the following criteria is met:

5358 1. The purchaser presents a coupon,
5359 certificate or other documentation to the seller to claim a price
5360 reduction or discount where the coupon, certificate or
5361 documentation is authorized, distributed or granted by a third
5362 party with the understanding that the third party will reimburse



5363 any seller to whom the coupon, certificate or documentation is
5364 presented;

5365 2. The purchaser identified himself or
5366 herself to the seller as a member of a group or organization
5367 entitled to a price reduction or discount (a "preferred customer"
5368 card that is available to any patron does not constitute
5369 membership in such a group); or

5370 3. The price reduction or discount is
5371 identified as a third-party price reduction or discount on the
5372 invoice received by the purchaser or on a coupon, certificate or
5373 other documentation presented by the purchaser.

5374 Where a trade-in is taken as part payment on tangible
5375 personal property sold, "gross proceeds of sales" shall include
5376 only the difference received between the selling price of the
5377 tangible personal property and the amount allowed for a trade-in
5378 of property of the same kind. When the trade-in is subsequently
5379 sold, the selling price thereof shall be included in "gross
5380 proceeds of sales."

5381 "Gross proceeds of sales" shall include the value of any
5382 goods, wares, merchandise or property purchased at wholesale or
5383 manufactured, and any mineral or natural resources produced, which
5384 are withdrawn or used from an established business or from the
5385 stock in trade for consumption or any other use in the business or
5386 by the owner. However, "gross proceeds of sales" does not include
5387 meals prepared by a restaurant and provided at no charge to
5388 employees of the restaurant or donated to a charitable
5389 organization that regularly provides food to the needy and the
5390 indigent and which has been granted exemption from the federal
5391 income tax as an organization described in Section 501(c)(3) of
5392 the Internal Revenue Code of 1986.

5393 "Gross proceeds of sales" shall not include bad check or
5394 draft service charges as provided for in Section 97-19-57.



5395 (i) "Gross income" means the total charges for service
5396 or the total receipts (actual or accrued) derived from trades,
5397 business or commerce by reason of the investment of capital in the
5398 business engaged in, including the sale or rental of tangible
5399 personal property, compensation for labor and services performed,
5400 and including the receipts from the sales of property retained as
5401 toll, without any deduction for rebates, cost of property sold,
5402 cost of materials used, labor costs, interest paid, losses or any
5403 expense whatever.

5404 "Gross income" shall also include the cost of property given
5405 as compensation when the property is consumed by a person
5406 performing a taxable service for the donor.

5407 However, "gross income" or "gross proceeds of sales" shall
5408 not be construed to include the value of goods returned by
5409 customers when the total sale price is refunded either in cash or
5410 by credit, or cash discounts allowed and taken on sales. Cash
5411 discounts shall not include the value of trading stamps given with
5412 a sale of property.

5413 (j) "Tangible personal property" means personal
5414 property perceptible to the human senses or by chemical analysis
5415 as opposed to real property or intangibles and shall include
5416 property sold on an installed basis which may become a part of
5417 real or personal property.

5418 (k) "Installation charges" shall mean and include the
5419 charge for the application of tangible personal property to real
5420 or personal property without regard to whether or not it becomes a
5421 part of the real property or retains its personal property
5422 classification. It shall include, but not be limited to, sales in
5423 place of roofing, tile, glass, carpets, drapes, fences, awnings,
5424 window air conditioning units, gasoline pumps, window guards,
5425 floor coverings, carports, store fixtures, aluminum and plastic
5426 siding, tombstones and similar personal property.

5427 (l) "Newspaper" means a periodical which:



5428 (i) Is not published primarily for advertising
5429 purposes and has not contained more than seventy-five percent
5430 (75%) advertising in more than one-half (1/2) of its issues during
5431 any consecutive twelve-month period excluding separate advertising
5432 supplements inserted into but separately identifiable from any
5433 regular issue or issues;

5434 (ii) Has been established and published
5435 continuously for at least twelve (12) months;

5436 (iii) Is regularly issued at stated intervals no
5437 less frequently than once a week, bears a date of issue, and is
5438 numbered consecutively; provided, however, that publication on
5439 legal holidays of this state or of the United States and on
5440 Saturdays and Sundays shall not be required, and failure to
5441 publish not more than two (2) regular issues in any calendar year
5442 shall not exclude a periodical from this definition;

5443 (iv) Is issued from a known office of publication,
5444 which shall be the principal public business office of the
5445 newspaper and need not be the place at which the periodical is
5446 printed and a newspaper shall be deemed to be "published" at the
5447 place where its known office of publication is located;

5448 (v) Is formed of printed sheets; provided,
5449 however, that a periodical that is reproduced by the stencil,
5450 mimeograph or hectograph process shall not be considered to be a
5451 "newspaper"; and

5452 (vi) Is originated and published for the
5453 dissemination of current news and intelligence of varied, broad
5454 and general public interest, announcements and notices, opinions
5455 as editorials on a regular or irregular basis, and advertising and
5456 miscellaneous reading matter.

5457 The term "newspaper" shall include periodicals which are
5458 designed primarily for free circulation or for circulation at
5459 nominal rates as well as those which are designed for circulation
5460 at more than a nominal rate.



5461 The term "newspaper" shall not include a publication or
5462 periodical which is published, sponsored by, is directly supported
5463 financially by, or is published to further the interests of, or is
5464 directed to, or has a circulation restricted in whole or in part
5465 to any particular sect, denomination, labor or fraternal
5466 organization or other special group or class or citizens.

5467 For purposes of this paragraph, a periodical designed
5468 primarily for free circulation or circulation at nominal rates
5469 shall not be considered to be a newspaper unless such periodical
5470 has made an application for such status to the department in the
5471 manner prescribed by the department and has provided to the
5472 department documentation satisfactory to the department showing
5473 that such periodical meets the requirements of the definition of
5474 the term "newspaper." However, if such periodical has been
5475 determined to be a newspaper under action taken by the department
5476 on or before April 11, 1996, such periodical shall be considered
5477 to be a newspaper without the necessity of applying for such
5478 status. A determination by the Department of Revenue that a
5479 publication is a newspaper shall be limited to the application of
5480 this chapter and shall not establish that the publication is a
5481 newspaper for any other purpose.

5482 (m) "MPC" or "Material Purchase Certificate" means a
5483 certificate for which a person that is liable for the tax levy
5484 under Section 27-65-21 can apply and obtain from the commissioner,
5485 and when issued, entitles the holder to purchase materials and
5486 services that are to become a component part of a structure to be
5487 erected or repaired with no tax due. Any person taxable under
5488 Section 27-65-21 who obtains an MPC for a project and purchases
5489 materials and services in this state that are to become a
5490 component part of a structure being erected or repaired in the
5491 project and at any time pays sales tax on these purchases may,
5492 after obtaining the MPC for the project, take a credit against his
5493 sales taxes for the sales tax paid on these purchases if proper



5494 documentation exists to substantiate the payment of the sales tax
5495 on the purchase of component materials and services. This credit
5496 may also be allowed in any audit of the taxpayer. Any penalties
5497 and interest owed by the taxpayer on the return or in the audit
5498 where this credit is taken may be determined based on the sales
5499 tax due after the taking of this credit.

5500 **SECTION 103.** Section 27-65-35, Mississippi Code of 1972, is
5501 amended as follows:

5502 27-65-35. If no return is made on or before the due date by
5503 any taxpayer required to make a return, the commissioner, as soon
5504 as practicable after the due date, shall make an assessment of
5505 taxes and damages from any information available, which shall be
5506 prima facie correct. The commissioner shall give written notice
5507 to the taxpayer of the tax and damages thus assessed and demand
5508 payment within sixty (60) days from the date of the notice. The
5509 notice shall be sent by mail to the taxpayer, or delivered by an
5510 agent of the commissioner either to the taxpayer or someone of
5511 suitable age and discretion at the taxpayer's place of business or
5512 residence. However, if the taxpayer shall file a return and pay
5513 the tax shown to be due within sixty (60) days from the date of
5514 the assessment, the return and payment shall be accepted in lieu
5515 of the assessment.

5516 **SECTION 104.** Section 27-65-37, Mississippi Code of 1972, is
5517 amended as follows:

5518 27-65-37. If adequate records of the gross income or gross
5519 proceeds of sales are not maintained or invoices preserved as
5520 provided herein, or if an audit of the records of a taxpayer, or
5521 any return filed by him, or any other information discloses that
5522 taxes are due and unpaid, the commissioner shall make assessments
5523 of taxes, damages, and interest from any information available,
5524 which shall be prima facie correct. The commissioner shall give
5525 notice to the taxpayer of such assessments and demand payment of
5526 the tax, damages and interest within sixty (60) days from the



5527 date * * * of the notice. The notice shall be sent by certified
5528 or registered mail or delivered by an agent of the commissioner
5529 either to the taxpayer or someone of suitable age and discretion
5530 at the taxpayer's residence or place of business.

5531 If the taxpayer shall fail or refuse to comply with the
5532 notice of assessment or shall fail to petition for a hearing, the
5533 commissioner shall proceed as provided in Section 27-65-39.

5534 **SECTION 105.** Section 27-65-87, Mississippi Code of 1972, is
5535 amended as follows:

5536 27-65-87. The administration of this chapter is vested in
5537 and shall be exercised by the Commissioner of Revenue of the
5538 Department of Revenue, except as otherwise herein provided, and
5539 the enforcement of any of the provisions of this chapter in any of
5540 the courts of the state shall be under the exclusive jurisdiction
5541 of the Commissioner of Revenue of the Department of Revenue who
5542 may require the assistance of an act through the Attorney General,
5543 prosecuting attorney of any county, or any district attorney, or
5544 any attorney for the Department of Revenue, and may with the
5545 assent of the Governor, employ special counsel in any county to
5546 aid the prosecuting attorney, the compensation of whom shall be
5547 fixed by and paid only upon the approval of the Governor; but the
5548 Attorney General, district attorney or prosecuting attorney of any
5549 county shall receive no fees or compensation for services rendered
5550 in enforcing this chapter in addition to the salary paid to such
5551 officer.

5552 In case of violation of the provisions of this chapter, the
5553 commissioner may decline to prosecute for the first offense, if in
5554 his judgment such violation is not willful or flagrant.

5555 **SECTION 106.** Section 27-65-89, Mississippi Code of 1972, is
5556 amended as follows:

5557 27-65-89. The Commissioner of Revenue of the Department of
5558 Revenue shall appoint, as needed, such deputies, agents, clerks
5559 and stenographers as authorized by law, who shall serve under him,



5560 and shall perform such duties as may be required by the
5561 commissioner, including the signing of notices, warrants and such
5562 other documents as may be specifically designated by the
5563 commissioner, not inconsistent with this chapter, and they are
5564 hereby authorized to act for the commissioner, as he may prescribe
5565 and as provided herein. All of such agents, clerks and
5566 stenographers may be removed by the Commissioner of Revenue of the
5567 Department of Revenue for cause of which the commissioner shall be
5568 the final judge.

5569 **SECTION 107.** Section 27-67-3, Mississippi Code of 1972, is
5570 amended as follows:

5571 27-67-3. Whenever used in this article, the words, phrases
5572 and terms shall have the meaning ascribed to them as follows:

5573 (a) "Tax Commission" or "department" means the
5574 Department of Revenue of the State of Mississippi.

5575 (b) "Commissioner" means the Commissioner of Revenue of
5576 the Department of Revenue.

5577 (c) "Person" means any individual, firm, partnership,
5578 joint venture, association, corporation, estate, trust, receiver,
5579 syndicate or any other group or combination acting as a unit and
5580 includes the plural as well as the singular in number. "Person"
5581 shall also include husband or wife, or both, where joint benefits
5582 are derived from the operation of a business taxed hereunder or
5583 where joint benefits are derived from the use of property taxed
5584 hereunder.

5585 (d) "Taxpayer" means any person liable for the payment
5586 of any tax hereunder, or liable for the collection and payment of
5587 the tax.

5588 (e) "Sale" or "purchase" means the exchange of
5589 properties for money or other consideration, and the barter of
5590 properties. Every closed transaction by which title to, or
5591 possession of, tangible personal property passes shall constitute
5592 a taxable event. A transaction whereby the possession of property



5593 is transferred but the seller retains title as security for
5594 payment of the selling price shall be deemed a sale.

5595 (f) "Purchase price" or "sales price" means the total
5596 amount for which tangible personal property is purchased or sold,
5597 valued in money, including any additional charges for deferred
5598 payment, installation and service charges, and freight charges to
5599 the point of use within this state, without any deduction for cost
5600 of property sold, expenses or losses, or taxes of any kind except
5601 those exempt by the sales tax law. "Purchase price" or "sales
5602 price" shall not include cash discounts allowed and taken or
5603 merchandise returned by customers when the total sales price is
5604 refunded either in cash or by credit, and shall not include
5605 amounts allowed for a trade-in of similar property.

5606 (g) "Lease" or "rent" means any agreement entered into
5607 for a consideration that transfers possession or control of
5608 tangible personal property to a person for use within this state.

5609 (h) "Value" means the estimated or assessed monetary
5610 worth of a thing or property. The value of property transferred
5611 into this state for sales promotion or advertising shall be an
5612 amount not less than the cost paid by the transferor or donor.
5613 The value of property which has been used in another state shall
5614 be determined by its cost less straight line depreciation provided
5615 that value shall never be less than twenty percent (20%) of the
5616 cost or other method acceptable to the commissioner. On property
5617 imported by the manufacturer thereof for rental or lease within
5618 this state, value shall be the manufactured cost of the property
5619 and freight to the place of use in Mississippi.

5620 (i) "Tangible personal property" means personal
5621 property perceptible to the human senses or by chemical analysis,
5622 as opposed to real property or intangibles. "Tangible personal
5623 property" shall include printed, mimeographed, multigraphed
5624 matter, or material reproduced in any other manner, and books,
5625 catalogs, manuals, publications or similar documents covering the



5626 services of collecting, compiling or analyzing information of any
5627 kind or nature. However, reports representing the work of persons
5628 such as lawyers, accountants, engineers and similar professionals
5629 shall not be included. "Tangible personal property" shall also
5630 include tangible advertising or sales promotion materials such as,
5631 but not limited to, displays, brochures, signs, catalogs, price
5632 lists, point of sale advertising materials and technical manuals.
5633 Tangible personal property shall also include computer software
5634 programs.

5635 (j) "Person doing business in this state," "person
5636 maintaining a place of business within this state," or any similar
5637 term means any person having within this state an office, a
5638 distribution house, a salesroom or house, a warehouse, or any
5639 other place of business, or owning personal property located in
5640 this state used by another person, or installing personal property
5641 in this state. This definition also includes any person selling
5642 or taking orders for any tangible personal property, either
5643 personally, by mail or through an employee representative,
5644 salesman, commission agent, canvasser, solicitor or independent
5645 contractor or by any other means from within the state.

5646 Any person doing business under the terms of the article by
5647 reason of coming under any one or more of the qualifying
5648 provisions listed above shall be considered as doing business on
5649 all transactions involving sales to persons within this state.

5650 (k) "Use" or "consumption" means the first use or
5651 intended use within this state of tangible personal property and
5652 shall include rental or loan by owners or use by lessees or other
5653 persons receiving benefits from use of the property. "Use" or
5654 "consumption" shall include the benefit realized or to be realized
5655 by persons importing or causing to be imported into this state
5656 tangible advertising or sales promotion materials.

5657 (l) "Storage" means keeping tangible personal property
5658 in this state for subsequent use or consumption in this state.



5659 **SECTION 108.** Section 27-67-503, Mississippi Code of 1972, is
5660 amended as follows:

5661 27-67-503. Whenever used in this article, the following
5662 words and terms shall have the definition and meaning herein
5663 prescribed unless the intention of giving a more limited meaning
5664 is disclosed by the context:

5665 (a) "Tax commission" or "department" shall mean the
5666 Department of Revenue of the State of Mississippi.

5667 (b) "Commissioner" shall mean the Commissioner of
5668 Revenue of the Department of Revenue.

5669 (c) "Person" shall include a natural person, firm,
5670 corporation, copartnership, joint venture, association, estate or
5671 any other group or combination acting as a unit and the plural as
5672 well as the singular thereof.

5673 (d) "Taxpayer" shall mean any person liable for the tax
5674 hereunder.

5675 (e) "Sale" or "purchase" shall include the barter or
5676 exchange of properties as well as the sale or purchase thereof for
5677 money, and every closed transaction by which the title to tangible
5678 property passes, either within or without this state, shall
5679 constitute a taxable event, whether compensation shall be money or
5680 service or some other thing of value.

5681 (f) "Purchase price" or "sales price" shall mean the
5682 total amount for which tangible personal property is purchased or
5683 sold, valued in money, whether paid in money or merchandise;
5684 provided that cash discounts allowed and taken shall not be
5685 included.

5686 (g) "Tangible personal property" shall mean tangible
5687 goods, wares and merchandise when sold, purchased or delivered
5688 within this state.

5689 (h) "Salesman" or "salesmen" shall mean and include any
5690 and all persons engaged in the itinerant solicitation and taking
5691 of orders for tangible personal property by use of the highways of



5692 this state for subsequent delivery to retailers or consumers
5693 within this state.

5694 **SECTION 109.** Section 27-68-3, Mississippi Code of 1972, is
5695 amended as follows:

5696 27-68-3. As used in this chapter:

5697 (a) "Agreement" means the Streamlined Sales and Use Tax
5698 Agreement.

5699 (b) "Certified Automated System" means software
5700 certified jointly by the states that are signatories to the
5701 agreement to calculate the tax imposed by each jurisdiction on a
5702 transaction, determine the amount of tax to remit to the
5703 appropriate state, and maintain a record of the transaction.

5704 (c) "Certified Service Provider" means an agent
5705 certified jointly by the states that are signatories to the
5706 agreement to perform all of the seller's sales tax functions.

5707 (d) "Person" means an individual, trust, estate,
5708 fiduciary, partnership, limited liability company, limited
5709 liability partnership, corporation, or any other legal entity.

5710 (e) "Sales tax" means the tax levied under Chapter 65,
5711 Title 27, Mississippi Code of 1972.

5712 (f) "Seller" means any person making sales, leases, or
5713 rentals of personal property or services.

5714 (g) "State" means any state of the United States and
5715 the District of Columbia.

5716 (h) "State Tax Commission" or "department" means the
5717 Department of Revenue.

5718 (i) "Use tax" means the tax levied under Chapter 67,
5719 Title 27, Mississippi Code of 1972.

5720 **SECTION 110.** Section 27-69-3, Mississippi Code of 1972, is
5721 amended as follows:

5722 27-69-3. When used in this chapter:



5723 (a) "State" means the State of Mississippi as
5724 geographically defined, and any and all waters under the
5725 jurisdiction of the State of Mississippi.

5726 (b) "State Auditor" means the Auditor of Public
5727 Accounts of the State of Mississippi, or his legally appointed
5728 deputy, clerk or agent.

5729 (c) "Commissioner" means the Commissioner of Revenue of
5730 the Department of Revenue, and his authorized agents and
5731 employees.

5732 (d) "Person" means any individual, company,
5733 corporation, partnership, association, joint venture, estate,
5734 trust, or any other group, or combination acting as a unit, and
5735 the plural as well as the singular, unless the intention to give a
5736 more limited meaning is disclosed by the context.

5737 (e) "Consumer" means a person who comes into possession
5738 of tobacco for the purpose of consuming it, giving it away, or
5739 disposing of it in any way by sale, barter or exchange.

5740 (f) "Tobacco" means any cigarettes, cigars, cheroots,
5741 stogies, smoking tobacco (including granulated, plug cut, crimp
5742 cut, ready rubbed, and other kinds and forms of tobacco, or
5743 substitutes therefor, prepared in such manner as to be suitable
5744 for smoking in a pipe or cigarette) and including plug and twist
5745 chewing tobacco and snuff, when such "tobacco" is manufactured and
5746 prepared for sale or personal consumption. All words used herein
5747 shall be given the meaning as defined in the regulations of the
5748 Treasury Department of the United States of America.

5749 (g) "First sale" means and includes the first sale, or
5750 distribution of such tobacco in intrastate commerce, or the first
5751 use or consumption of such tobacco within this state.

5752 (h) "Drop shipment" means and includes any delivery of
5753 tobacco received by any person within this state, when payment for
5754 such tobacco is made to the shipper, or seller by or through a
5755 person other than a consignee.



5756 (i) "Distributor" includes every person, except
5757 retailers as defined herein, in the state who manufactures or
5758 produces tobacco or who ships, transports, or imports into this
5759 state, or in any manner acquires or possesses tobacco, and makes a
5760 first sale of the same in the state.

5761 (j) "Wholesaler" includes dealers, whose principal
5762 business is that of a wholesale dealer or jobber, who is known to
5763 the retail trade as such, and whose place of business is located
5764 in Mississippi or in a state which affords reciprocity to
5765 wholesalers domiciled in Mississippi, who shall sell any taxable
5766 tobacco to retail dealers only for the purpose of resale.

5767 (k) "Retailer" includes every person, other than a
5768 wholesale dealer, as defined above, whose principal business is
5769 that of selling merchandise at retail, who shall sell, or offer
5770 for sale tobacco to the consumer. The sale of tobacco in quantity
5771 lots by retailers to other retailers, transient vendors, or other
5772 persons, shall not be construed as wholesale and shall not qualify
5773 such retailer for a permit as a wholesaler.

5774 (l) "Dealer" includes every person, firm, corporation
5775 or association of persons, except retailers as defined herein, who
5776 manufacture tobacco for distribution, for sale, for use or for
5777 consumption in the State of Mississippi.

5778 The word "dealer" is further defined to mean any person,
5779 firm, corporation or association of persons, except retailers as
5780 defined herein, who imports tobacco from any state or foreign
5781 country for distribution, sale, use, or consumption in the State
5782 of Mississippi.

5783 (m) "Distributing agent" includes every person in the
5784 state who acts as an agent of any person outside the State of
5785 Mississippi, by receiving tobacco in interstate commerce, and
5786 storing such tobacco in this state subject to distribution, or
5787 delivery upon order from the person outside the state to
5788 distributors, wholesalers, retailers and dealers.



5789 (n) "Transient vendor" means and includes every person
5790 commonly and generally termed "peddlers" and every person acting
5791 for himself, or as an agent, employee, salesman, or in any
5792 capacity for another, whether as owner, bailee, or other custodian
5793 of tobacco, and going from person to person, dealer to dealer,
5794 house to house, or place to place, and selling or offering for
5795 sale at retail or wholesale tobacco, and every person who does not
5796 keep a regular place of business open at all times in regular
5797 hours, and every person who goes from person to person, dealer to
5798 dealer, house to house, or place to place, and sells or offers for
5799 sale tobacco which he carries with him, and who delivers the same
5800 at the time of, or immediately after the sale, or without
5801 returning to the place of business operations (a permanent place
5802 of business within the state) between the taking of the order and
5803 the delivery of the tobacco, or

5804 All persons who go from person to person, house to house,
5805 place to place, or dealer to dealer, soliciting orders by
5806 exhibiting samples, or taking orders, and thereafter making
5807 delivery of tobacco, or filling the order without carrying or
5808 sending the order to the permanent place of business, and
5809 thereafter making delivery of the tobacco pursuant to the terms of
5810 the order, or

5811 All persons who go from person to person, place to place,
5812 house to house, or dealer to dealer, carrying samples and selling
5813 tobacco from samples, and afterwards making delivery without
5814 taking and sending an order therefor to a permanent place of
5815 business for the filling of the order, and delivery of the
5816 tobacco, or the exchange of tobacco having become damaged or
5817 unsalable, or the purchase by tobacco of advertising space, or

5818 All persons who have in their possession, or under their
5819 control, any tobacco offered, or to be offered for sale or to be
5820 delivered, unless the sale or delivery thereof is to be made in



5821 pursuance of a bona fide order for the tobacco, to be sold or
5822 delivered, the order to be evidenced by an invoice or memorandum.

5823 (o) "Contraband tobacco" means all tobacco found in the
5824 possession of any person whose permit to engage in dealing in
5825 tobacco has been revoked by the commissioner; and any cigarettes
5826 found in the possession of any person to which the proper tax
5827 stamps have not been affixed; and any cigarettes improperly
5828 stamped when found in the possession of any person; and all other
5829 tobacco upon which the excise tax has not been paid.

5830 (p) "Sale" means an exchange for money or goods, giving
5831 away, or distributing any tobacco as defined in this chapter.

5832 (q) "Forty-eight (48) hours" and "seventy-two (72)
5833 hours" means two (2) calendar days and three (3) calendar days,
5834 respectively, excluding Sundays and legal holidays.

5835 (r) "Stamp" or "stamping," or the import of such word,
5836 when used in this chapter, means any manner of stamp or impression
5837 permitted by the commissioner that carries out the purposes of the
5838 chapter in clearly indicating upon the packages of cigarettes
5839 taxed the due payment of the tax and clearly identifying, by
5840 serial number or otherwise, the permittee who affixed the stamp to
5841 the particular package.

5842 (s) "Manufacturer's list price" means the full sales
5843 price at which tobacco is sold or offered for sale by a
5844 manufacturer to the wholesaler or distributor in this state
5845 without any deduction for freight, trade discount, cash discounts,
5846 special discounts or deals, cash rebates, or any other reduction
5847 from the regular selling price. In the event freight charges on
5848 shipments to wholesalers or distributors are not paid by the
5849 manufacturer, then such freight charges required to be paid by the
5850 wholesalers and distributors shall be added to the amount paid to
5851 the manufacturer in order to determine "manufacturer's list
5852 price." In the case of a wholesaler or distributor whose place of
5853 business is located outside this state, the "manufacturer's list



5854 price" for tobacco sold in this state by such wholesaler or
5855 distributor shall in all cases be considered to be the same as
5856 that of a wholesaler or distributor located within this state.

5857 **SECTION 111.** Section 27-71-1, Mississippi Code of 1972, is
5858 amended as follows:

5859 27-71-1. This article and the terms and provisions hereof
5860 shall be administered and enforced by the Department of Revenue,
5861 hereinafter referred to as the "State Tax Commission," the
5862 "commission" or the "department".

5863 **SECTION 112.** Section 27-71-301, Mississippi Code of 1972, is
5864 amended as follows:

5865 27-71-301. When used in this article the words and terms
5866 hereafter mentioned shall have the following definitions:

5867 (a) "State Auditor" means the State Auditor of Public
5868 Accounts of the State of Mississippi or any legally appointed
5869 deputy, clerk or agent.

5870 (b) "Person" includes all natural persons or
5871 corporations, a partnership, an association, a joint venture, an
5872 estate, a trust, or any other group or combination acting as a
5873 unit and shall include the plural as well as the singular unless
5874 an intention to give another meaning thereto is disclosed in the
5875 context.

5876 (c) "Consumer" means a person who comes into the
5877 possession of beer or light wine, the sale of which is authorized
5878 by Chapter 3 of Title 67, Mississippi Code of 1972, for the
5879 purpose of consuming it, giving it away or otherwise disposing of
5880 it in any manner except by sale, barter or exchange.

5881 (d) "Retailer" means any person who comes into the
5882 possession of such light wines or beer for the purpose of selling
5883 it to the consumer, or giving it away, or exposing it where it may
5884 be taken or purchased or acquired in any other manner by the
5885 consumer.



5886 (e) "Wholesaler" means any person who comes into
5887 possession of such light wine or beer for the purpose of selling,
5888 distributing, or giving it away to retailers or other wholesalers
5889 or dealers inside or outside of this state.

5890 (f) "Commissioner" means the Commissioner of Revenue of
5891 the Department of Revenue or his duly appointed agents or
5892 employees.

5893 (g) "Sale" includes the exchange of such light wines or
5894 beer for money, or giving away or distributing any such light
5895 wines or beer for anything of value.

5896 (h) "Light wines or beer" means beer and light wines
5897 legalized for sale by the provisions of Chapter 3 of Title 67,
5898 Mississippi Code of 1972.

5899 (i) "Distributor" includes every person who receives
5900 either from within or from without this state, from a brewery, a
5901 winery or any other source, light wines or beer as defined in
5902 Chapter 3 of Title 67, Mississippi Code of 1972, for the purpose
5903 of distributing or otherwise disposing of such light wines or beer
5904 to a wholesaler or retailer of such light wines or beer.

5905 (j) "Brewpub" means the premises of any restaurant, as
5906 defined in Section 67-1-5, Mississippi Code of 1972, in which
5907 light wine or beer is manufactured or brewed, subject to the
5908 production limitation imposed in Section 67-3-22, for consumption
5909 exclusively on the premises. "Premises," for the purpose of this
5910 paragraph (j) for a brewpub operated by a hospitality operator,
5911 means only those areas immediately adjacent and connected to the
5912 brewing facility where food is normally sold and consumed.
5913 "Premises," for the purposes of this paragraph (j) for a brewpub
5914 not operated by a hospitality operator, means those areas normally
5915 used by the brewpub to conduct business and shall include the
5916 selling areas, brewing areas and storage areas. For purposes of
5917 this paragraph (j), hospitality operator shall have the meaning
5918 ascribed to such term in Section 67-33-22.



5919 (k) "Hospitality cart" means a mobile cart from which
5920 alcoholic beverages and light wine and beer are sold on a golf
5921 course and for which a hospitality cart permit has been issued
5922 under Section 67-1-51.

5923 **SECTION 113.** Section 27-77-1, Mississippi Code of 1972, is
5924 amended as follows:

5925 27-77-1. As used in this chapter:

5926 (a) "Agency" means the commissioner acting directly or
5927 through his duly authorized officers, agents, representatives and
5928 employees, to perform duties and powers prescribed by the laws of
5929 this state to be performed by the * * * Commissioner of Revenue or
5930 the Department of Revenue * * *.

5931 (b) "Board of review" means the board of review of the
5932 Department of Revenue as appointed by the commissioner under
5933 Section 27-77-3, and also means a panel of the board of review
5934 when an appeal is considered by a panel of the board of review
5935 instead of the board of review en banc.

5936 (c) "Board of Tax Appeals" means the Board of Tax
5937 Appeals as created under Section 1 of this act * * *.

5938 (d) "Chairman" means the Chairman of the Board of Tax
5939 Appeals.

5940 (e) "Commissioner" means the Commissioner of the
5941 Department of Revenue.

5942 (f) "Denial" means the final decision of the staff of
5943 the agency to deny the claim, request for waiver or application
5944 being considered. In this context, staff of the agency does not
5945 include the board of review or the Board of Tax Appeals. "Denial"
5946 does not mean the act of returning or refusing to consider a
5947 claim, request for waiver or application for permit, IFTA license,
5948 title or tag by the staff of the agency due to a lack of
5949 information and/or documentation unless the return or refusal is
5950 in response to a representation by the person who filed the claim,
5951 request for waiver or application in issue that information and/or



5952 documentation indicated by the staff of the agency to be lacking
5953 cannot or will not be provided.

5954 (g) "Designated representative" means an individual who
5955 represents a person in an administrative appeal before a hearing
5956 officer of the agency, before the board of review or before the
5957 Board of Tax Appeals.

5958 (h) "Executive director" means the Executive Director
5959 of the Board of Tax Appeals.

5960 (i) "IFTA license" means a permit, license or decal
5961 which the agency is authorized to issue or revoke under the
5962 Interstate Commercial Carriers Motor Fuel Tax Law (Section 27-61-1
5963 et seq.) or the International Fuel Tax Agreement.

5964 (j) "IFTA licensee" means a person holding the IFTA
5965 license, applying for an IFTA license or renewing an IFTA license.

5966 (k) "Last known address" when referring to the mailing
5967 of a notice of intent to suspend, revoke or to order the surrender
5968 and/or seizure of the permit, IFTA license, tag or title or to the
5969 mailing of a denial of permit, tag or title, means the last
5970 mailing address of the person being sent the notice as it appears
5971 on the record of the agency in regard to the permit, IFTA license,
5972 tag or title in issue. All other references to "last known
5973 address" in this chapter mean the official mailing address that
5974 the hearing officer, the board of review or the executive director
5975 has for the addressee in their file on the administrative appeal
5976 in which the document or item is being mailed to the addressee.
5977 The addressee is presumed to have received any document or item
5978 mailed to his official mailing address. The commissioner, by
5979 regulation, shall prescribe the procedure for establishing an
5980 official mailing address in the administrative appeal process for
5981 appeals before an administrative hearing officer or the Board of
5982 Review of the Department of Revenue and the procedure for changing
5983 that official mailing address. The Board of Tax Appeals, by
5984 regulation, shall prescribe the procedure for establishing an



5985 official mailing address in the administrative appeal process
5986 before that board and the procedure for changing that official
5987 mailing address. It is the responsibility of the addressee to
5988 make sure that his official mailing address is correct.

5989 (l) "Mail," "mailed" or "mailing" means placing the
5990 document or item referred to in first-class United States mail,
5991 postage prepaid, addressed to the person to whom the document or
5992 item is to be sent at the last known address of that person.
5993 Where a person is represented in an administrative appeal before a
5994 hearing officer, the board of review or the Board of Tax Appeals
5995 by a designated representative, the terms "mail," "mailed" or
5996 "mailing" when referring to sending a document or item to that
5997 person shall also mean placing the document or item referred to in
5998 first-class United States mail, postage prepaid, to the last known
5999 address of that person's designated representative. Mailing to
6000 the designated representative of a taxpayer, permittee, IFTA
6001 licensee, tag holder or title interest holder shall constitute
6002 mailing and notice to the taxpayer, permittee, IFTA licensee, tag
6003 holder or title interest holder.

6004 (m) "Permit" means a type of license or permit that the
6005 agency is authorized to issue, suspend or revoke, such as a sales
6006 tax permit, a beer permit, a tobacco permit, a dealer license, or
6007 designated agent status, but does not include:

6008 (i) Any type of permit issued under the Local
6009 Option Alcoholic Beverage Control Law, Section 67-1-1 et seq. or
6010 under the Mississippi Native Wine Law of 1976, Section 67-5-1 et
6011 seq.; or

6012 (ii) An IFTA license.

6013 (n) "Permittee" means a person holding a permit,
6014 applying for a permit or renewing a permit.

6015 (o) "Person" means a natural person, partnership,
6016 limited partnership, corporation, limited liability company,
6017 estate, trust, association, joint venture, other legal entity or



6018 other group or combination acting as a unit, and includes the
6019 plural as well as the singular in number. "Person" includes the
6020 state, county, municipal, other political subdivision and any
6021 agency, institution or instrumentality thereof, but only when used
6022 in the context of a taxpayer, permittee, IFTA license, tag holder
6023 or title interest holder.

6024 (p) "Refund claim" means a claim made in writing by a
6025 taxpayer and received by the agency wherein the taxpayer indicates
6026 that he overpaid taxes to the agency and requests a refund of the
6027 overpayment and/or a credit against current or future taxes for
6028 the overpayment.

6029 (q) "Resident," when used to describe a taxpayer or
6030 petitioner, means a natural person whose residence and place of
6031 abode is within the State of Mississippi.

6032 (r) "Tag" means a type of license tag or plate for a
6033 motor vehicle or trailer that the agency is authorized under the
6034 Mississippi Motor Vehicle Privilege Tax Law, Section 27-19-1 et
6035 seq., or under the Motor Vehicle Dealer Tag Permit Law, Section
6036 27-19-301 et seq., to issue or approve before issuance, but does
6037 not include other types of license tags or plates issued by the
6038 county tax collectors except for personalized license tags and
6039 only to the extent that the agency determines under Section
6040 27-19-48 that a personalized license tag applied for is considered
6041 obscene, slandering, insulting or vulgar in ordinary usage or
6042 demands the surrender or orders the seizure of the tag where
6043 issued in error.

6044 (s) "Tag holder" means the person in whose name a tag
6045 is registered or the person applying for a tag.

6046 (t) "Tag penalty" means the penalties imposed under
6047 Sections 27-19-63 and 27-51-43 for any delinquency in the payment
6048 of motor vehicle privilege tax and ad valorem tax on a motor
6049 vehicle which can be waived by the agency for good reason shown.
6050 Pursuant to Section 27-51-103, imposition of this ad valorem tag



6051 penalty at the maximum rate of twenty-five percent (25%) also
6052 results in ineligibility for the credit against motor vehicle ad
6053 valorem taxes provided by that statute. Waiver of the twenty-five
6054 percent (25%) delinquency penalty by the agency under Section
6055 27-51-43 shall reinstate credit eligibility.

6056 (u) "Tax" means a tax, fee, penalty and/or interest
6057 which the agency is required by either general law or by local and
6058 private law to administer, assess and collect.

6059 (v) "Taxpayer" means a person who is liable for or paid
6060 any tax to the agency.

6061 (w) "Title" means a title to a motor vehicle or
6062 manufactured housing issued by the agency under the Mississippi
6063 Motor Vehicle Title Law, Section 63-21-1 et seq.

6064 (x) "Title interest holder" shall mean the owner or
6065 lienholder in a motor vehicle or manufactured housing as indicated
6066 on a title issued by the agency or as indicated on an application
6067 to the agency for the issuance of a title.

6068 **SECTION 114.** Section 27-77-5, Mississippi Code of 1972, is
6069 amended as follows:

6070 27-77-5. (1) Any taxpayer aggrieved by an assessment of tax
6071 by the agency, by the agency's denial of a refund claim, or by the
6072 denial of a waiver of tag penalty, and who wishes to contest the
6073 action of the agency shall, within sixty (60) days from the date
6074 of the action, file an appeal in writing with the board of review
6075 requesting a hearing and correction of the contested action
6076 specifying in detail the relief requested and any other
6077 information that might be required by regulation. Even after an
6078 appeal is filed with the board of review, the agency retains the
6079 authority to change the assessment, the denial of refund claim or
6080 the denial of tag penalty being appealed.

6081 (2) Upon receipt of a timely written appeal from a tax
6082 assessment, refund claim denial or denial of waiver of a tag
6083 penalty, a hearing shall be scheduled before the board of review



6084 unless it is determined that the relief requested in the written
6085 appeal should be granted without a hearing. A notice of the
6086 hearing shall be mailed to the taxpayer advising the taxpayer of
6087 the date, time and location of the hearing. The taxpayer or his
6088 designated representative shall attend the hearing unless a
6089 request is made to, and granted by, the board of review to allow
6090 the taxpayer to submit his position in writing or by electronic
6091 transmission in lieu of attendance. Failure of the taxpayer or
6092 his designated representative to attend a hearing or to submit his
6093 position in writing or by electronic transmission by the date
6094 specified by the board of review or by the hearing date, if no
6095 date was specified, shall constitute a withdrawal of the appeal.

6096 (3) At a hearing before the board of review on a tax
6097 assessment, denial of refund claim, or denial of waiver of a tag
6098 penalty, the board of review shall try the issues presented,
6099 according to law and the facts and within the guidelines
6100 established by regulation. The hearing before the board of review
6101 shall be informal and no official transcript will be made of the
6102 hearing. At the earliest practical date after the hearing, the
6103 members of the board of review that heard the appeal shall make a
6104 determination on the matter presented and notify the taxpayer of
6105 its findings by mailing a copy of its order to the taxpayer. If
6106 the order involves the appeal of a denial of a waiver of tag
6107 penalty, a copy of the order shall also be mailed to the tax
6108 collector that imposed the penalty. If in the order the board of
6109 review orders the taxpayer to pay a tax assessment, the taxpayer
6110 shall, within sixty (60) days from the date of the order, pay the
6111 amount ordered to be paid or appeal the order of the board of
6112 review to the Board of Tax Appeals. After the sixty-day period,
6113 if an appeal is not filed by the taxpayer with the Executive
6114 Director of the Board of Tax Appeals and the tax determined by the
6115 board of review * * * is not paid * * *, the agency shall proceed



6116 to collect the tax assessment as determined by the board of
6117 review.

6118 (4) Any taxpayer aggrieved by an order of the board of
6119 review affirming a tax assessment, the denial of a refund claim,
6120 or the denial of a waiver of tag penalty, and who wishes to
6121 contest the order shall, within sixty (60) days from the date of
6122 the order of the board of review being contested, file an appeal
6123 to the Board of Tax Appeals. The appeal shall be in writing and
6124 shall request a hearing and reversal or modification of the order
6125 of the board of review, specify in detail the relief requested and
6126 contain any other information that might be required by
6127 regulation, and be filed with the executive director. At the time
6128 of filing his appeal with the executive director, the taxpayer
6129 shall also file a copy of his written appeal with the board of
6130 review. Even after an appeal is filed with the Executive Director
6131 of the Board of Tax Appeals, the board of review retains the
6132 authority to amend and/or correct the order being appealed at any
6133 time prior to a decision by the Board of Tax Appeals on the
6134 appeal. Failure to timely file a written appeal with the
6135 executive director within the sixty-day period shall make the
6136 order of the board of review final and not subject to further
6137 review by the Board of Tax Appeals or a court, other than as to
6138 the issue of whether a written appeal from the order of the board
6139 of review was timely filed with the executive director.

6140 (5) Upon receipt of a written appeal from an order of the
6141 board of review affirming a tax assessment, refund claim denial or
6142 denial of waiver of a tag penalty, the executive director shall
6143 schedule a hearing before the Board of Tax Appeals on the appeal.
6144 A notice of this hearing shall be mailed to the taxpayer and the
6145 agency advising them of the date, time and location of hearing.
6146 The taxpayer or his designated representative shall attend the
6147 hearing unless a request is made to and granted by the Executive
6148 Director of the Board of Tax Appeals to allow the taxpayer to



6149 submit his position in writing or by electronic transmission in
6150 lieu of attendance. Failure of the taxpayer or his designated
6151 representative to attend a hearing or to submit his position in
6152 writing or by electronic transmission by the date specified by the
6153 executive director or by the hearing date, if no date was
6154 specified, shall constitute a withdrawal of the appeal.

6155 (6) At any hearing before the Board of Tax Appeals on an
6156 appeal of an order of the board of review affirming a tax
6157 assessment, refund claim denial or denial of waiver of a tag
6158 penalty, two (2) members of the Board of Tax Appeals shall
6159 constitute a quorum. At the hearing, the Board of Tax Appeals
6160 shall try the issues presented, according to the law and the facts
6161 and pursuant to any guidelines established by regulation. The
6162 rules of evidence shall be relaxed at the hearing. Any appeal to
6163 chancery court from an order of the Board of Tax Appeals resulting
6164 from this type of hearing shall include a full evidentiary
6165 judicial hearing on the issues presented. No official transcript
6166 shall be made of this hearing before the Board of Tax Appeals.
6167 After reaching a decision on the issues presented, the Board of
6168 Tax Appeals shall enter its order setting forth its findings and
6169 decision on the appeal. A copy of the order of the Board of Tax
6170 Appeals shall be mailed to the taxpayer and the agency. If the
6171 order involves an appeal of a denial of a waiver of tag penalty, a
6172 copy of the order shall also be mailed to the tax collector that
6173 imposed the penalty.

6174 (7) If in its order the Board of Tax Appeals orders a
6175 taxpayer to pay a tax assessment, the taxpayer shall, within sixty
6176 (60) days from the date of the order, pay the amount ordered to be
6177 paid or properly appeal the order of the Board of Tax Appeals to
6178 chancery court as provided in Section 27-77-7. After the
6179 sixty-day period, if the tax determined by the Board of Tax
6180 Appeals to be due is not paid and an appeal from the Board of Tax
6181 Appeals order has not been properly filed, the agency shall



6182 proceed to collect the tax assessment as affirmed by the Board of
6183 Tax Appeals. If in its order the Board of Tax Appeals determines
6184 that the taxpayer has overpaid his taxes and an appeal from the
6185 board of review order has not been properly filed in chancery
6186 court, the agency shall refund or credit to the taxpayer, as
6187 provided by law, the amount of overpayment as determined and set
6188 out in the order.

6189 (8) At any time after the filing of an appeal to the board
6190 of review or from the board of review to the Board of Tax Appeals
6191 under this section, an appeal can be withdrawn. Such a withdrawal
6192 of an appeal may be made voluntarily by the taxpayer or may occur
6193 involuntarily as a result of the taxpayer failing to appear at a
6194 scheduled hearing, failing to make a written submission or
6195 electronic transmission in lieu of attendance at a hearing by the
6196 date specified or by the hearing date, if no date was specified,
6197 or by any other act or failure that the board of review or the
6198 Board of Tax Appeals determines represents a failure on the part
6199 of the taxpayer to prosecute his appeal. Any voluntary withdrawal
6200 shall be in writing or by electronic transmission and sent by the
6201 taxpayer or his designated representative to the chairman of the
6202 board of review, if the appeal being withdrawn is to the board of
6203 review, or to the executive director, if the appeal being
6204 withdrawn is to the Board of Tax Appeals. If the withdrawal of
6205 appeal is involuntary, the administrative appeal body from whom
6206 the appeal is being withdrawn shall note on its minutes the
6207 involuntary withdrawal of the appeal and the basis for the
6208 withdrawal. Once an appeal is withdrawn, whether voluntary or
6209 involuntary, the action from which the appeal was taken, whether a
6210 tax assessment, a denial of refund claim, a denial of waiver of
6211 tax penalty, or an order of the board of review, shall become
6212 final and not subject to further review by the board of review,
6213 the Board of Tax Appeals or a court. The agency shall then
6214 proceed in accordance with law based on such final action.



6215 (9) Nothing in this section shall bar a taxpayer from timely
6216 applying to the commissioner as otherwise provided by law for a
6217 tax refund or for a revision in tax.

6218 **SECTION 115.** Section 27-77-7, Mississippi Code of 1972, is
6219 amended as follows:

6220 27-77-7. (1) The findings and order of the Board of Tax
6221 Appeals entered under Section 27-77-5 shall be final unless the
6222 agency or the taxpayer shall, within sixty (60) days from the date
6223 of the order, file a petition in the chancery court appealing the
6224 order * * * . If the petition under this subsection is filed by
6225 the taxpayer, the petition shall be filed against the Department
6226 of Revenue as respondent. If the petition under this subsection
6227 is filed by the agency, the petition shall be filed against the
6228 taxpayer as respondent. The petition * * * shall contain a
6229 concise statement of the facts as contended by the petitioner,
6230 identify the order from which the appeal is being taken and set
6231 out the type of relief sought. If in the action, the taxpayer is
6232 seeking a refund or credit for an alleged overpayment of tax or
6233 for taxes paid in protest under subsection (3) of this section,
6234 the taxpayer shall allege in the petition or in his answer, where
6235 the appeal is filed by the agency, that he alone bore the burden
6236 of the tax sought to be refunded or credited and did not directly
6237 or indirectly collect the tax from anyone else. The respondent to
6238 the petition has thirty (30) days from the date of service of the
6239 petition to file a cross-appeal.

6240 (2) A petition under subsection (1) of this section shall be
6241 filed in the chancery court of the county or judicial district in
6242 which the taxpayer has a place of business or in the Chancery
6243 Court of the First Judicial District of Hinds County, Mississippi;
6244 however, a resident taxpayer may file the petition in the chancery
6245 court of the county or judicial district in which he is a
6246 resident. If both the agency and the taxpayer file a petition
6247 under subsection (1) of this section, the appeals shall be



6248 consolidated and the chancery court where the first petition was
6249 filed shall have jurisdiction over the consolidated appeal. If it
6250 cannot be determined which petition was filed first, the chancery
6251 court where the taxpayer filed his petition shall have
6252 jurisdiction over the consolidated appeal.

6253 (3) A petition filed by a taxpayer under subsection (1) of
6254 this section that appeals an order of the Board of Tax Appeals
6255 affirming a tax assessment shall be accompanied by a surety bond
6256 approved by the clerk of the court in a sum half the amount in
6257 controversy, conditioned to pay the judgment of the court. The
6258 clerk shall not approve a bond unless the bond is issued by a
6259 surety company qualified to write surety bonds in this state. As
6260 an alternative to the posting of bond, a taxpayer appealing an
6261 order of the Board of Tax Appeals affirming a tax assessment may,
6262 prior to the filing of the petition, pay to the agency, under
6263 protest, the amount ordered by the Board of Tax Appeals to be paid
6264 and seek a refund of such taxes, plus interest thereon, in the
6265 appeal. The taxpayer shall pay to the agency any tax included in
6266 the assessment which he is not contesting. If the petition
6267 initiating the appeal is filed by the taxpayer, the payment of the
6268 uncontested tax shall be made prior to the expiration of the
6269 sixty-day time period for filing a petition under subsection (1)
6270 of this section. If the petition initiating the appeal is filed
6271 by the agency, the payment of the uncontested tax shall be made
6272 prior to the expiration of the thirty-day time period for the
6273 filing of an answer or other response to the petition as provided
6274 in subsection (5) of this section. Failure of the taxpayer to
6275 timely pay the uncontested tax shall bar the taxpayer from
6276 obtaining a reduction, abatement and/or refund of any contested
6277 tax in the appeal and shall result in the taxpayer's appeal or
6278 cross-appeal being dismissed with prejudice and with judgment
6279 being entered granting the agency the relief it requested.



6280 (4) In an action under this section resulting from an order
6281 of the Board of Tax Appeals involving a refund claim denial, the
6282 agency shall refund or credit to the taxpayer, as provided by law,
6283 the amount of any overpayment included in the refund claim which
6284 the agency does not contest. If the petition initiating the
6285 appeal is filed by the agency, the process by which such
6286 uncontested overpayment shall be paid or credited to the taxpayer
6287 shall be begun prior to the expiration of the sixty-day time
6288 period for filing a petition under subsection (1) of this section.
6289 If the petition initiating the appeal is filed by the taxpayer,
6290 the process by which such uncontested overpayment shall be paid or
6291 credited to the taxpayer shall be begun prior to the expiration of
6292 the thirty-day time period for the filing of an answer or other
6293 response to the petition as provided in subsection (5) of this
6294 section. Failure of the agency to timely begin the process of
6295 paying or crediting the uncontested overpayment to the taxpayer
6296 shall bar the agency from obtaining an affirmation, in whole or in
6297 part, of the refund claim denial in issue and shall result in the
6298 agency's appeal or cross-appeal being dismissed with prejudice and
6299 judgment being entered granting the taxpayer the relief he
6300 requested, excluding however any request for the awarding of
6301 attorney fees.

6302 (5) Upon the filing of the petition under subsection (1) of
6303 this section, the clerk of the court shall issue a summons to the
6304 respondent requiring the respondent to answer or otherwise respond
6305 to the petition within thirty (30) days of service. Where the
6306 agency is the respondent, the summons shall be served on the
6307 agency by personal service on the commissioner as the chief
6308 executive officer of the agency. The chancery court in which a
6309 petition under subsection (1) of this section is properly filed
6310 shall have jurisdiction to hear and determine the cause or issues
6311 joined as in other cases. In any petition, cross-appeal or answer
6312 in which the taxpayer is seeking a refund or credit for an alleged



6313 overpayment of tax or for taxes paid under protest under
6314 subsection (3) of this section, the taxpayer shall prove by a
6315 preponderance of the evidence that he alone bore the burden of the
6316 tax sought to be refunded or credited and did not directly or
6317 indirectly collect the tax from anyone else. At trial of any
6318 action brought under this section, the chancery court shall give
6319 deference to the decision and interpretation of law and
6320 regulations by the Department of Revenue as it does with the
6321 decisions and interpretation of any administrative agency, but it
6322 shall try the case de novo and conduct a full evidentiary judicial
6323 hearing on the issues raised. At the trial de novo of any action
6324 brought under this section, there is a presumption that the action
6325 of the agency is correct and the burden is upon the taxpayer to
6326 prove by a preponderance of the evidence or a higher standard if
6327 required by the issues raised, that the action taken by the agency
6328 was incorrect or invalid and should be reversed or modified. The
6329 chancery court shall decide all questions presented, including
6330 those as to legality and the amount of tax or refund due, and if
6331 it finds that the tax assessment or denial of refund claim in
6332 issue is incorrect or invalid, in whole or in part, it shall
6333 determine the amount of tax or refund due, including interest and,
6334 if applicable, penalty to date, and enter such order or judgment
6335 as it deems proper. Interest and penalty included in this
6336 determination shall be computed by the court based on the methods
6337 for computing penalty and interest as specified by law for the
6338 type of tax in issue. When the chancery court determines that an
6339 overpayment exists, the determination as to whether such
6340 overpayment shall be refunded to the taxpayer or credited against
6341 the taxpayer's future taxes shall be made by the chancery court
6342 based on the method for handling overpayments as specified by the
6343 law for the type of tax in issue. Either the agency or the
6344 taxpayer, or both, shall have the right to appeal from the order
6345 of the chancery court to the Supreme Court as in other cases. If



6346 an appeal is taken from the order of the chancery court, the bond
6347 provided for in subsection (3) of this section shall continue to
6348 remain in place until a final decision is rendered in the case.

6349 **SECTION 116.** Section 27-77-9, Mississippi Code of 1972, is
6350 amended as follows:

6351 27-77-9. (1) If the agency determines that there is a basis
6352 for suspension, surrender, seizure or revocation of a permit, tag
6353 or title issued or approved by the agency, the agency shall give
6354 the permittee, tag holder, title interest holder in the permit,
6355 tag or title, written notice of its intent to suspend, revoke or
6356 to order the surrender and/or seizure of the permit, tag or title.
6357 The notice of intent shall be mailed or hand delivered to the
6358 permittee, tag holder or title interest holder involved, shall set
6359 forth the facts and conduct that provide the basis for the
6360 intended action and shall advise the permittee, tag holder or
6361 title interest holder involved * * * that he has thirty (30) days
6362 from the date of the notice to file with the board of review a
6363 written request for a hearing on the intended action. * * * If
6364 the permittee, tag holder or title interest holder involved fails
6365 to file a written request with the board of review for a hearing
6366 on the intended action within the thirty-day period, the intended
6367 action shall automatically go into effect on the thirty-first day
6368 after the date of the notice of intent without any further action
6369 by the agency. The agency retains jurisdiction to reinstate,
6370 reduce or remove a suspension and/or return the permit, tag or
6371 title suspended, revoked, surrendered or seized under this
6372 provision.

6373 (2) Upon receipt of a timely filed written request for a
6374 hearing on the intended suspension, surrender, seizure or
6375 revocation of the permit, tag or title in issue, the person filing
6376 the request shall be advised of the date, time and location of a
6377 show cause hearing that will be held a minimum of thirty (30) days
6378 from the date of the notice. In the case of a request for hearing



6379 involving an intended action regarding a title, the notice of
6380 hearing shall also be mailed to any other title interest holders
6381 in the motor vehicle or manufactured housing in issue. At the
6382 hearing, the person requesting the hearing shall show cause why
6383 the proposed action should not be taken. The show cause hearing
6384 shall be informal and the rules of evidence shall be relaxed. The
6385 hearing shall be conducted by the board of review or by a single
6386 hearing officer selected by the chairman of the board of review
6387 from a pool of qualified individuals designated by the
6388 commissioner to serve as administrative hearing officers. The
6389 person that requested the hearing or his designated representative
6390 shall attend the hearing unless a request is made to, and granted
6391 by, the board of review or the designated hearing officer to allow
6392 the person to submit his position in writing or by electronic
6393 transmission in lieu of attending the hearing. Failure of the
6394 person requesting the hearing or his designated representative to
6395 attend a hearing or submit his position in writing or by
6396 electronic transmission in lieu of attendance by the date
6397 specified by the board of review or designated hearing officer or
6398 by the hearing date, if no date is specified, shall constitute an
6399 involuntary withdrawal of the appeal. As soon as practical after
6400 the show cause hearing, the hearing officer or the members of the
6401 board of review that conducted the hearing shall make a
6402 determination as to whether the intended action or any other
6403 action should be taken in regard to the permit, tag or title in
6404 issue. The hearing officer or board of review shall enter an
6405 order based on this determination and a copy of this order shall
6406 be mailed to the permittee, tag holder or title interest holder
6407 involved notifying same of the decision and the action taken.

6408 (3) The order of the hearing officer or the board of review
6409 in regard to a show cause hearing shall be final unless, within
6410 thirty (30) days from the date of the order, the permittee, tag
6411 holder or title interest holder appeals the order to the Board of



6412 Tax Appeals. The appeal shall be in writing and request a hearing
6413 and reversal or modification of the order of the hearing officer
6414 or board of review, specify in detail the relief requested,
6415 contain any other information that might be required by regulation
6416 and be filed with the executive director. The person filing the
6417 appeal with the executive director shall also file a copy of his
6418 written appeal with the board of review. Even after an appeal is
6419 filed with the executive director, the board of review or hearing
6420 officer who entered the order appealed retains the authority to
6421 amend and/or correct this order at any time prior to a decision by
6422 the Board of Tax Appeals on the appeal. Failure to timely file a
6423 written appeal with the executive director within the thirty-day
6424 period shall make the order of the hearing officer or the board of
6425 review being appealed final and not subject to further review by
6426 the Board of Tax Appeals or a court other than as to the issue of
6427 whether a written appeal from the order of the hearing officer or
6428 board of review was timely filed with the executive director.

6429 (4) Upon receipt of a written appeal from an order of a
6430 hearing officer or the board of review regarding a show cause
6431 hearing on a permit, tag or title, the executive director shall
6432 schedule a hearing before the Board of Tax Appeals on this appeal.
6433 A notice of the hearing shall be mailed to the person who filed
6434 the appeal and the agency to advise them of the date, time and
6435 location of hearing. In the case of an appeal from a show cause
6436 hearing on a title, the notice of hearing shall also be mailed to
6437 any other title interest holders in the motor vehicle or
6438 manufactured housing in issue. The person who filed the appeal or
6439 his designated representative shall attend the hearing. Failure
6440 of this person or his designated representative to attend a
6441 hearing shall constitute an involuntary withdrawal of the appeal.

6442 (5) At any hearing before the Board of Tax Appeals on an
6443 appeal of an order regarding a show cause hearing on a permit, tag
6444 or title, two (2) members of the Board of Tax Appeals shall



6445 constitute a quorum. At the hearing the Board of Tax Appeals
6446 shall try the issues presented according to law and the facts and
6447 pursuant to any guidelines established by regulation. The rules
6448 of evidence shall be relaxed at the hearing and the hearing shall
6449 be taken down by a court reporter. After reaching a decision on
6450 the issues presented, the Board of Tax Appeals shall enter an
6451 order setting forth its findings and decision on the appeal. A
6452 copy of the order of the Board of Tax Appeals shall be mailed to
6453 the person who filed the appeal and the agency to notify them of
6454 the findings and decision of the Board of Tax Appeals. In the
6455 case of an appeal involving a title, a copy of the order of the
6456 Board of Tax Appeals shall also be mailed to any other title
6457 interest holder in the motor vehicle or manufactured housing in
6458 issue.

6459 (6) At any time after the filing of an appeal with the board
6460 of review under this section, an appeal may be withdrawn. A
6461 withdrawal of an appeal can be made voluntarily by the person
6462 appealing or may occur involuntarily as the result of his failure
6463 to appear at a scheduled hearing, or by any other act or failure
6464 that the hearing officer or the board of review determines
6465 represents a failure on the part of that person to prosecute his
6466 appeal. A voluntary withdrawal shall be in writing or by
6467 electronic transmission and sent from the person appealing or his
6468 designated representative to the chairman of the board of review
6469 or to the hearing officer designated to hear the matter. If the
6470 withdrawal of appeal is involuntary, the board of review or the
6471 hearing officer designated to hear the matter shall note on its
6472 minutes or by order the involuntary withdrawal of the appeal and
6473 the basis for the withdrawal. Once an appeal to the board of
6474 review under subsection (1) above is withdrawn, whether voluntary
6475 or involuntary, the intended suspension, surrender, seizure or
6476 revocation from which the appeal was taken shall become final and
6477 not subject to further review by the Board of Tax Appeals or a



6478 court. The agency shall then proceed in accordance with law based
6479 on such final action.

6480 (7) At any time after the filing of an appeal with the Board
6481 of Tax Appeals under this section, the appeal may be withdrawn. A
6482 withdrawal of an appeal can be made voluntarily by the person
6483 appealing or may occur involuntarily as the result of the failure
6484 to appear at a scheduled hearing, or by any other act or failure
6485 that the Board of Tax Appeals determines to represent a failure on
6486 the part of that person to prosecute his appeal. A voluntary
6487 withdrawal shall be in writing or by electronic transmission and
6488 sent from the person appealing or his designated representative to
6489 the executive director. If the withdrawal of the appeal is
6490 involuntary, the Board of Tax Appeals shall note on its minutes
6491 the involuntary withdrawal of the appeal and the basis for the
6492 withdrawal. Once an appeal is withdrawn under this section,
6493 whether voluntary or involuntary, the order from the show cause
6494 hearing from which the appeal was taken shall become final and not
6495 subject to further review by the Board of Tax Appeals or a court.
6496 The agency shall then proceed in accordance with law based on the
6497 final order.

6498 **SECTION 117.** Section 27-77-11, Mississippi Code of 1972, is
6499 amended as follows:

6500 27-77-11. (1) If the agency determines that an application
6501 or request for a permit, IFTA license, tag or title issued or
6502 approved by the agency should be denied, the agency shall give the
6503 applicant for the permit, IFTA license, tag or title written
6504 notice of the denial by mailing or hand delivering the notice to
6505 the applicant. In regard to the denial of an application for
6506 title, the designated agent who took the application and any other
6507 alleged title interest holders as appearing on the application
6508 shall also be mailed or hand delivered a copy of the agency's
6509 denial of the title application. If the applicant, or in the case
6510 of the denial of a title application, any title interest holder



6511 appearing on the title application, is aggrieved by the denial and
6512 wishes to contest the denial, he shall, within thirty (30) days
6513 from the date of the written notice of the denial, file an appeal
6514 in writing with the board of review requesting a hearing on the
6515 denial that specified in detail the relief requested and contains
6516 any other information required by regulation. Failure to timely
6517 file a written appeal with the board of review within this
6518 thirty-day period shall make final the agency's denial of the
6519 permit, IFTA license, tag or title in issue and not subject to
6520 further review by the board of review, the Board of Tax Appeals or
6521 a court except as to the issue of whether a written appeal to the
6522 board of review was timely filed. Even if an appeal to the board
6523 of review is filed under this section, the agency retains
6524 jurisdiction to reverse its denial and issue or approve the
6525 permit, IFTA license, tax or title involved in the appeal.

6526 (2) Upon receipt of a written appeal by the board of review
6527 from a denial of a permit, IFTA license, tag or title, a hearing
6528 shall be scheduled before the board of review unless it is
6529 determined that the relief requested in the written appeal should
6530 be granted without a hearing. A notice of the hearing shall be
6531 mailed to the person appealing advising him of the date, time and
6532 location of hearing. If the appeal involves the denial of a
6533 title, the notice of hearing shall also be mailed to all other
6534 title interest holders in the motor vehicle or manufactured
6535 housing in issue, including both those that appear on a current
6536 title and those that appear on the application that was denied.
6537 The notice may contain a statement as to the basis for the denial
6538 of the permit, IFTA license, tag or title. The person appealing
6539 or his designated representative shall attend the hearing unless a
6540 request is made to and granted by the board of review to allow him
6541 to submit his position in writing or by electronic transmission in
6542 lieu of attendance. Failure of the person appealing, or his
6543 designated representative, to attend a hearing or to submit his



6544 position in writing or by electronic transmission in lieu of
6545 attendance by the date specified by the board of review or by the
6546 hearing date, if no date is specified, shall constitute a
6547 withdrawal of the appeal.

6548 (3) At a hearing before the board of review on a denial of a
6549 permit, IFTA license, tag or title, the board of review shall try
6550 the issues presented, according to law and the facts and within
6551 the guidelines established by regulation. The hearing before the
6552 board of review shall be informal and no official transcript shall
6553 be made of the hearing. At the earliest practical date after the
6554 hearing, the members of the board of review that heard the appeal
6555 shall make a determination of the matter presented and notify the
6556 person appealing of its findings by mailing a copy of its order to
6557 that person. In the case of a hearing involving the denial of a
6558 title, the order shall also be mailed to all other title interest
6559 holders in the motor vehicle or manufactured housing in issue,
6560 including those that appear on a current title and those that
6561 appear on the application that was denied.

6562 (4) The order of the board of review involving the denial of
6563 a permit, IFTA license, tag or title shall be final unless within
6564 thirty (30) days from the date of the order, the applicant appeals
6565 the order to the Board of Tax Appeals. In the case of an order of
6566 the board of review involving a review of the denial of a title,
6567 any title interest holder in the motor vehicle or manufactured
6568 housing in issue may appeal the order to the Board of Tax Appeals.
6569 The appeal shall be in writing, request a hearing and reversal or
6570 modification of the order of the board of review, specify in
6571 detail the relief requested, contain any other information that is
6572 required by regulation and be filed with the executive director
6573 with a copy sent to the board of review. Failure to timely file a
6574 written appeal with the executive director within the thirty-day
6575 period will make the order of the board of review being appealed
6576 final and not subject to further review by the Board of Tax



6577 Appeals or a court other than as to the issue of whether a written
6578 appeal from the order of the board of review was timely filed with
6579 the executive director. Even if an appeal to the Board of Tax
6580 Appeals is filed under this section, the board of review retains
6581 the authority to amend and/or correct its order being appealed
6582 prior to a decision by the Board of Tax Appeals on the appeal.

6583 (5) Upon receipt of a written appeal from an order of the
6584 board of review involving the denial of a permit, IFTA license,
6585 tag or title, the executive director shall schedule a hearing
6586 before the Board of Tax Appeals on the appeal. A notice of the
6587 hearing shall be mailed to the person who filed the appeal and the
6588 agency to advise them of the date, time and location of hearing.
6589 In the case of an appeal from an order of the board of review
6590 involving the denial of a title, the notice of hearing shall also
6591 be mailed to all title interest holders in the motor vehicle or
6592 manufactured housing in issue. The person who filed the appeal or
6593 his designated representative shall attend the hearing. Failure
6594 of this person or his designated representative to attend a
6595 hearing shall constitute an involuntary withdrawal of the appeal.

6596 (6) At any hearing before the Board of Tax Appeals on an
6597 appeal of an order from the board of review involving the denial
6598 of a permit, IFTA license, tag or title, two (2) members of the
6599 Board of Tax Appeals shall constitute a quorum. At the hearing,
6600 the commission shall try the issues presented according to law and
6601 the facts and pursuant to any guidelines established by
6602 regulation. The rules of evidence shall be relaxed at the hearing
6603 and the hearing shall be taken down by a court reporter. After
6604 reaching a decision on the issues presented, the Board of Tax
6605 Appeals shall enter its order setting forth its findings and
6606 decision on the appeal. A copy of the order of the Board of Tax
6607 Appeals shall be mailed to the person who filed the appeal and the
6608 agency with the Board of Tax Appeals to notify them of the
6609 findings and decision of the Board of Tax Appeals. In the case of



6610 an appeal involving a title, a copy of the order of the Board of
6611 Tax Appeals shall also be mailed to all title interest holders in
6612 the motor vehicle or manufactured housing in issue.

6613 (7) At any time after the filing of an appeal with the board
6614 of review, or from the board of review to the Board of Tax Appeals
6615 under this chapter, an appeal can be withdrawn. A withdrawal of
6616 an appeal may be made voluntarily by the person who filed the
6617 appeal or may occur involuntarily by the person failing to appear
6618 at a scheduled hearing, by failing to make a written submission or
6619 electronic transmission to the board of review in lieu of
6620 attendance by the date specified by the board or by the hearing
6621 date, if no date was specified, or by any other act or failure
6622 that the board of review or the Board of Tax Appeals determines
6623 represents a failure on the part of this person to prosecute his
6624 appeal. Any voluntary withdrawal shall be in writing or by
6625 electronic transmission and sent by the person appealing or his
6626 designated representative to the chairman of the board of review,
6627 if the appeal being withdrawn is to the board of review, or to the
6628 executive director, if the appeal being withdrawn is to the Board
6629 of Tax Appeals. If the withdrawal of appeal is involuntary, the
6630 administrative appeal body from whom the appeal is being withdrawn
6631 shall note on its minutes the involuntary withdrawal of the appeal
6632 and the basis for the withdrawal. Once an appeal is withdrawn,
6633 whether voluntary or involuntary, the action from which the appeal
6634 was taken, whether the original denial or the order of the board
6635 of review, shall become final and not subject to further review by
6636 the board of review, the Board of Tax Appeals or a court. The
6637 agency shall then proceed in accordance with law based on such
6638 final action.

6639 **SECTION 118.** Section 27-77-12, Mississippi Code of 1972, is
6640 amended as follows:

6641 27-77-12. (1) If the agency determines that there is a
6642 basis for revocation of an IFTA license, the agency shall give the



6643 IFTA licensee holding the IFTA license written notice of its
6644 intent to revoke his IFTA license. The notice of intent shall be
6645 mailed or hand delivered to the IFTA licensee and shall set forth
6646 the facts and conduct that provide the basis for the intended
6647 revocation and shall advise the IFTA licensee that he has thirty
6648 (30) days from the date of the notice to file with the board of
6649 review a written request for a hearing on the intended revocation.
6650 If the IFTA licensee fails to file a written request with the
6651 board of review for a hearing on the intended revocation within
6652 the thirty-day period, the IFTA license shall be automatically
6653 revoked on the thirty-first day after the date of the notice
6654 without any further action by the agency. The agency retains
6655 jurisdiction to reinstate an IFTA license after revocation.
6656 Failure of the IFTA licensee to timely file a written request for
6657 a hearing on the intended revocation will bar further review of
6658 the revocation by any court.

6659 (2) Upon receipt by the board of review of a timely filed
6660 written request for a hearing on the intended revocation of the
6661 IFTA license, the IFTA licensee filing the request shall be
6662 advised of the date, time and location of a show cause hearing
6663 that will be held a minimum of thirty (30) days from the date of
6664 the notice. At the hearing, the IFTA licensee shall show cause
6665 why his IFTA license should not be revoked. The show cause
6666 hearing shall be informal and the rules of evidence shall be
6667 relaxed. The hearing shall be conducted by the board of review or
6668 by a single hearing officer selected by the chairman of the board
6669 of review from a pool of qualified individuals designated by the
6670 commissioner to serve as administrative hearing officers. The
6671 IFTA licensee or his designated representative shall attend the
6672 hearing unless a request is made to, and granted by, the board of
6673 review or the designated hearing officer to allow the IFTA
6674 licensee to submit his position in writing or by electronic
6675 transmission in lieu of attending the hearing. Failure of the



6676 IFTA licensee or his designated representative to attend a hearing
6677 or submit his position in writing or by electronic transmission in
6678 lieu of attendance by the date specified by the board of review or
6679 designated hearing officer or by the hearing date, if no date is
6680 specified, shall constitute an involuntary withdrawal of the
6681 appeal. As soon as practical after the show cause hearing, the
6682 hearing officer or the board of review * * * shall make a
6683 determination as to whether the IFTA license * * * should be
6684 revoked. The hearing officer or board of review shall enter an
6685 order based on this determination and a copy of this order shall
6686 be mailed to the IFTA licensee notifying him of the decision and
6687 the action taken.

6688 (3) The order of the hearing officer or the board of review
6689 in regard to a show cause hearing shall be final unless, within
6690 thirty (30) days from the date of the order, the IFTA licensee
6691 appeals the order to the Board of Tax Appeals. The appeal shall
6692 be in writing and request a hearing and reversal or modification
6693 of the order of the hearing officer or board of review, specify in
6694 detail the relief requested, contain any other information that
6695 might be required by regulation and be filed with the executive
6696 director with a copy sent to the board of review. Even after an
6697 appeal is filed with the executive director, the board of review
6698 or hearing officer who entered the order appealed retains the
6699 authority to amend and/or correct this order at any time prior to
6700 a decision by the Board of Tax Appeals on the appeal.

6701 (4) Upon receipt of a written appeal from an order of a
6702 hearing officer or the board of review regarding a show cause
6703 hearing on an IFTA license, the executive director shall schedule
6704 a hearing before the Board of Tax Appeals on the appeal. A notice
6705 of the hearing shall be mailed to the IFTA licensee or his
6706 designated representative and the agency to advise them of the
6707 date, time and location of the hearing. The IFTA licensee or his
6708 designated representative shall attend the hearing. Failure of



6709 the IFTA licensee or his designated representative to attend a
6710 hearing shall constitute an involuntary withdrawal of the appeal.

6711 (5) At any hearing before the Board of Tax Appeals on an
6712 appeal of an order regarding a show cause hearing on an IFTA
6713 license, two (2) members of the Board of Tax Appeals shall
6714 constitute a quorum. At the hearing the Board of Tax Appeals
6715 shall try the issues presented according to law and the facts and
6716 pursuant to any guidelines established by regulation. The rules
6717 of evidence shall be relaxed at the hearing and the hearing shall
6718 be recorded by a court reporter. After reaching a decision on the
6719 issues presented, the Board of Tax Appeals shall enter an order
6720 setting forth its findings and decision on the appeal. A copy of
6721 the order of the Board of Tax Appeals shall be mailed to the
6722 person who filed the appeal and the agency to notify them of the
6723 findings and decision of the Board of Tax Appeals.

6724 (6) At any time after the filing of a timely written request
6725 with the board of review for a hearing on the intended revocation
6726 of an IFTA license under this section, the request may be
6727 withdrawn. A withdrawal of a request for a hearing on the
6728 intended revocation may be made voluntarily by the person
6729 requesting the hearing or may occur involuntarily as a result of a
6730 failure to appear at a scheduled hearing, or by any other act or
6731 failure that the board of review or designated hearing officer
6732 determines represents a failure on the part of that person to
6733 pursue his request for a hearing on the intended revocation. A
6734 voluntary withdrawal shall be in writing or by electronic
6735 transmission and sent from the person requesting the hearing or
6736 his designated representative to the chairman of the board of
6737 review or the hearing officer designated to hear the matter. If
6738 the withdrawal of the request for a hearing is involuntary, the
6739 board of review or the hearing officer designated to hear the
6740 matter shall note on its minutes or by order the involuntary
6741 withdrawal of the request and the basis for the withdrawal. Once



6742 a request for hearing on the intended revocation is withdrawn,
6743 whether voluntary or involuntary, the IFTA license shall be
6744 automatically revoked.

6745 (7) At any time after the filing of an appeal with the Board
6746 of Tax Appeals under this section, the appeal may be withdrawn. A
6747 withdrawal of an appeal can be made voluntarily by the person
6748 appealing or may occur involuntarily as the result of the failure
6749 to appear at a scheduled hearing, or by any other act or failure
6750 that the Board of Tax Appeals determines to represent a failure on
6751 the part of that person to prosecute his appeal. A voluntary
6752 withdrawal shall be in writing or by electronic transmission and
6753 sent from the person appealing or his designated representative to
6754 the executive director. If the withdrawal of the appeal is
6755 involuntary, the Board of Tax Appeals shall note on its minutes
6756 the involuntary withdrawal of the appeal and the basis for the
6757 withdrawal. Once an appeal is withdrawn under this section,
6758 whether voluntary or involuntary, the order from the show cause
6759 hearing from which the appeal was taken shall become final and not
6760 subject to further review by the Board of Tax Appeals or a court.
6761 The agency shall then proceed in accordance with law based on the
6762 final order.

6763 **SECTION 119.** Section 27-77-13, Mississippi Code of 1972, is
6764 amended as follows:

6765 27-77-13. (1) The findings and order of the Board of Tax
6766 Appeals entered in accordance with Section 27-77-9, 27-77-11 or
6767 Section 27-77-12, shall be final unless the agency or the
6768 permittee, IFTA licensee, tag holder, or title interest holder of
6769 the permit, IFTA license, tag or title in regard to which action
6770 was taken in the order shall, within thirty (30) days from the
6771 date of the order, file a petition in * * * chancery court seeking
6772 a review of the order. If a petition under this subsection is
6773 filed by the permittee, IFTA licensee, tag holder or title
6774 interest holder, the petition shall be filed against the agency as



6775 respondent. If a petition under this subsection is filed by the
6776 agency, the petition shall be filed against the permittee, IFTA
6777 licensee, tag holder or title interest holder of the permit, IFTA
6778 license, tag or title which is the subject of the order sought to
6779 be reviewed as respondent. The respondent to a petition has
6780 thirty (30) days from the date of service of the petition to file
6781 a cross-appeal. The petition shall contain a concise statement of
6782 the facts as contended by the petitioner, identify the order from
6783 which the appeal is being taken and the type of relief sought.
6784 Where the petition is being filed by a permittee, IFTA licensee,
6785 tag holder or title interest holder, the petition shall also
6786 contain a certificate that the petitioner has paid to the
6787 executive director the estimated cost of the preparation of the
6788 entire record of the Board of Tax Appeals on the matter for which
6789 a review is sought.

6790 (2) A petition under subsection (1) of this section shall be
6791 filed in the chancery court of the county or judicial district in
6792 which the permittee, IFTA licensee, tag holder or title interest
6793 holder of the permit, IFTA license, tag or title which is the
6794 subject of the order of the Board of Tax Appeals sought to be
6795 reviewed has a place of business or in the First Judicial District
6796 of Hinds County, Mississippi; however, a resident permittee, IFTA
6797 licensee, tag holder or title interest holder may file a petition
6798 in the chancery court of the county or judicial district in which
6799 he is a resident. If both the agency and the permittee, IFTA
6800 licensee, tag holder or title interest holder file a petition
6801 under subsection (1) of this section, the appeals shall be
6802 consolidated and the chancery court where the first petition was
6803 filed shall have jurisdiction over the consolidated appeal. If it
6804 cannot be determined which petition was filed first, the chancery
6805 court where the permittee, IFTA licensee, tag holder or title
6806 interest holder filed his petition shall have jurisdiction over
6807 the consolidated appeal.



6808 (3) The review by the chancery court of the order of the
6809 Board of Tax Appeals on a petition filed under subsection (1) of
6810 this section shall be based on the record made before the Board of
6811 Tax Appeals. Before filing a petition under subsection (1) of
6812 this section, a petitioner, who is a permittee, IFTA licensee, tag
6813 holder or title interest holder, shall obtain from the executive
6814 director an estimate of the cost to prepare the entire record of
6815 the Board of Tax Appeals and shall pay to the executive director
6816 the amount of the estimate. If, upon the preparation of the
6817 record, it is determined that the estimate paid was insufficient
6818 to pay the actual cost of the preparation of the record, the
6819 executive director shall mail to the petitioner a written notice
6820 of the deficiency. The petitioner shall pay the deficiency to the
6821 executive director within thirty (30) days from the date of this
6822 written notice. If upon the preparation of the record, it is
6823 determined that the estimate paid by the petitioner exceeds the
6824 actual cost of the preparation of the record, the executive
6825 director shall remit to the petitioner the amount by which the
6826 estimate paid exceeds the actual cost. The chancery court shall
6827 dismiss with prejudice any petition filed by a permittee, IFTA
6828 licensee, tag holder or title interest holder where it is shown
6829 that the petitioner failed to pay prior to filing the petition the
6830 estimated cost for preparation of the record of the Board of Tax
6831 Appeals or failed to pay any deficiency in the estimate within
6832 thirty (30) days of a notice of deficiency. Where the agency
6833 files a petition under subsection (1) of this section, the agency
6834 shall pay the cost of the preparation of the entire record of the
6835 Board of Tax Appeals on the matter for which a review is sought.
6836 Where both the agency and the permittee, IFTA licensee, tag holder
6837 or title interest holder file a petition under subsection (1) of
6838 this section from the same Board of Tax Appeals order, the
6839 executive director shall remit to the permittee, IFTA licensee,
6840 tag holder or title interest holder that filed the petition the



6841 amount by which, if any, the payment received from this permittee,
6842 IFTA licensee, tag holder or title interest holder for preparation
6843 of the record exceeds one half (1/2) of the actual cost of
6844 preparation of the record. The other half of the actual cost of
6845 preparation of the record in this situation shall be paid by the
6846 agency.

6847 (4) Upon the filing of the petition under subsection (1) of
6848 this section, the clerk of the court in which the petition is
6849 filed shall issue a summons to the respondent requiring the
6850 respondent to answer or otherwise respond to the petition within
6851 thirty (30) days of service. Where the agency is the respondent,
6852 the summons shall be served on the agency by personal service on
6853 the commissioner as the chief executive officer of the agency.

6854 (5) Upon the filing of an answer and/or response * * * to
6855 the petition filed under subsection (1) of this section, and upon
6856 the filing of the record made before the Board of Tax Appeals with
6857 the clerk of the court, the chancery court shall, upon the motion
6858 of either party, establish a schedule for the filing of briefs in
6859 the action. The scope of review of the chancery court in an
6860 action filed under subsection (1) of this section shall be limited
6861 to a review of the record made before the Board of Tax Appeals to
6862 determine if the action of the Board of Tax Appeals is unlawful
6863 for the reason that it was:

6864 (a) Not supported by substantial evidence;
6865 (b) Arbitrary or capricious;
6866 (c) Beyond the power of the Board of Tax Appeals to
6867 make; or

6868 (d) In violation of some statutory or constitutional
6869 right of the petitioner.

6870 (6) No relief shall be granted based upon the chancery
6871 court's finding of harmless error by the Board of Tax Appeals in
6872 complying with any procedural requirement; however, in the event
6873 that there is a finding of prejudicial error in the proceedings,



6874 the cause shall be remanded to the Board of Tax Appeals for a
6875 rehearing consistent with the findings of the court.

6876 (7) The respondent, the petitioner, or both, shall have the
6877 right to appeal from the order of the chancery court to the
6878 Supreme Court as in other cases.

6879 **SECTION 120.** Section 27-77-15, Mississippi Code of 1972, is
6880 amended as follows:

6881 27-77-15. (1) Except as otherwise provided in this section,
6882 it shall be unlawful for the executive director, the Board of
6883 Appeals, the commissioner, * * * the agency, or an officer, agent
6884 or employee of the agency or the Board of Tax Appeals, to divulge
6885 or make known in any manner the information contained in the
6886 files, records and orders of the agency, a hearing officer of the
6887 agency, the board of review or the Board of Tax Appeals in regard
6888 to an appeal to a hearing officer, the board of review or the
6889 Board of Tax Appeals under this chapter.

6890 (2) For purposes of this section, the term "appellant" means
6891 the taxpayer, IFTA licensee, permittee, tag holder or title
6892 interest holder who filed the appeal to the board of review or the
6893 Board of Tax Appeals under this chapter which resulted in the
6894 files, records and orders of that appeal. * * *

6895 (3) The executive director, the Board of Tax Appeals, the
6896 commissioner, * * * the agency, hearing officer or an agent or
6897 employee of the agency or the Board of Tax Appeals is permitted to
6898 divulge and make known information otherwise prohibited from
6899 disclosure under subsection (1) of this section in any of the
6900 following circumstances:

6901 (a) Where the information is being disclosed as a
6902 result of complying with the provisions of this chapter and/or
6903 with regulations promulgated to enforce the provisions of this
6904 chapter.

6905 (b) Where the information is being provided to the
6906 appellant or his designated representative.



6907 (c) Where the information is being disclosed to
6908 employees or officers of the agency.

6909 (d) Where the information is being provided or
6910 disclosed pursuant to a written authorization executed by the
6911 appellant as prescribed by regulation.

6912 (e) Where the information is being provided or
6913 disclosed in the course of a court action in which the agency, the
6914 Board of Tax Appeals, the commissioner, an * * * officer or * * *
6915 employee of the agency or the Board of Tax Appeals and the
6916 appellant are parties, including, but not limited to, an action
6917 brought under this chapter or in the course of the bankruptcy case
6918 of the appellant.

6919 (f) Where the information is being provided to the
6920 Internal Revenue Service or a taxing authority of another state
6921 under an information exchange agreement where similar information
6922 can be obtained by the agency from the Internal Revenue Service or
6923 state taxing authority receiving the information.

6924 (g) Where the information is being provided pursuant to
6925 the International Registration Plan (IRP) or the International
6926 Fuel Tax Agreement (IFTA) or any regulations, rules or procedures
6927 adopted under such plan or agreement.

6928 (h) Where the disclosure of information is authorized
6929 under Section 27-55-49, 27-55-557, 27-57-39, 27-59-53 or 27-61-20.

6930 (i) Where the information is being provided to the
6931 State Auditor or his employees in the course of his audit of the
6932 agency; however, the prohibitions against disclosure which apply
6933 to the agency shall also apply to the State Auditor and his
6934 employees or former employees.

6935 (j) Where the information is being provided to the
6936 Attorney General or any other attorney representing the state or
6937 the agency in an action brought by the appellant to set aside the
6938 tax, in an action brought by the state or agency to recover the



6939 tax imposed, or in an action where the appellant is being
6940 prosecuted for a crime under the tax laws of this state.

6941 (k) Where the information is being provided by the
6942 commissioner to a contractor of collection services pursuant to
6943 the authority granted the commissioner in Section 27-75-16.

6944 (l) Where the information is being provided in
6945 accordance with a proper judicial order. The term "proper
6946 judicial order" as used in this paragraph shall not include
6947 subpoenas or subpoenas duces tecum, but shall include only those
6948 orders entered by a court of record in this state after furnishing
6949 notice and a hearing to the appellant and the Department of
6950 Revenue. The court shall not authorize the furnishing of such
6951 information unless it is satisfied that the information is needed
6952 to pursue pending litigation in which the information itself is in
6953 issue, or the judge is satisfied that the need for furnishing the
6954 information outweighs the rights of the appellant to have such
6955 information secreted.

6956 (4) Nothing in subsection (1) of this section shall prohibit
6957 the inspection or disclosure of the minutes of the Board of Tax
6958 Appeals except to the extent that such minutes reflect the
6959 specific amount of a tax assessment or refund claim or the
6960 specific amount of tax or refund claim determined by the Board of
6961 Tax Appeals to be due.

6962 (5) Information that is prohibited from being disclosed in
6963 subsection (1) of this section shall be exempt from the provisions
6964 of the Mississippi Public Records Act of 1983.

6965 (6) Due to the need to discuss confidential tax information,
6966 the hearings before a hearing officer, the board of review and the
6967 Board of Tax Appeals under this chapter, and the meetings in which
6968 the board of review and the Board of Tax Appeals deliberate and
6969 vote on the issues raised at such hearings shall be exempt from
6970 the provisions of Section 25-41-1 et seq.



6971 **SECTION 121.** Section 27-77-17, Mississippi Code of 1972, is
6972 amended as follows:

6973 27-77-17. Except as to the determination of whether a tag
6974 penalty should be waived under Section 27-51-43, the provisions of
6975 this chapter shall not apply to any action taken by the agency,
6976 commissioner or the Department of Revenue in regard to ad valorem
6977 taxes, including, but not limited to, the determination under
6978 Section 27-31-107 as to whether property is entitled to a new or
6979 expanded enterprise exemption, the duties and actions performed
6980 under the Homestead Exemption Law of 1946, being Section 27-33-1
6981 et seq., the actions taken as the result of the examination of the
6982 recapitulation of the assessment rolls of the counties under
6983 Section 27-35-113, the actions relating to the examination of the
6984 assessment rolls under Section 27-35-127, and the ad valorem
6985 assessment of railroads, public service corporations, nuclear
6986 generating plants, railcar companies, airline companies, motor
6987 vehicles, manufactured homes and mobile homes. The provisions of
6988 this chapter shall not apply to any action of the agency,
6989 commissioner or Department of Revenue under the Local Option
6990 Alcoholic Beverage Control Law, being Section 67-1-1 et seq. or
6991 any action under the Mississippi Native Wine Law of 1976, being
6992 Section 67-5-1 et seq.

6993 **SECTION 122.** Section 27-77-19, Mississippi Code of 1972, is
6994 amended as follows:

6995 27-77-19. (1) The commissioner may from time to time make
6996 such rules and regulations, not inconsistent with this chapter, as
6997 he may deem necessary to enforce its provisions as it relates to
6998 matters, proceedings and/or appeals before the agency, a hearing
6999 officer of the agency and the board of review.

7000 (2) The Board of Tax Appeals may from time to time make such
7001 rules and regulations, not inconsistent with this chapter, as it
7002 may deem necessary to enforce its provisions as it relates to



7003 matters, proceedings and/or appeals before the Board of Tax
7004 Appeals.

7005 (3) By issuance of a subpoena under his signature and seal,
7006 the commissioner may require any person to attend a hearing before
7007 a hearing officer or the board of review * * * and to give
7008 testimony and/or produce documents or other things at that
7009 hearing. If any person subpoenaed by the commissioner fails to
7010 attend the hearing, refuses to testify or answer any material
7011 question at the hearing or refuses to produce at the hearing any
7012 document or thing subpoenaed, the commissioner or the person who
7013 requested issuance of the subpoena is authorized to institute
7014 proceedings in the circuit court of the county where such person
7015 resides or is found to compel compliance with the subpoena.

7016 (4) By issuance of a subpoena under his signature and seal,
7017 the executive director may require any person to attend a hearing
7018 before the Board of Tax Appeals and to give testimony and/or
7019 produce documents or other things at that hearing. If any person
7020 subpoenaed by the executive director fails to attend the hearing,
7021 refuses to testify or answer any material question at the hearing
7022 or refuses to produce at the hearing any document or thing
7023 subpoenaed, the executive director or the person who requested
7024 issuance of the subpoena is authorized to institute proceedings in
7025 the circuit court of the county where such person resides or is
7026 found to compel compliance with the subpoena.

7027 **SECTION 123.** Section 63-21-3, Mississippi Code of 1972, is
7028 amended as follows:

7029 63-21-3. The terms and provisions of this chapter shall be
7030 administered by the Department of Revenue. The Department of
7031 Revenue shall have charge of all the affairs of administering the
7032 laws of the state relative to vehicle registration and titling and
7033 manufactured housing titling as hereinafter provided and may
7034 employ such administrative and clerical assistance, material and



7035 equipment as may be necessary to enable it to speedily, completely
7036 and efficiently perform the duties as outlined in this chapter.

7037 **SECTION 124.** Section 63-21-5, Mississippi Code of 1972, is
7038 amended as follows:

7039 63-21-5. The following words and phrases when used in this
7040 chapter shall, for the purpose of this chapter, have the meanings
7041 respectively ascribed to them in this section except where the
7042 context clearly indicates a different meaning:

7043 (a) "State Tax Commission" or "department" means the
7044 Department of Revenue of the State of Mississippi.

7045 (b) "Dealer" means every person engaged regularly in
7046 the business of buying, selling or exchanging motor vehicles,
7047 trailers, semitrailers, trucks, tractors or other character of
7048 commercial or industrial motor vehicles in this state, and having
7049 in this state an established place of business as defined in
7050 Section 27-19-303, Mississippi Code of 1972. The term "dealer"
7051 shall also mean every person engaged regularly in the business of
7052 buying, selling or exchanging manufactured housing in this state,
7053 and licensed as a dealer of manufactured housing by the
7054 Mississippi Department of Insurance.

7055 (c) "Designated agent" means each county tax collector
7056 in this state who may perform his duties under this chapter either
7057 personally or through any of his deputies, or such other persons
7058 as the Department of Revenue may designate. The term shall also
7059 mean those "dealers" as herein defined and/or their officers and
7060 employees and other persons who are appointed by the Department of
7061 Revenue in the manner provided in Section 63-21-13, Mississippi
7062 Code of 1972, to perform the duties of "designated agent" for the
7063 purposes of this chapter.

7064 (d) "Implement of husbandry" means every vehicle
7065 designed and adapted exclusively for agricultural, horticultural
7066 or livestock raising operations or for lifting or carrying an



7067 implement of husbandry and in either case not subject to
7068 registration if used upon the highways.

7069 (e) "Vehicle identification number" means the numbers
7070 and letters on a vehicle, manufactured home or mobile home
7071 designated by the manufacturer or assigned by the Department of
7072 Revenue for the purpose of identifying the vehicle, manufactured
7073 home or mobile home.

7074 (f) "Lien" means every kind of written lease which is
7075 substantially equivalent to an installment sale or which provides
7076 for a right of purchase; conditional sale; reservation of title;
7077 deed of trust; chattel mortgage; trust receipt; and every other
7078 written agreement or instrument of whatever kind or character
7079 whereby an interest other than absolute title is sought to be held
7080 or given on a motor vehicle, manufactured home or mobile home.

7081 (g) "Lienholder" means any natural person, firm,
7082 copartnership, association or corporation holding a lien as herein
7083 defined on a motor vehicle, manufactured home or mobile home.

7084 (h) "Manufactured housing" or "manufactured home" means
7085 any structure, transportable in one or more sections, which in the
7086 traveling mode, is eight (8) body feet or more in width or forty
7087 (40) body feet or more in length or, when erected on site, is
7088 three hundred twenty (320) or more square feet and which is built
7089 on a permanent chassis and designed to be used as a dwelling with
7090 or without a permanent foundation when connected to the required
7091 utilities, and includes the plumbing, heating, air-conditioning
7092 and electrical systems contained therein; except that such terms
7093 shall include any structure which meets all the requirements of
7094 this paragraph except the size requirements and with respect to
7095 which the manufacturer voluntarily files a certification required
7096 by the Secretary of Housing and Urban Development and complies
7097 with the standards established under the National Manufactured
7098 Housing Construction and Safety Standards Act of 1974, 42 USCS,
7099 Section 5401.



7100 (i) "Manufacturer" means any person regularly engaged
7101 in the business of manufacturing, constructing or assembling motor
7102 vehicles, manufactured homes or mobile homes, either within or
7103 without this state.

7104 (j) "Mobile home" means any structure, transportable in
7105 one or more sections, which in the traveling mode, is eight (8)
7106 body feet or more in width or forty (40) body feet or more in
7107 length or, when erected on site, is three hundred twenty (320) or
7108 more square feet and which is built on a permanent chassis and
7109 designed to be used as a dwelling with or without a permanent
7110 foundation when connected to the required utilities, and includes
7111 the plumbing, heating, air-conditioning and electrical systems
7112 contained therein and manufactured prior to June 15, 1976. Any
7113 mobile home designated as realty on or before July 1, 1999, shall
7114 continue to be designated as realty so that a security interest
7115 will be made by incorporating such mobile home in a deed of trust.

7116 (k) "Motorcycle" means every motor vehicle having a
7117 seat or saddle for the use of the rider and designed to travel on
7118 not more than three (3) wheels in contact with the ground, but
7119 excluding a farm tractor.

7120 (l) "Motor vehicle" means every automobile, motorcycle,
7121 mobile trailer, semitrailer, truck, truck tractor, trailer and
7122 every other device in, upon, or by which any person or property is
7123 or may be transported or drawn upon a public highway which is
7124 required to have a road or bridge privilege license, except such
7125 as is moved by animal power or used exclusively upon stationary
7126 rails or tracks.

7127 (m) "New vehicle" means a motor vehicle, manufactured
7128 home or mobile home which has never been the subject of a first
7129 sale for use.

7130 (n) "Used vehicle" means a motor vehicle, manufactured
7131 home or mobile home that has been the subject of a first sale for
7132 use, whether within this state or elsewhere.



7133 (o) "Owner" means a person or persons holding the legal
7134 title of a vehicle, manufactured home or mobile home; in the event
7135 a vehicle, manufactured home or mobile home is the subject of a
7136 deed of trust or a chattel mortgage or an agreement for the
7137 conditional sale or lease thereof or other like agreement, with
7138 the right of purchase upon performance of the conditions stated in
7139 the agreement and with the immediate right of possession vested in
7140 the grantor in the deed of trust, mortgagor, conditional vendee or
7141 lessee, the grantor, mortgagor, conditional vendee or lessee shall
7142 be deemed the owner for the purpose of this chapter.

7143 (p) "Person" includes every natural person, firm,
7144 copartnership, association or corporation.

7145 (q) "Pole trailer" means every vehicle without motive
7146 power designed to be drawn by another vehicle and attached to the
7147 towing vehicle by means of a reach or pole, or by being boomed or
7148 otherwise secured to the towing vehicle, and ordinarily used for
7149 transporting long or irregularly shaped loads such as poles,
7150 pipes, boats or structural members capable generally of sustaining
7151 themselves as beams between the supporting connections.

7152 (r) "Security agreement" means a written agreement
7153 which reserves or creates a security interest.

7154 (s) "Security interest" means an interest in a vehicle,
7155 manufactured home or mobile home reserved or created by agreement
7156 and which secures payment or performance of an obligation. The
7157 term includes the interest of a lessor under a lease intended as
7158 security. A security interest is "perfected" when it is valid
7159 against third parties generally, subject only to specific
7160 statutory exceptions.

7161 (t) "Special mobile equipment" means every vehicle not
7162 designed or used primarily for the transportation of persons or
7163 property and only incidentally operated or moved over a highway,
7164 including, but not limited to: ditch-digging apparatus,
7165 well-boring apparatus and road construction and maintenance



7166 machinery such as asphalt spreaders, bituminous mixers, bucket
7167 loaders, tractors other than truck tractors, ditchers, leveling
7168 graders, finishing machines, motor graders, road rollers,
7169 scarifiers, earth-moving carryalls and scrapers, power shovels and
7170 draglines, and self-propelled cranes, vehicles so constructed that
7171 they exceed eight (8) feet in width and/or thirteen (13) feet six
7172 (6) inches in height, and earth-moving equipment. The term does
7173 not include house trailers, dump trucks, truck-mounted transit
7174 mixers, cranes or shovels, or other vehicles designed for the
7175 transportation of persons or property to which machinery has been
7176 attached.

7177 (u) "Nonresident" means every person who is not a
7178 resident of this state.

7179 (v) "Current address" means a new address different
7180 from the address shown on the application or on the certificate of
7181 title. The owner shall within thirty (30) days after his address
7182 is changed from that shown on the application or on the
7183 certificate of title notify the department of the change of
7184 address in the manner prescribed by the department.

7185 (w) "Odometer" means an instrument for measuring and
7186 recording the actual distance a motor vehicle travels while in
7187 operation; but shall not include any auxiliary instrument designed
7188 to be reset by the operator of the motor vehicle for the purpose
7189 of recording the distance traveled on trips.

7190 (x) "Odometer reading" means the actual cumulative
7191 distance traveled disclosed on the odometer.

7192 (y) "Odometer disclosure statement" means a statement
7193 certified by the owner of the motor vehicle to the transferee or
7194 to the department as to the odometer reading.

7195 (z) "Mileage" means actual distance that a vehicle has
7196 traveled.

7197 (aa) "Trailer" means every vehicle other than a "pole
7198 trailer" as defined in this chapter without motive power designed



7199 to be drawn by another vehicle and attached to the towing vehicle
7200 for the purpose of hauling goods or products. The term "trailer"
7201 shall not refer to any structure, transportable in one or more
7202 sections regardless of size, when erected on site, and which is
7203 built on a permanent chassis and designed to be used as a dwelling
7204 with or without a permanent foundation when connected to the
7205 required utilities, and includes the plumbing, heating,
7206 air-conditioning and electrical systems contained therein
7207 regardless of the date of manufacture.

7208 (bb) "Salvage mobile home" or "salvage manufactured
7209 home" means a mobile home or manufactured home for which a
7210 certificate of title has been issued that an insurance company
7211 obtains from the owner as a result of paying a total loss claim
7212 resulting from collision, fire, flood, wind or other occurrence.
7213 The term "salvage mobile home" or "salvage manufactured home" does
7214 not mean or include and is not applicable to a mobile home or
7215 manufactured home that is twenty (20) years old or older.

7216 (cc) "Salvage certificate of title" means a document
7217 issued by the department for a salvage mobile home or salvage
7218 manufactured home as defined in this chapter.

7219 (dd) "All-terrain vehicle" means a motor vehicle that
7220 is designed for off-road use and is not required to have a motor
7221 vehicle privilege license.

7222 **SECTION 125.** Section 63-21-75, Mississippi Code of 1972, is
7223 amended as follows:

7224 63-21-75. The Department of Revenue is charged with the
7225 enforcement of the provisions of this chapter and the department
7226 is hereby authorized and empowered to call upon any and all law
7227 enforcement agencies and officers of this state for such
7228 assistance as it may deem necessary in order to assure such
7229 enforcement. It shall be the duty of such law enforcement
7230 agencies and officers to render such assistance to the Department
7231 of Revenue when called upon by the department to so do.



7232 **SECTION 126.** Section 67-1-5, Mississippi Code of 1972, is
7233 amended as follows:

7234 67-1-5. For the purposes of this chapter and unless
7235 otherwise required by the context:

7236 (a) "Alcoholic beverage" means any alcoholic liquid,
7237 including wines of more than five percent (5%) of alcohol by
7238 weight, capable of being consumed as a beverage by a human being,
7239 but shall not include wine containing five percent (5%) or less of
7240 alcohol by weight and shall not include beer containing not more
7241 than five percent (5%) of alcohol by weight, as provided for in
7242 Section 67-3-5, Mississippi Code of 1972, but shall include native
7243 wines. The words "alcoholic beverage" shall not include ethyl
7244 alcohol manufactured or distilled solely for fuel purposes.

7245 (b) "Alcohol" means the product of distillation of any
7246 fermented liquid, whatever the origin thereof, and includes
7247 synthetic ethyl alcohol, but does not include denatured alcohol or
7248 wood alcohol.

7249 (c) "Distilled spirits" means any beverage containing
7250 more than four percent (4%) of alcohol by weight produced by
7251 distillation of fermented grain, starch, molasses or sugar,
7252 including dilutions and mixtures of these beverages.

7253 (d) "Wine" or "vinous liquor" means any product
7254 obtained from the alcoholic fermentation of the juice of sound,
7255 ripe grapes, fruits or berries and made in accordance with the
7256 revenue laws of the United States.

7257 (e) "Person" means and includes any individual,
7258 partnership, corporation, association or other legal entity
7259 whatsoever.

7260 (f) "Manufacturer" means any person engaged in
7261 manufacturing, distilling, rectifying, blending or bottling any
7262 alcoholic beverage.

7263 (g) "Wholesaler" means any person, other than a
7264 manufacturer, engaged in distributing or selling any alcoholic



7265 beverage at wholesale for delivery within or without this state
7266 when such sale is for the purpose of resale by the purchaser.

7267 (h) "Retailer" means any person who sells, distributes,
7268 or offers for sale or distribution, any alcoholic beverage for use
7269 or consumption by the purchaser and not for resale.

7270 (i) "State Tax Commission," "Commission" or
7271 "department" means the Department of Revenue of the State of
7272 Mississippi, which shall create a division in its organization to
7273 be known as the Alcoholic Beverage Control Division. Any
7274 reference to the commission or the department hereafter means the
7275 powers and duties of the Department of Revenue with reference to
7276 supervision of the Alcoholic Beverage Control Division.

7277 (j) "Division" means the Alcoholic Beverage Control
7278 Division of the Department of Revenue.

7279 (k) "Municipality" means any incorporated city or town
7280 of this state.

7281 (l) "Hotel" means an establishment within a
7282 municipality, or within a qualified resort area approved as such
7283 by the department, where, in consideration of payment, food and
7284 lodging are habitually furnished to travelers and wherein are
7285 located at least twenty (20) adequately furnished and completely
7286 separate sleeping rooms with adequate facilities that persons
7287 usually apply for and receive as overnight accommodations. Hotels
7288 in towns or cities of more than twenty-five thousand (25,000)
7289 population are similarly defined except that they must have fifty
7290 (50) or more sleeping rooms. Any such establishment described in
7291 this paragraph with less than fifty (50) beds shall operate one or
7292 more regular dining rooms designed to be constantly frequented by
7293 customers each day. When used in this chapter, the word "hotel"
7294 shall also be construed to include any establishment that meets
7295 the definition of "bed and breakfast inn" as provided in this
7296 section.



7297 (m) "Restaurant" means a place which is regularly and
7298 in a bona fide manner used and kept open for the serving of meals
7299 to guests for compensation, which has suitable seating facilities
7300 for guests, and which has suitable kitchen facilities connected
7301 therewith for cooking an assortment of foods and meals commonly
7302 ordered at various hours of the day; the service of such food as
7303 sandwiches and salads only shall not be deemed in compliance with
7304 this requirement. No place shall qualify as a restaurant under
7305 this chapter unless twenty-five percent (25%) or more of the
7306 revenue derived from such place shall be from the preparation,
7307 cooking and serving of meals and not from the sale of beverages,
7308 or unless the value of food given to and consumed by customers is
7309 equal to twenty-five percent (25%) or more of total revenue.

7310 (n) "Club" means an association or a corporation:

7311 (i) Organized or created under the laws of this
7312 state for a period of five (5) years prior to July 1, 1966;

7313 (ii) Organized not primarily for pecuniary profit
7314 but for the promotion of some common object other than the sale or
7315 consumption of alcoholic beverages;

7316 (iii) Maintained by its members through the
7317 payment of annual dues;

7318 (iv) Owning, hiring or leasing a building or space
7319 in a building of such extent and character as may be suitable and
7320 adequate for the reasonable and comfortable use and accommodation
7321 of its members and their guests;

7322 (v) The affairs and management of which are
7323 conducted by a board of directors, board of Governors, executive
7324 committee, or similar governing body chosen by the members at a
7325 regular meeting held at some periodic interval; and

7326 (vi) No member, officer, agent or employee of
7327 which is paid, or directly or indirectly receives, in the form of
7328 a salary or other compensation any profit from the distribution or
7329 sale of alcoholic beverages to the club or to members or guests of



7330 the club beyond such salary or compensation as may be fixed and
7331 voted at a proper meeting by the board of directors or other
7332 governing body out of the general revenues of the club.

7333 The department may, in its discretion, waive the five-year
7334 provision of this paragraph. In order to qualify under this
7335 paragraph, a club must file with the department, at the time of
7336 its application for a license under this chapter, two (2) copies
7337 of a list of the names and residences of its members and similarly
7338 file, within ten (10) days after the election of any additional
7339 member, his name and address. Each club applying for a license
7340 shall also file with the department at the time of the application
7341 a copy of its articles of association, charter of incorporation,
7342 bylaws or other instruments governing the business and affairs
7343 thereof.

7344 (o) "Qualified resort area" means any area or locality
7345 outside of the limits of incorporated municipalities in this state
7346 commonly known and accepted as a place which regularly and
7347 customarily attracts tourists, vacationists and other transients
7348 because of its historical, scenic or recreational facilities or
7349 attractions, or because of other attributes which regularly and
7350 customarily appeal to and attract tourists, vacationists and other
7351 transients in substantial numbers; however, no area or locality
7352 shall so qualify as a resort area until it has been duly and
7353 properly approved as such by the department.

7354 (i) The department may approve an area or locality
7355 outside of the limits of an incorporated municipality that is in
7356 the process of being developed as a qualified resort area if such
7357 area or locality, when developed, can reasonably be expected to
7358 meet the requisites of the definition of the term "qualified
7359 resort area." In such a case, the status of qualified resort area
7360 shall not take effect until completion of the development.

7361 (ii) The term includes any state park which is
7362 declared a resort area by the department; however, such



7363 declaration may only be initiated in a written request for resort
7364 area status made to the department by the Executive Director of
7365 the Department of Wildlife, Fisheries and Parks, and no permit for
7366 the sale of any alcoholic beverage, as defined in this chapter,
7367 except an on-premises retailer's permit, shall be issued for a
7368 hotel, restaurant or bed and breakfast inn in such park.

7369 (iii) The term includes:

7370 1. The clubhouses associated with the state
7371 park golf courses at the Lefleur's Bluff State Park, the John Kyle
7372 State Park, the Percy Quin State Park and the Hugh White State
7373 Park;

7374 2. The clubhouse and associated golf course
7375 where the golf course is adjacent to one or more planned
7376 residential developments and the golf course and all such
7377 developments collectively include at least seven hundred fifty
7378 (750) acres and at least four hundred (400) residential units; and

7379 3. Any facility located on property that is a
7380 game reserve with restricted access that consists of at least
7381 three thousand (3,000) contiguous acres with no public roads and
7382 that offers as a service hunts for a fee to overnight guests of
7383 the facility.

7384 The status of these clubhouses, facilities and golf courses
7385 as qualified resort areas does not require any declaration of same
7386 by the department.

7387 (p) "Native wine" means any product, produced in
7388 Mississippi for sale, having an alcohol content not to exceed
7389 twenty-one percent (21%) by weight and made in accordance with
7390 revenue laws of the United States, which shall be obtained
7391 primarily from the alcoholic fermentation of the juice of ripe
7392 grapes, fruits, berries or vegetables grown and produced in
7393 Mississippi; provided that bulk, concentrated or fortified wines
7394 used for blending may be produced without this state and used in
7395 producing native wines. The department shall adopt and promulgate



7396 rules and regulations to permit a producer to import such bulk
7397 and/or fortified wines into this state for use in blending with
7398 native wines without payment of any excise tax that would
7399 otherwise accrue thereon.

7400 (q) "Native winery" means any place or establishment
7401 within the State of Mississippi where native wine is produced in
7402 whole or in part for sale.

7403 (r) "Bed and breakfast inn" means an establishment
7404 within a municipality where in consideration of payment, breakfast
7405 and lodging are habitually furnished to travelers and wherein are
7406 located not less than eight (8) and not more than nineteen (19)
7407 adequately furnished and completely separate sleeping rooms with
7408 adequate facilities, that persons usually apply for and receive as
7409 overnight accommodations; however, such restriction on the minimum
7410 number of sleeping rooms shall not apply to establishments on the
7411 National Register of Historic Places. No place shall qualify as a
7412 bed and breakfast inn under this chapter unless on the date of the
7413 initial application for a license under this chapter more than
7414 fifty percent (50%) of the sleeping rooms are located in a
7415 structure formerly used as a residence.

7416 (s) "Board" shall refer to Board of Tax Appeals of the
7417 State of Mississippi.

7418 **SECTION 127.** Section 67-1-19, Mississippi Code of 1972, is
7419 amended as follows:

7420 67-1-19. The administration and enforcement of this chapter
7421 shall be vested in the Department of Revenue * * *. There is
7422 hereby created the Alcoholic Beverage Control Division within and
7423 as a part of the Department of Revenue.

7424 **SECTION 128.** Section 67-1-23, Mississippi Code of 1972, is
7425 amended as follows:

7426 67-1-23. The Commissioner of Revenue of the Department of
7427 Revenue shall appoint a director of the division, and may appoint
7428 or employ such agents, inspectors, clerks and other employees for



7429 such division as may be necessary to carry out the provisions of
7430 this chapter or to perform the duties and exercise the powers
7431 conferred by this chapter upon the department. The Commissioner
7432 of Revenue shall have the authority to employ, compensate,
7433 terminate, suspend with or without pay, promote, demote, transfer
7434 or reprimand the director, agents, inspectors, clerks and other
7435 employees of the division. * * * The director and all permanent
7436 employees of the division shall devote their full time to the
7437 duties of their respective offices.

7438 **SECTION 129.** Section 67-1-33, Mississippi Code of 1972, is
7439 amended as follows:

7440 67-1-33. (1) No member of the Board of Tax Appeals,
7441 Commissioner of Revenue of the Department of Revenue, or person
7442 appointed or employed by the department under this chapter shall
7443 solicit, accept or receive any gift, gratuity, emolument or
7444 employment from any person subject to the provisions of this
7445 chapter, or from any officer, agent or employee thereof.

7446 (2) No * * * member of the Board of Tax Appeals, the
7447 Commissioner of Revenue of the Department of Revenue, or person
7448 appointed or employed by the department under this chapter shall
7449 solicit, request from or recommend, directly or indirectly, to
7450 any * * * person subject to the provisions of this chapter, or to
7451 any officer, agent or employee thereof, the appointment of any
7452 person to any place or position.

7453 (3) Every * * * person subject to the provisions of this
7454 chapter, and every officer, agent or employee thereof, is hereby
7455 forbidden to offer to any member of the Board of Tax Appeals, to
7456 the Commissioner of Revenue or to any person appointed or employed
7457 by the department under this chapter any gift, gratuity, emolument
7458 or employment.

7459 (4) If any member of the Board of Tax Appeals, the
7460 Commissioner of Revenue or any person appointed or employed by the
7461 department under this chapter shall violate any of the provisions



7462 of this section, he shall be removed from the office or employment
7463 held by him.

7464 (5) Every person violating the provisions of this section
7465 shall be guilty of a misdemeanor.

7466 (6) For purposes of this provision, the terms "gift,"
7467 "gratuity," "emolument" and "employment" do not include the
7468 payment of expenses associated with social occasions afforded
7469 public servants or any other benefit that does not come within the
7470 definition of "pecuniary benefit" as defined in Section 25-4-103.

7471 **SECTION 130.** Section 67-1-35, Mississippi Code of 1972, is
7472 amended as follows:

7473 67-1-35. * * * The department may, for authentication of
7474 records, process and proceedings, adopt, keep and use a seal for
7475 the Alcoholic Beverage Control Division of the Department of
7476 Revenue, of which seal judicial notice shall be taken in all
7477 courts of this state. Any process, notice or other paper which
7478 the department may be authorized by law to issue under this
7479 chapter shall be deemed sufficient if signed by the director and
7480 authenticated by such seal. All acts, orders, proceedings, rules,
7481 regulations, entries, minutes, and other records of the department
7482 in connection with this chapter, and all reports and documents
7483 filed with it under this chapter, may be proved in any court of
7484 this state by a copy thereof certified to by the director with the
7485 seal of the division affixed.

7486 **SECTION 131.** Section 67-1-37, Mississippi Code of 1972, is
7487 amended as follows:

7488 **[Until July 1, 2011, this section will read as follows:]**

7489 67-1-37. (1) The Department of Revenue, under its duties
7490 and powers with respect to the Alcoholic Beverage Control Division
7491 therein, shall have the following powers, functions and duties:

7492 (a) To issue or refuse to issue any permit provided for
7493 by this chapter, or to extend the permit or remit in whole or any



7494 part of the permit monies when the permit cannot be used due to a
7495 natural disaster or Act of God.

7496 (b) To revoke, suspend or cancel, for violation of or
7497 noncompliance with the provisions of this chapter, or the law
7498 governing the production and sale of native wines, or any lawful
7499 rules and regulations of the department issued hereunder, or for
7500 other sufficient cause, any permit issued by it under the
7501 provisions of this chapter * * *. The department shall also be
7502 authorized to suspend the permit of any permit holder for being
7503 out of compliance with an order for support, as defined in Section
7504 93-11-153. The procedure for suspension of a permit for being out
7505 of compliance with an order for support, and the procedure for the
7506 reissuance or reinstatement of a permit suspended for that
7507 purpose, and the payment of any fees for the reissuance or
7508 reinstatement of a permit suspended for that purpose, shall be
7509 governed by Section 93-11-157 or Section 93-11-163, as the case
7510 may be. If there is any conflict between any provision of Section
7511 93-11-157 or Section 93-11-163 and any provision of this chapter,
7512 the provisions of Section 93-11-157 or Section 93-11-163, as the
7513 case may be, shall control.

7514 (c) To prescribe forms of permits and applications for
7515 permits and of all reports which it deems necessary in
7516 administering this chapter.

7517 (d) To fix standards, not in conflict with those
7518 prescribed by any law of this state or of the United States, to
7519 secure the use of proper ingredients and methods of manufacture of
7520 alcoholic beverages.

7521 (e) To issue rules regulating the advertising of
7522 alcoholic beverages in the state in any class of media and
7523 permitting advertising of the retail price of alcoholic beverages.

7524 (f) To issue reasonable rules and regulations, not
7525 inconsistent with the federal laws or regulations, requiring
7526 informative labeling of all alcoholic beverages offered for sale



7527 within this state and providing for the standards of fill and
7528 shapes of retail containers of alcoholic beverages; however, such
7529 containers shall not contain less than fifty (50) milliliters by
7530 liquid measure.

7531 (g) Subject to the provisions of subsection (3) of
7532 Section 67-1-51, to issue rules and regulations governing the
7533 issuance of retail permits for premises located near or around
7534 schools, colleges, universities, churches and other public
7535 institutions, and specifying the distances therefrom within which
7536 no such permit shall be issued. The Alcoholic Beverage Control
7537 Division shall not issue a package retailer's or on-premises
7538 retailer's permit for the sale or consumption of alcoholic
7539 beverages in or on the campus of any public school, community or
7540 junior college, college or university.

7541 (h) To adopt and promulgate, repeal and amend, such
7542 rules, regulations, standards, requirements and orders, not
7543 inconsistent with this chapter or any law of this state or of the
7544 United States, as it deems necessary to control the manufacture,
7545 importation, transportation, distribution and sale of alcoholic
7546 liquor, whether intended for beverage or nonbeverage use in a
7547 manner not inconsistent with the provisions of this chapter or any
7548 other statute, including the native wine laws.

7549 (i) To call upon other administrative departments of
7550 the state, county and municipal governments, county and city
7551 police departments and upon prosecuting officers for such
7552 information and assistance as it may deem necessary in the
7553 performance of its duties.

7554 (j) To prepare and submit to the Governor during the
7555 month of January of each year a detailed report of its official
7556 acts during the preceding fiscal year ending June 30, including
7557 such recommendations as it may see fit to make, and to transmit a
7558 like report to each member of the Legislature of this state upon
7559 the convening thereof at its next regular session.



7560 (k) To inspect, or cause to be inspected, any premises
7561 where alcoholic liquors intended for sale are manufactured,
7562 stored, distributed or sold, and to examine or cause to be
7563 examined all books and records pertaining to the business
7564 conducted therein.

7565 * * *

7566 (l) To investigate the administration of laws in
7567 relation to alcoholic liquors in this and other states and any
7568 foreign countries, and to recommend from time to time to the
7569 Governor and through him to the Legislature of this state such
7570 amendments to this chapter, if any, as it may think desirable.

7571 (m) To designate hours and days when alcoholic
7572 beverages may be sold in different localities in the state which
7573 permit such sale.

7574 (n) To assign employees to posts of duty at locations
7575 where they will be most beneficial for the control of alcoholic
7576 beverages and to take any other action concerning persons employed
7577 under this chapter as authorized by law and taken in accordance
7578 with the rules, regulations and procedures of the State Personnel
7579 Board. * * *

7580 * * *

7581 (o) To enforce the provisions made unlawful by Sections
7582 67-3-13, 67-3-15, 67-3-53, 67-3-57 and 67-3-70.

7583 (p) To delegate its authority under this chapter to the
7584 Alcoholic Beverage Control Division, its director or any other
7585 officer or employee of the department that it deems appropriate.

7586 (2) No alcoholic beverage shall be sold or consumed at any
7587 public athletic event at any public school, community or junior
7588 college, college or university.

7589 **[From and after July 1, 2011, this section will read as**
7590 **follows:]**



7591 67-1-37. (1) The Department of Revenue, under its duties
7592 and powers with respect to the Alcoholic Beverage Control Division
7593 therein, shall have the following powers, functions and duties:

7594 (a) To issue or refuse to issue any permit provided for
7595 by this chapter, or to extend the permit or remit in whole or any
7596 part of the permit monies when the permit cannot be used due to a
7597 natural disaster or Act of God.

7598 (b) To revoke, suspend or cancel, for violation of or
7599 noncompliance with the provisions of this chapter, or the law
7600 governing the production and sale of native wines, or any lawful
7601 rules and regulations of the department issued hereunder, or for
7602 other sufficient cause, any permit issued by it under the
7603 provisions of this chapter * * *. The department shall also be
7604 authorized to suspend the permit of any permit holder for being
7605 out of compliance with an order for support, as defined in Section
7606 93-11-153. The procedure for suspension of a permit for being out
7607 of compliance with an order for support, and the procedure for the
7608 reissuance or reinstatement of a permit suspended for that
7609 purpose, and the payment of any fees for the reissuance or
7610 reinstatement of a permit suspended for that purpose, shall be
7611 governed by Section 93-11-157 or 93-11-163, as the case may be.
7612 If there is any conflict between any provision of Section
7613 93-11-157 or 93-11-163 and any provision of this chapter, the
7614 provisions of Section 93-11-157 or 93-11-163, as the case may be,
7615 shall control.

7616 (c) To prescribe forms of permits and applications for
7617 permits and of all reports which it deems necessary in
7618 administering this chapter.

7619 (d) To fix standards, not in conflict with those
7620 prescribed by any law of this state or of the United States, to
7621 secure the use of proper ingredients and methods of manufacture of
7622 alcoholic beverages.



7623 (e) To issue rules regulating the advertising of
7624 alcoholic beverages in the state in any class of media and
7625 permitting advertising of the retail price of alcoholic beverages.

7626 (f) To issue reasonable rules and regulations, not
7627 inconsistent with the federal laws or regulations, requiring
7628 informative labeling of all alcoholic beverages offered for sale
7629 within this state and providing for the standards of fill and
7630 shapes of retail containers of alcoholic beverages; however, such
7631 containers shall not contain less than fifty (50) milliliters by
7632 liquid measure.

7633 (g) Subject to the provisions of subsection (3) of
7634 Section 67-1-51, to issue rules and regulations governing the
7635 issuance of retail permits for premises located near or around
7636 schools, colleges, universities, churches and other public
7637 institutions, and specifying the distances therefrom within which
7638 no such permit shall be issued. The Alcoholic Beverage Control
7639 Division shall not issue a package retailer's or on-premises
7640 retailer's permit for the sale or consumption of alcoholic
7641 beverages in or on the campus of any public school, community or
7642 junior college, college or university.

7643 (h) To adopt and promulgate, repeal and amend, such
7644 rules, regulations, standards, requirements and orders, not
7645 inconsistent with this chapter or any law of this state or of the
7646 United States, as it deems necessary to control the manufacture,
7647 importation, transportation, distribution and sale of alcoholic
7648 liquor, whether intended for beverage or nonbeverage use in a
7649 manner not inconsistent with the provisions of this chapter or any
7650 other statute, including the native wine laws.

7651 (i) To call upon other administrative departments of
7652 the state, county and municipal governments, county and city
7653 police departments and upon prosecuting officers for such
7654 information and assistance as it may deem necessary in the
7655 performance of its duties.



7656 (j) To prepare and submit to the Governor during the
7657 month of January of each year a detailed report of its official
7658 acts during the preceding fiscal year ending June 30, including
7659 such recommendations as it may see fit to make, and to transmit a
7660 like report to each member of the Legislature of this state upon
7661 the convening thereof at its next regular session.

7662 (k) To inspect, or cause to be inspected, any premises
7663 where alcoholic liquors intended for sale are manufactured,
7664 stored, distributed or sold, and to examine or cause to be
7665 examined all books and records pertaining to the business
7666 conducted therein.

7667 * * *

7668 (l) To investigate the administration of laws in
7669 relation to alcoholic liquors in this and other states and any
7670 foreign countries, and to recommend from time to time to the
7671 Governor and through him to the Legislature of this state such
7672 amendments to this chapter, if any, as it may think desirable.

7673 (m) To designate hours and days when alcoholic
7674 beverages may be sold in different localities in the state which
7675 permit such sale.

7676 (n) To assign employees to posts of duty at locations
7677 where they will be most beneficial for the control of alcoholic
7678 beverages and to take any other action concerning persons employed
7679 under this chapter as authorized by law and taken in accordance
7680 with the rules, regulations and procedures of the State Personnel
7681 Board. * * *

7682 * * *

7683 (o) To delegate its authority under this chapter to the
7684 Alcoholic Beverage Control Division, its director or any other
7685 officer or employee of the department that it deems appropriate.

7686 (2) No alcoholic beverage shall be sold or consumed at any
7687 public athletic event at any public school, community or junior
7688 college, college or university.



7689 **SECTION 132.** Section 67-1-39, Mississippi Code of 1972, is
7690 amended as follows:

7691 67-1-39. Any appeal from an order of the Board of Tax
7692 Appeals regarding an action taken under this chapter shall be
7693 filed without supersedeas to the Chancery Court of the First
7694 Judicial District of Hinds County, Mississippi, if the appellant
7695 is the department, or to the county of the domicile of any other
7696 appellant. * * * Any such appeal shall be based on the record
7697 made before the Board of Tax Appeals and shall be filed within
7698 thirty (30) days from the date of the order being appealed. There
7699 may be an appeal therefrom to the Supreme Court as in other cases
7700 provided, but it shall be without supersedeas on the order of the
7701 Board of Tax Appeals to them made and finally determined either by
7702 the chancery court or the Supreme Court. Actions taken by the
7703 department in suspending a permit when required by Section
7704 93-11-157 or 93-11-163 are not actions resulting in an order from
7705 which an appeal may be taken under this section. Any appeal of a
7706 permit suspension that is required by Section 93-11-157 shall be
7707 taken in accordance with the appeal procedure specified in Section
7708 93-11-157 or 93-11-163, as the case may be, rather than the
7709 procedure specified in this section.

7710 **SECTION 133.** Section 67-1-63, Mississippi Code of 1972, is
7711 amended as follows:

7712 67-1-63. (1) Any permittee may renew his permit at the
7713 expiration thereof for an additional term of one (1) year,
7714 provided he is then qualified to receive a permit and the premises
7715 for which the renewal is sought are suitable for such purposes.
7716 The renewal privilege herein provided for shall not be construed
7717 as a vested right. No "on-premises" retailer's permit shall be
7718 renewed at the expiration thereof for any "hotel" or "restaurant"
7719 under this chapter unless the commission is satisfied that the
7720 holder thereof is continuing to meet the requirements of a hotel
7721 or restaurant, as defined in Section 67-1-5.



7722 (2) When an application for the renewal of a permit has been
7723 denied by the department for a reason other than for being
7724 incomplete, for failure to pay any applicable license privilege
7725 taxes or fees required for renewal or for failure to post a bond,
7726 cash or securities as required by Section 27-71-21, the permittee
7727 shall be allowed to continue to operate under the permit for which
7728 renewal was denied until the last of the following dates:

7729 (a) The date on which the permit expires;

7730 (b) The date on which the time period for filing an
7731 appeal of the denial of the renewal to the Board of Tax Appeals
7732 expires;

7733 (c) If the denial is timely appealed to the Board of Tax
7734 Appeals and this appeal is later withdrawn, the date on which the
7735 withdrawal of appeal occurs; or

7736 (d) If the denial is timely appealed to the Board of Tax
7737 Appeals and an order is entered by the Board of Tax Appeals
7738 affirming the denial of the renewal, the date on which the
7739 permittee receives notice of the decision of the Board of Tax
7740 Appeals affirming the denial. Refusal to accept delivery of such
7741 notice or the posting of the final decision of the Board of Tax
7742 Appeals at the permitted place of business shall constitute
7743 receipt of notice by the permittee of this decision.

7744 (3) If the denial of an application for renewal of a permit
7745 is appealed to the Board of Tax Appeals and the board reverses the
7746 denial of the application for renewal, the department shall renew
7747 and issue the permit from its last expiration date.

7748 (4) The issuance and/or renewal of a permit based on the
7749 decision of the Board of Tax Appeals shall not bar or estop the
7750 department from appealing this decision of the Board of Tax
7751 Appeals to chancery court under Section 67-1-39. Any subsequent
7752 renewal of this permit while an appeal by the department from the
7753 decision of the Board of Tax Appeals is pending shall be subject
7754 to the final decision of the court on this appeal. If in such an



7755 appeal by the department, a court enters a final decision and/or
7756 order reversing the decision of the board and affirming the denial
7757 of the application for a permit or the application for renewal of
7758 a permit, the permit, even if subsequently renewed, shall be
7759 deemed denied and not authorize the permittee to sell alcoholic
7760 beverages under that permit after the date on which the decision
7761 and/or order of the court affirming the denial of the permit
7762 becomes final and not subject to any further appeal.

7763 **SECTION 134.** Section 67-1-71, Mississippi Code of 1972, is
7764 amended as follows:

7765 67-1-71. The department may revoke or suspend any permit
7766 issued by it for a violation by the permittee of any of the
7767 provisions of this chapter or of the regulations promulgated under
7768 it by the department.

7769 Permits must be revoked or suspended for the following
7770 causes:

7771 (a) Conviction of the permittee for the violation of
7772 any of the provisions of this chapter;

7773 (b) Willful failure or refusal by any permittee to
7774 comply with any of the provisions of this chapter or of any rule
7775 or regulation adopted pursuant thereto;

7776 (c) The making of any materially false statement in any
7777 application for a permit;

7778 (d) Conviction of one or more of the clerks, agents or
7779 employees of the permittee, of any violation of this chapter upon
7780 the premises covered by such permit within a period of time as
7781 designated by the rules or regulations of the department;

7782 (e) The possession on the premises of any retail
7783 permittee of any alcoholic beverages upon which the tax has not
7784 been paid;

7785 (f) The willful failure of any permittee to keep the
7786 records or make the reports required by this chapter, or to allow
7787 an inspection of such records by any duly authorized person;



7788 (g) The suspension or revocation of a permit issued to
7789 the permittee by the federal government, or conviction of
7790 violating any federal law relating to alcoholic beverages;

7791 (h) The failure to furnish any bond required by Section
7792 27-71-21 within fifteen (15) days after notice from the
7793 department; and

7794 (i) The conducting of any form of illegal gambling on
7795 the premises of any permittee or on any premises connected
7796 therewith or the presence on any such premises of any gambling
7797 device with the knowledge of the permittee.

7798 The provisions of paragraph (i) of this section shall not
7799 apply to gambling or the presence of any gambling devices, with
7800 knowledge of the permittee, on board a cruise vessel in the waters
7801 within the State of Mississippi, which lie adjacent to the State
7802 of Mississippi south of the three (3) most southern counties in
7803 the State of Mississippi, or on any vessel as defined in Section
7804 27-109-1 whenever such vessel is on the Mississippi River or
7805 navigable waters within any county bordering on the Mississippi
7806 River. The department may, in its discretion, issue on-premises
7807 retailer's permits to a common carrier of the nature described in
7808 this paragraph.

7809 No permit shall be suspended or revoked until after the
7810 permittee has been provided reasonable notice of the charges
7811 against him for which suspension or revocation is sought and the
7812 opportunity to a hearing before the Board of Tax Appeals to
7813 contest such charges and the suspension or revocation proposed.
7814 Opportunity to a hearing is provided without an actual hearing if
7815 the permittee, after receiving reasonable notice, including notice
7816 of his right to a hearing, fails to timely request a hearing. The
7817 permittee may also at any time waive his rights to reasonable
7818 notice and/or to the opportunity to a hearing by agreeing to a
7819 suspension or revocation offered by the department.

7820 Notwithstanding the requirement above that a permit may not be



7821 suspended without notice and opportunity to a hearing, sales of
7822 alcoholic beverages by a permittee under a permit for which the
7823 bond shall be suspended under Section 27-71-21 has been cancelled
7824 from and after issuance of this notice provided in subsection (h)
7825 above and shall continue to be suspended until the bond is
7826 reinstated, a new bond is posted or sufficient cash or securities
7827 as provided under Section 27-71-21 are deposited with the State
7828 Treasurer for this permit.

7829 In addition to the causes specified in this section and other
7830 provisions of this chapter, the department shall be authorized to
7831 suspend the permit of any permit holder for being out of
7832 compliance with an order for support, as defined in Section
7833 93-11-153. The procedure for suspension of a permit for being out
7834 of compliance with an order for support, and the procedure for the
7835 reissuance or reinstatement of a permit suspended for that
7836 purpose, and the payment of any fees for the reissuance or
7837 reinstatement of a permit suspended for that purpose, shall be
7838 governed by Section 93-11-157 or 93-11-163, as the case may be.
7839 If there is any conflict between any provision of Section
7840 93-11-157 or 93-11-163 and any provision of this chapter, the
7841 provisions of Section 93-11-157 or 93-11-163, as the case may be,
7842 shall control.

7843 **SECTION 135.** The following shall be codified as Section
7844 67-1-72, Mississippi Code of 1972:

7845 67-1-72. (1) Except as otherwise provided in this chapter,
7846 any applicant or holder of a permit issued under this chapter
7847 which is aggrieved by an action of the Department of Revenue to
7848 deny his application for a permit, to deny the renewal of his
7849 permit or to revoke or suspend his permit shall be allowed to
7850 appeal to the Board of Tax Appeals from this action. This appeal
7851 is to be filed by the aggrieved person with the Executive Director
7852 of the Board of Tax Appeals, with a copy being sent to the
7853 Department of Revenue, within fifteen (15) days of the date to



7854 that person received notice of the action of the department being
7855 aggrieved. If the person aggrieved fails to appeal within this
7856 fifteen-day period, the action of the Department of Revenue shall
7857 take effect as set out in the notice. The Department of Revenue
7858 retains the authority to change at any time the action aggrieved
7859 to in an appeal under this subsection. The applicant or holder of
7860 any permit issued under this chapter may waive his right to notice
7861 and opportunity to a hearing as provided by this subsection and
7862 agree to the action being taken by the department. The inability
7863 of the Department of Revenue to issue or renew a permit due to an
7864 incomplete application or due to the failure of the applicant to
7865 pay the annual privilege taxes and fees provided by Section
7866 27-71-5 and/or the failure of the applicant to post or deposit the
7867 bond, cash or securities as required by Section 27-71-21 shall not
7868 constitute a denial for purposes of this subsection.

7869 (2) Any applicant for approval as a manager of an
7870 establishment operating under a permit issued under this chapter
7871 or who holds the designation of an approved manager of an
7872 establishment operating under a permit issued under this chapter
7873 and who is aggrieved by an action of the Department of Revenue to
7874 deny his application for approval as a manager or to revoke or
7875 suspend his designation as an approved manager shall be allowed to
7876 appeal to the Board of Tax Appeals from this action. This appeal
7877 is to be filed by the aggrieved person with the Executive Director
7878 of the Board of Tax Appeals, with a copy being sent to the
7879 Department of Revenue, within fifteen (15) days from the date that
7880 person received notice of the action of the department being
7881 aggrieved. If the person aggrieved fails to appeal within this
7882 fifteen-day period, the action of the Department of Revenue shall
7883 take effect as set out in the notice. The Department of Revenue
7884 retains the authority to change at any time the action aggrieved
7885 to in an appeal under this subsection. The applicant or holder of
7886 an approved manager designation may waive his right to notice and



7887 opportunity to a hearing as provided by this subsection and agree
7888 to the action being taken by the department. The inability of the
7889 Department of Revenue to consider an application for approval of
7890 an applicant as a manager due to an incomplete application shall
7891 not constitute a denial of the application for purposes of this
7892 subsection.

7893 (3) Any applicant for approval of an area or locality as a
7894 qualified resort area under this chapter who is aggrieved by the
7895 decision of the Department of Revenue to deny the qualified resort
7896 area as requested and any county or municipality wherein the
7897 proposed qualified resort area is located may appeal to the Board
7898 of Tax Appeals from such decision. This appeal is to be filed by
7899 the aggrieved applicant or by the affected county or municipality
7900 with the Executive Director of the Board of Tax Appeals, with a
7901 copy being sent to the Department of Revenue, within fifteen (15)
7902 days from the date that the person or entity filing the appeal
7903 received notice of the decision of the Department of Revenue to
7904 deny the qualified resort area. If an appeal is not filed within
7905 this fifteen-day period, the decision of the Department of Revenue
7906 shall become final. The Department of Revenue retains the
7907 authority to change at any time the decision aggrieved to in an
7908 appeal under this subsection. The inability of the Department of
7909 Revenue to consider an application for the approval of an area or
7910 locality as a qualified resort area due to an incomplete
7911 application shall not constitute a denial of that application for
7912 purposes of this subsection.

7913 (4) Any person, including any county or municipality in
7914 which the qualified resort area is located, who is aggrieved by
7915 the decision of the Department of Revenue to revoke the approval
7916 of an area or locality as a qualified resort area may appeal to
7917 the Board of Tax Appeals from such decision. This appeal is to be
7918 filed by the aggrieved person with the Executive Director of the
7919 Board of Tax Appeals, with a copy being sent to the Department of



7920 Revenue, within fifteen (15) days from the date that the person or
7921 entity filing the appeal received notice of the decision of the
7922 department to revoke approval of the qualified resort area. At
7923 the discretion of the Department of Revenue, in addition to any
7924 other notice to be provided under this subsection, the department
7925 may provide notice of its decision to revoke approval of the
7926 qualified resort area by publication in the same manner as
7927 provided by regulation when approval of a qualified resort area is
7928 sought. In regard to such publication, the fifteen (15) day
7929 period provide herein will begin on the date that notice is first
7930 published. If an appeal is not filed within this fifteen-day
7931 period, the decision of the Department of Revenue shall become
7932 final. The Department of Revenue retains the authority to change
7933 at any time the decision aggrieved to in an appeal under this
7934 subsection.

7935 (5) Any person objecting to an application for the issuance
7936 or transfer of a permit, other than a temporary retailer's permit,
7937 issued under this chapter and who timely requests in writing a
7938 hearing on his objection shall be given a hearing before the Board
7939 of Tax Appeals unless the permit is denied by the Department of
7940 Revenue and an appeal is not taken by the applicant to the Board
7941 of Tax Appeals from that denial or the applicant withdraws his
7942 application. Any written request for a hearing on an objection
7943 must be filed with the Department of Revenue within fifteen (15)
7944 days from the first date of publication of the notice of such
7945 application under Section 67-1-53. If the department determines
7946 that the permit should be denied, notice will be provided to the
7947 applicant as set out in subsection (1) above, and if the applicant
7948 timely requests a hearing on the denial as provided by this
7949 subsection (1), the department will advise the Executive Director
7950 of the Board of Tax Appeals and the applicant of the written
7951 request for a hearing on an objection to the permit. The hearing
7952 on the objection to the permit and the hearing on the appeal by



7953 the applicant from the denial of the department of the application
7954 shall be consolidated and heard by the Board of Tax Appeals at the
7955 same time. If the department determines that the permit should be
7956 issued, the department will advise the applicant and the Executive
7957 Director of the Board of Tax Appeals of the timely written request
7958 for a hearing on an objection to the application and a hearing
7959 will be set before the Board of Tax Appeals on this objection. If
7960 prior to the hearing, either the person requesting the hearing
7961 withdraws his request or the applicant withdraws his application,
7962 the hearing will be cancelled and the objection proceedings before
7963 the Board of Tax Appeals on the application will be dismissed as
7964 moot. In the case of such withdrawals, the Board of Tax Appeals
7965 is authorized to assess to either or both parties any costs
7966 incurred by it prior to such withdrawal. The Department of
7967 Revenue retains authority to issue the permit to the applicant
7968 where the person objecting to the application withdraws his
7969 request for a hearing.

7970 (6) Any person objecting to an application for approval by
7971 the Department of Revenue of a area or locality as a qualified
7972 resort area under this chapter and who timely requests in writing
7973 a hearing on his objection shall be given a hearing before the
7974 Board of Tax Appeals unless approval of the application is denied
7975 by the Department of Revenue and an appeal is not taken by the
7976 applicant or the county or municipality in which the proposed
7977 qualified resort area is located to the Board of Tax Appeals from
7978 that denial or the applicant withdraws his application. Any
7979 written request for a hearing on an objection must be filed with
7980 the Department of Revenue within fifteen (15) days from the first
7981 date of publication on the notice of such application as provided
7982 by regulation. If the department determines that the application
7983 for approval of the proposed area or locality as a qualified
7984 resort area should be denied, the department will proceed with
7985 denial of such application as set out in subsection (3) above, and



7986 if the applicant or the county or municipality in which the
7987 proposed qualified resort area is located timely requests a
7988 hearing on the denial as provided by this subsection (3), the
7989 department will advise the Executive Director of the Board of Tax
7990 Appeals and the applicant of the written request for a hearing on
7991 an objection to the application. The hearing on the objection to
7992 approval of the proposed qualified resort area and the hearing on
7993 the appeal from the denial of the department of the application
7994 for such approval shall be consolidated and heard by the Board of
7995 Tax Appeals at the same time. If the department determines that
7996 the proposed qualified resort area should be approved, the
7997 department will advise the applicant and the Executive Director of
7998 the Board of Tax Appeals of the timely written request for a
7999 hearing on an objection to the application and a hearing will be
8000 set before the Board of Tax Appeals on this objection. If prior
8001 to the hearing, either the person requesting the hearing withdraws
8002 his request or the applicant withdraws his application, the
8003 hearing will be cancelled and the objection proceedings before the
8004 Board of Tax Appeals on the application will be dismissed as moot.
8005 In the case of such withdrawals, the Board of Tax Appeals is
8006 authorized to assess to either or both parties any costs incurred
8007 by it prior to such withdrawal. The Department of Revenue retains
8008 authority to approve the proposed area or locality as a qualified
8009 resort area where the person objecting to the application
8010 withdraws his request for a hearing.

8011 (7) Any person having an interest in any alcoholic beverages
8012 or raw materials which the Department of Revenue intends to
8013 dispose of under Section 67-1-18 shall be given reasonable notice
8014 of this proposed disposal, and upon such notice, this person may
8015 request a hearing before the Board of Tax Appeals to establish his
8016 right or claim to this property. This request for a hearing shall
8017 be filed with the Board of Tax Appeals, with a copy sent to the
8018 Department of Revenue, within fifteen (15) days from the date of



8019 receipt of the notice provide above by the person filing the
8020 request. If a request is not received by the Board of Tax Appeals
8021 within this fifteen-day period, the department may order the
8022 property disposed of in accordance with Section 67-1-18.

8023 (8) Upon receipt of a written request for hearing or appeal
8024 as set out above, the executive director shall schedule a hearing
8025 before the Board of Tax Appeals on this request or appeal. A
8026 notice of the hearing shall be mailed to all persons or entities
8027 having an interest in the matter being heard which shall always
8028 include the person or entity filing the request or appeal for
8029 which the hearing is being set, the applicant or holder of any
8030 permit, approved manager status or qualified resort area status in
8031 issue, any person who filed a written request for a hearing on an
8032 objection to any application in issue and the Department of
8033 Revenue. This notice shall provide the date, time and location of
8034 the hearing. Mailing to the attorney representing a person or
8035 entity in the matter being heard shall be the same as mailing to
8036 the person or entity the attorney represents. Failure of the
8037 person or entity on whose request or appeal the matter was set for
8038 hearing to appear personally or through his designated
8039 representative at the hearing shall constitute an involuntary
8040 withdrawal of his request or appeal. Upon such withdrawal, the
8041 Board of Tax Appeals shall note on the record the failure of the
8042 person or entity to appear at the hearing and shall dismiss the
8043 request or appeal and remand the matter back to the Department of
8044 Revenue for appropriate action.

8045 (9) At any hearing before the Board of Tax Appeals on an
8046 appeal or hearing request as set out above, two (2) members of the
8047 Board of Tax Appeals shall constitute a quorum. At the hearing,
8048 the Board of Tax Appeals shall try the issues presented according
8049 to law and the facts and pursuant to any guidelines established by
8050 regulation. The rules of evidence shall be relaxed at the hearing
8051 and the hearing shall be recorded by a court reporter. After



8052 reaching a decision on the issues presented, the Board of Tax
8053 Appeals shall enter an order setting forth its findings and
8054 decision in the matter. A copy of the order of the Board of Tax
8055 Appeals shall be mailed to the person or entity filing the request
8056 or appeal which was heard, the applicant or holder of any permit,
8057 approved manager status or qualified resort area status in issue,
8058 any person who filed a written request for a hearing on an
8059 objection to any application in issue and the Department of
8060 Revenue to notify them of the findings and decision of the Board
8061 of Tax Appeals.

8062 **SECTION 136.** Section 67-3-3, Mississippi Code of 1972, is
8063 amended as follows:

8064 67-3-3. When used in this chapter, unless the context
8065 indicates otherwise:

8066 (a) "Commissioner" means the Commissioner of Revenue of
8067 the Department of Revenue of the State of Mississippi, and his
8068 authorized agents and employees;

8069 (b) "Person" means one or more persons, a company, a
8070 corporation, a partnership, a syndicate or an association;

8071 (c) "Manufacturer" and "retailer" include brewpubs
8072 licensed pursuant to Article 3, Chapter 71, Title 27, Mississippi
8073 Code of 1972, unless otherwise clearly provided; and

8074 (d) "Beer" means a malt beverage as defined in the
8075 Federal Alcohol Administration Act and any rules and regulations
8076 adopted pursuant to such act.

8077 **SECTION 137.** Section 67-7-5, Mississippi Code of 1972, is
8078 amended as follows:

8079 67-7-5. As used in this chapter, the following words or
8080 phrases, or the plural thereof, whenever they appear in this
8081 chapter, unless the context clearly requires otherwise, shall have
8082 the meaning ascribed to them in this section.

8083 (a) "Agreement" means any agreement between a
8084 wholesaler and a supplier, whether oral or written, whereby a



8085 wholesaler is granted the right to purchase and sell a brand or
8086 brands of light wine or beer sold by a supplier.

8087 (b) "Ancillary business" means a business owned by the
8088 wholesaler, by a substantial stockholder of a wholesaler, or by a
8089 substantial partner of a wholesaler, the primary business of which
8090 is directly related to the transporting, storing or marketing of
8091 the brand or brands of light wine or beer of a supplier with whom
8092 the wholesaler has an agreement; or a business owned by a
8093 wholesaler, a substantial stockholder of a wholesaler.

8094 (c) "Commission" or "department" means the Department
8095 of Revenue of the State of Mississippi.

8096 (d) "Commissioner" means the Commissioner of Revenue of
8097 the Department of Revenue.

8098 (e) "Designated member" means the spouse, child,
8099 grandchild, parent, brother or sister of a deceased individual who
8100 owned an interest, including a controlling interest, in a
8101 wholesaler, or any person who inherits under the deceased
8102 individual's will, or under the laws of intestate succession of
8103 this state; or any person who or entity which has otherwise,
8104 through a valid testamentary device by the deceased individual,
8105 succeeded the deceased individual in the wholesaler's business, or
8106 has succeeded to the deceased individual's ownership interest in
8107 the wholesaler pursuant to a written contract or instrument which
8108 has been previously approved by supplier; "designated member"
8109 includes the appointed and qualified personal representative and
8110 the testamentary trustee of a deceased individual owning an
8111 ownership interest in a wholesaler, and it includes the person
8112 appointed by a court as the guardian or conservator of the
8113 property of an incapacitated individual owning an ownership
8114 interest in a wholesaler.

8115 (f) "Establish" means to adjust or regulate, to provide
8116 for and uphold.



8117 (g) "Good faith" means honesty in fact and observance
8118 of reasonable commercial standards of fair dealing in the trade,
8119 as defined in and interpreted under the Uniform Commercial Code.

8120 (h) "Reasonable qualifications" means the standard of
8121 the reasonable criteria established and consistently used by the
8122 respective supplier for similarly situated wholesalers that
8123 entered into, continued or renewed an agreement with the supplier
8124 during a period of twenty-four (24) months before the proposed
8125 transfer of the wholesaler's business, or for similarly situated
8126 wholesalers who have changed managers or designated managers,
8127 under the agreement, during a period of twenty-four (24) months
8128 before the proposed change in the manager or successor manager of
8129 the wholesaler's business.

8130 (i) "Retaliatory action" means the refusal to continue
8131 an agreement, or a material reduction in the quality of service or
8132 quantity of products available to a wholesaler under an agreement,
8133 which refusal or reduction is not made in good faith.

8134 (j) "Sales territory" means a primary area of sales
8135 responsibility for the brand or brands of light wine or beer sold
8136 by a supplier as designated by an agreement.

8137 (k) "Substantial stockholder or substantial partner"
8138 means a stockholder or partner in the wholesaler who owns an
8139 interest of ten percent (10%) or more of the partnership or of the
8140 capital stock of a corporate wholesaler.

8141 (l) "Supplier" means a manufacturer or importer of
8142 light wine or beer as regulated by the department under Sections
8143 67-3-1 through 67-3-73.

8144 (m) "Transfer of wholesaler's business" means the
8145 voluntary sale, assignment or other transfer of ten percent (10%)
8146 or more of control of the business or all or substantially all of
8147 the assets of the wholesaler, or ten percent (10%) or more of
8148 control of the capital stocks of the wholesaler, including without
8149 limitation the sale or other transfer of capital stock or assets



8150 by merger, consolidation or dissolution, or of the capital stock
8151 of the parent corporation, or of the capital stock or beneficial
8152 ownership of any other entity owning or controlling the
8153 wholesaler.

8154 (n) "Wholesaler" means a wholesaler of light wine or
8155 beer as regulated by the department under Sections 67-3-1 through
8156 67-3-73.

8157 (o) "Similarly situated wholesalers" means wholesalers
8158 of a supplier that are of a generally comparable size and operate
8159 in markets in Mississippi and adjoining states with similar
8160 demographic characteristics, including population size, density,
8161 distribution and vital statistics, as well as reasonably similar
8162 economic and geographic conditions.

8163 (p) "Light wine and/or beer" has the meaning ascribed
8164 to such terms in Section 67-3-5.

8165 **SECTION 138.** Section 71-5-389, Mississippi Code of 1972, is
8166 amended as follows:

8167 71-5-389. (1) For the purposes of this section, the
8168 following terms shall have the respective meanings ascribed by
8169 this section:

8170 (a) "Claimant agency" means the Mississippi Department
8171 of Employment Security.

8172 (b) "Debtor" means any individual owing money or having
8173 a delinquent account with any claimant agency, which obligation
8174 has not been adjudicated satisfied by court order, set aside by
8175 court order, or discharged in bankruptcy.

8176 (c) "Debt" means any sum due and owing any claimant
8177 agency, including costs, court costs, fines, penalties and
8178 interest which have accrued through contract, subrogation, tort,
8179 operation of law, or any other legal theory regardless of whether
8180 there is an outstanding judgment for that sum which is legally
8181 collectible and for which a collection effort has been or is being
8182 made.



8183 (d) "Department" or "Department of Revenue" means the
8184 Department of Revenue of the State of Mississippi.

8185 (e) "Refund" means the Mississippi income tax refund
8186 which the department determines to be due any individual taxpayer.

8187 (2) The collection remedy authorized by this section is in
8188 addition to and is not substitution for any other remedy available
8189 by law.

8190 (3) (a) A claimant agency may submit debts in excess of
8191 Twenty-five Dollars (\$25.00) owed to it to the department for
8192 collection through setoff, under the procedure established by this
8193 section, except in cases where the validity of the debt is
8194 legitimately in dispute, an alternate means of collection is
8195 pending and believed to be adequate, or such collection would
8196 result in a loss of federal funds or federal assistance.

8197 (b) Upon the request of a claimant agency, the
8198 department shall set off any refund, as defined herein, against
8199 the sum certified by the claimant agency as provided in this
8200 section.

8201 (4) (a) Within the time frame specified by the department,
8202 a claimant agency seeking to collect a debt through setoff shall
8203 supply the information necessary to identify each debtor whose
8204 refund is sought to be set off and certify the amount of debt or
8205 debts owed by each such debtor.

8206 (b) If a debtor identified by a claimant agency is
8207 determined by the department to be entitled to a refund of at
8208 least Twenty-five Dollars (\$25.00), the department shall transfer
8209 an amount equal to the refund owed, not to exceed the amount of
8210 the claimed debt certified, to the claimant agency. The
8211 Department of Revenue shall send the excess amount to the debtor
8212 within a reasonable time after such excess is determined. At the
8213 time of the transfer of funds to a claimant agency pursuant to
8214 this paragraph (b), the Department of Revenue shall notify the
8215 taxpayer or taxpayers whose refund is sought to be set off that



8216 the transfer has been made. Such notice shall clearly set forth
8217 the name of the debtor, the manner in which the debt arose, the
8218 amount of the claimed debt, the transfer of funds to the claimant
8219 agency pursuant to this paragraph (b) and the intention to set off
8220 the refund against the debt, the amount of the refund in excess of
8221 the claimed debt, the taxpayer's opportunity to give written
8222 notice to contest the setoff within thirty (30) days of the date
8223 of mailing of the notice, the name and mailing address of the
8224 claimant agency to which the application for such a hearing must
8225 be sent, and the fact that the failure to apply for such a
8226 hearing, in writing, within the thirty-day period will be deemed a
8227 waiver of the opportunity to contest the setoff. In the case of a
8228 joint return or a joint refund, the notice shall also state the
8229 name of the taxpayer named in the return, if any, against whom no
8230 debt is claimed, the fact that a debt is not claimed against such
8231 taxpayer, the fact that such taxpayer is entitled to receive a
8232 refund if it is due him regardless of the debt asserted against
8233 his spouse, and that in order to obtain a refund due him such
8234 taxpayer must apply in writing for a hearing with the claimant
8235 agency named in the notice within thirty (30) days of the date of
8236 the mailing of the notice. If a taxpayer fails to apply in
8237 writing for such a hearing within thirty (30) days of the mailing
8238 of such notice, he will have waived his opportunity to contest the
8239 setoff.

8240 (c) Upon receipt of funds transferred from the
8241 Department of Revenue pursuant to paragraph (b) of this
8242 subsection, the claimant agency shall deposit and hold such funds
8243 in an escrow account until a final determination of the validity
8244 of the debt.

8245 (d) The claimant agency shall pay the Department of
8246 Revenue a fee, not to exceed Seventeen Dollars (\$17.00) in each
8247 case in which a tax refund is identified as being available for
8248 offset. Such fees shall be deposited by the Department of Revenue



8249 into a special fund hereby created in the State Treasury, out of
8250 which the Legislature shall appropriate monies to defray expenses
8251 of the Department of Revenue in employing personnel to administer
8252 the provisions of this section.

8253 (5) (a) When the claimant agency receives a protest or an
8254 application in writing from a taxpayer within thirty (30) days of
8255 the notice issued by the Department of Revenue, the claimant
8256 agency shall set a date to hear the protest and give notice to the
8257 taxpayer by registered or certified mail of the date so set. The
8258 time and place of such hearing shall be designated in such notice
8259 and the date set shall not be less than fifteen (15) days from the
8260 date of such notice. If, at the hearing, the sum asserted as due
8261 and owing is found not to be correct, an adjustment to the claim
8262 may be made. The claimant agency shall give notice to the debtor
8263 of its final determination as provided in paragraph (c) of this
8264 subsection.

8265 (b) No issues shall be reconsidered at the hearing
8266 which have been previously litigated.

8267 (c) If any debtor is dissatisfied with the final
8268 determination made at the hearing by the claimant agency, he may
8269 appeal the final determination to the circuit court of the county
8270 in which the main office of the claimant agency is located by
8271 filing notice of appeal with the administrative head of the
8272 claimant agency and with the clerk of the circuit court of the
8273 county in which the appeal shall be taken within thirty (30) days
8274 from the date the notice of final determination was given by the
8275 claimant agency.

8276 (6) (a) Upon final determination of the amount of the debt
8277 due and owing by means of hearing or by the taxpayer's default
8278 through failure to comply with timely request for review, the
8279 claimant agency shall remove the amount of the debt due and owing
8280 from the escrow account and credit such amount to the debtor's
8281 obligation.



8282 (b) Upon transfer of the debt due and owing from the
8283 escrow account to the credit of the debtor's account, the claimant
8284 agency shall notify the debtor in writing of the finalization of
8285 the setoff. Such notice shall include a final accounting if the
8286 refund which was set off, including the amount of the refund to
8287 which the debtor was entitled prior to the setoff, the amount of
8288 the debt due and owing, the amount of the * * * collection fee
8289 paid to the Department of Revenue, the amount of the refund in
8290 excess of the debt which was returned to the debtor by the
8291 Department of Revenue, and the amount of the funds transferred to
8292 the claimant agency in excess of the debt determined to be due and
8293 owing at a hearing, if such a hearing was held. At such time, the
8294 claimant agency shall refund to the debtor the amount of the
8295 claimed debt originally certified and transferred to it by the
8296 Department of Revenue in excess of the amount of debt finally
8297 found to be due and owing.

8298 (7) (a) Notwithstanding the provision that prohibits
8299 disclosure by the Department of Revenue of the contents of
8300 taxpayer records or information and notwithstanding any other
8301 confidentiality statute, the Department of Revenue may provide to
8302 a claimant agency all information necessary to accomplish and
8303 effectuate the intent of the section.

8304 (b) The information obtained by claimant agency from
8305 the Department of Revenue in accordance with the provisions of
8306 this section shall retain its confidentiality and shall only be
8307 used by a claimant agency in the pursuit of its debt collection
8308 duties and practices; and any employee or prior employee of any
8309 claimant agency who unlawfully discloses any such information for
8310 any other purpose, except as specifically authorized by law, shall
8311 be subject to the same penalties specified by law for unauthorized
8312 confidential information by an agent or employee of the Department
8313 of Revenue.



8314 **SECTION 139.** Section 75-23-5, Mississippi Code of 1972, is
8315 amended as follows:

8316 75-23-5. The following words, terms and phrases, when used
8317 in the Unfair Cigarette Sales Law, shall have the meaning ascribed
8318 to them in this section except where the context clearly indicates
8319 a different meaning:

8320 (a) "Person" shall mean and include any individual,
8321 firm, association, company, partnership, corporation, joint stock
8322 company, club, agency, syndicate, the State of Mississippi,
8323 county, municipal corporation or other political subdivision of
8324 this state, receiver, trustee, fiduciary, or trade association.

8325 (b) "Commission" or "department" shall mean the
8326 Department of Revenue of the State of Mississippi.

8327 (c) "Cigarettes" shall mean and include any roll for
8328 smoking made wholly or in part of tobacco, irrespective of size or
8329 shape and whether or not such tobacco is flavored, adulterated or
8330 mixed with any other ingredient, the wrapper or cover of which is
8331 made of paper or any other substance or material, excepting
8332 tobacco.

8333 (d) "Wholesaler" shall mean and include any person
8334 qualified as a wholesaler with the Department of Revenue of
8335 Mississippi and shall also mean and include any person other than
8336 a buying pool as defined herein, wherever resident or located, who
8337 brings or causes to be brought into this state unstamped
8338 cigarettes purchased directly from the manufacturer thereof and
8339 who maintains an established place of business where substantially
8340 all of the business is the sale of cigarettes and related
8341 merchandise at wholesale to cigarette licensees and where at all
8342 times a substantial stock of cigarettes and related merchandise is
8343 available for resale; provided, that seventy-five percent (75%)
8344 thereof are sold to retailers or other wholesalers not connected
8345 with the wholesaler by reason of any business connection or
8346 otherwise; and also any person retailing cigarettes to consumers,



8347 provided, at least seventy-five percent (75%) of his purchases are
8348 made directly from the manufacturers thereof; and also any person
8349 in this state other than a buying pool as defined herein, who
8350 purchases cigarettes, from any other person who purchases from a
8351 manufacturer at least seventy-five percent (75%) of which are for
8352 purposes of resale to retailers in this state not connected with
8353 said wholesaler by reason of any business connection or otherwise
8354 and who maintains an established place of business where
8355 cigarettes and related merchandise are sold at wholesale to
8356 persons licensed under this law, and where at all times a
8357 substantial stock of cigarettes and related merchandise is
8358 available to all retailers for resale; and also any person in this
8359 state who acquires cigarettes solely for the purpose of resale in
8360 cigarette vending machines; provided, such person operated thirty
8361 (30) or more machines.

8362 (e) "Retailer" shall mean and include any person who is
8363 engaged in this state in the business of selling cigarettes at
8364 retail and includes any group of persons, cooperative
8365 organizations, buying pools, and any other person or group of
8366 retailers purchasing cigarettes on a cooperative basis from
8367 licensed distributors or wholesalers. Any person placing a
8368 cigarette vending machine at, on or in any premises shall be
8369 deemed to be a retailer from each such vending machine.

8370 (f) "Buying pool" means and includes any combination,
8371 corporation, association, affiliation or group of retail dealers
8372 operating jointly in the purchase, sale, exchange, or barter of
8373 cigarettes, the profits of which accrue directly or indirectly to
8374 such retail dealers.

8375 (g) "Sale" or "sell" shall mean any transfer for a
8376 consideration, exchange, barter, gift, offer for sale, advertising
8377 for sale, soliciting an order for cigarettes and distribution in
8378 any manner or by any means whatsoever.



8379 (h) "Sell at wholesale," "sale at wholesale" and
8380 "wholesale sales" shall mean and include any sale made in the
8381 ordinary course of trade or usual conduct of the wholesaler's
8382 business to a retailer for the purpose of resale.

8383 (i) "Sell at retail," "sale at retail" or "retail
8384 sales" shall mean and include any sale for consumption or use made
8385 in the ordinary course of trade or usual conduct of the seller's
8386 business.

8387 (j) "Basic cost of cigarettes" shall mean whichever of
8388 the two (2) following amounts is lower, namely, (i) the invoice
8389 cost of cigarettes to the wholesaler or retailer, as the case may
8390 be, or (ii) the lowest replacement cost of cigarettes to the
8391 wholesaler or retailer, as the case may be, within thirty (30)
8392 days prior to the date of sale, in the quantity last purchased
8393 (whether within or before the * * * thirty-day period), less, in
8394 either of the two (2) cases, all trade discounts except customary
8395 discounts for cash, plus the full face value of any stamps or any
8396 tax which may be required by any cigarette tax act of this state
8397 or political subdivision thereof, now in effect or hereafter
8398 enacted, if not already included in the invoice cost of the
8399 cigarettes to the wholesaler or retailer, as the case may be.

8400 (k) (i) "Cost to wholesaler" shall mean the basic cost
8401 of the cigarettes involved to the wholesaler plus the cost of
8402 doing business by the wholesaler as evidenced by the standards and
8403 methods of accounting regularly employed by him, and must include,
8404 without limitation, labor costs (including salaries of executives
8405 and officers), rent, depreciation, selling costs, maintenance of
8406 equipment, delivery costs, all types of licenses, taxes, insurance
8407 and advertising.

8408 (ii) In the absence of proof of a lesser or higher
8409 cost of doing business by the wholesale dealer making the sale,
8410 the cost of doing business by the wholesale dealer shall be
8411 presumed to be two percent (2%) of the basic cost of * * *



8412 cigarettes to the wholesale dealer, any fraction of a cent thus
8413 computed shall be rounded off to the next highest cent, plus
8414 cartage to the retail outlet, if performed or paid for by the
8415 wholesale dealer, which cartage cost, in the absence of proof of a
8416 lesser or higher cost, shall be presumed to be one-half of one
8417 percent (1/2 of 1%) of the basic cost of the * * * cigarettes to
8418 the wholesale dealer, any fraction of a cent in computing the
8419 amount of the cartage shall be rounded off to the next highest
8420 cent.

8421 (1) (i) "Cost to the retailer" shall mean the basic
8422 cost of the cigarettes involved to the retailer plus the cost of
8423 doing business by the retailer as evidenced by the standards and
8424 methods of accounting regularly employed by him and must include,
8425 without limitation, labor (including salaries of executives and
8426 officers), rent, depreciation, selling costs, maintenance of
8427 equipment, delivery costs, all types of licenses, taxes, insurance
8428 and advertising.

8429 (ii) In the absence of proof of a lesser or higher
8430 cost of doing business by the retailer making the sale, the cost
8431 of doing business by the * * * retailer shall be presumed to be
8432 six percent (6%) of the basic cost of cigarettes to the * * *
8433 retailer. Any fraction of a cent thus computed shall be rounded
8434 off to the next highest cent.

8435 (iii) In the case of any retail dealer who in
8436 connection with the * * * retail dealer's purchase of any
8437 cigarettes shall receive not only the discounts ordinarily allowed
8438 upon purchases by a retail dealer but also in whole or in part the
8439 discounts ordinarily allowed upon purchases by a wholesale dealer,
8440 the cost of doing business by the * * * retail dealer with respect
8441 to the * * * cigarettes shall be, in the absence of proof of a
8442 lesser or higher cost of doing business by the * * * retail
8443 dealer, the sum of the cost of doing business by the retail dealer
8444 and, to the extent that he shall have received the full discounts



8445 ordinarily allowed to a wholesale dealer, the cost of doing
8446 business by a wholesale dealer as hereinabove defined in paragraph
8447 (j)(ii) of this section.

8448 **SECTION 140.** Section 75-23-31, Mississippi Code of 1972, is
8449 amended as follows:

8450 75-23-31. As used in this article:

8451 (a) "Commission" or "department" means the Mississippi
8452 Department of Revenue.

8453 (b) "Cigarette" means any roll for smoking made wholly
8454 or in part of tobacco, irrespective of size or shape and whether
8455 such tobacco is flavored, adulterated or mixed with any other
8456 ingredient, the wrapper or cover of which is made of paper or any
8457 other substance or material except tobacco.

8458 (c) "Person" means any individual, firm, association,
8459 agency, syndicate, the State of Mississippi, county, municipal
8460 corporation or other political subdivision of this state,
8461 receiver, trustee, fiduciary or trade association.

8462 **SECTION 141.** Section 75-76-5, Mississippi Code of 1972, is
8463 amended as follows:

8464 75-76-5. As used in this chapter, unless the context
8465 requires otherwise:

8466 (a) "Applicant" means any person who has applied for or
8467 is about to apply for a state gaming license, registration or
8468 finding of suitability under the provisions of this chapter or
8469 approval of any act or transaction for which approval is required
8470 or permitted under the provisions of this chapter.

8471 (b) "Application" means a request for the issuance of a
8472 state gaming license, registration or finding of suitability under
8473 the provisions of this chapter or for approval of any act or
8474 transaction for which approval is required or permitted under the
8475 provisions of this chapter but does not include any supplemental
8476 forms or information that may be required with the application.



8477 (c) "Associated equipment" means any equipment or
8478 mechanical, electromechanical or electronic contrivance, component
8479 or machine used remotely or directly in connection with gaming or
8480 with any game, race book or sports pool that would not otherwise
8481 be classified as a gaming device, including dice, playing cards,
8482 links which connect to progressive slot machines, equipment which
8483 affects the proper reporting of gross revenue, computerized
8484 systems of betting at a race book or sports pool, computerized
8485 systems for monitoring slot machines, and devices for weighing or
8486 counting money.

8487 (d) "Chairman" * * * means * * * the Chairman of the
8488 Mississippi Gaming Commission except when used in the term
8489 "Chairman of the State Tax Commission." "Chairman of the State
8490 Tax Commission" or "commissioner" means the Commissioner of
8491 Revenue of the Department of Revenue.

8492 (e) "Commission" or "Mississippi Gaming
8493 Commission" * * * means the Mississippi Gaming Commission.

8494 (f) "Commission member" * * * means a member of the
8495 Mississippi Gaming Commission.

8496 (g) "Credit instrument" means a writing which evidences
8497 a gaming debt owed to a person who holds a license at the time the
8498 debt is created, and includes any writing taken in consolidation,
8499 redemption or payment of a prior credit instrument.

8500 (h) "Enforcement division" means a particular division
8501 supervised by the executive director that provides enforcement
8502 functions.

8503 (i) "Establishment" means any premises wherein or
8504 whereon any gaming is done.

8505 (j) "Executive director" * * * means the Executive
8506 Director of the Mississippi Gaming Commission.

8507 (k) Except as otherwise provided by law, "game," or
8508 "gambling game" means any banking or percentage game played with
8509 cards, with dice or with any mechanical, electromechanical or



8510 electronic device or machine for money, property, checks, credit
8511 or any representative of value, including, without limiting, the
8512 generality of the foregoing, faro, monte, roulette, keno, fan-tan,
8513 twenty-one, blackjack, seven-and-a-half, big injun, klondike,
8514 craps, poker, chuck-a-luck (dai shu), wheel of fortune, chemin de
8515 fer, baccarat, pai gow, beat the banker, panguingui, slot machine,
8516 or any other game or device approved by the commission. However,
8517 "game" or "gambling game" shall not include bingo games or raffles
8518 which are held pursuant to the provisions of Section 97-33-51.

8519 The commission shall not be required to recognize any game
8520 hereunder with respect to which the commission determines it does
8521 not have sufficient experience or expertise.

8522 (l) "Gaming" or "gambling" means to deal, operate,
8523 carry on, conduct, maintain or expose for play any game as defined
8524 in this chapter.

8525 (m) "Gaming device" means any mechanical,
8526 electromechanical or electronic contrivance, component or machine
8527 used in connection with gaming or any game which affects the
8528 result of a wager by determining win or loss. The term includes a
8529 system for processing information which can alter the normal
8530 criteria of random selection, which affects the operation of any
8531 game, or which determines the outcome of a game. The term does
8532 not include a system or device which affects a game solely by
8533 stopping its operation so that the outcome remains undetermined,
8534 and does not include any antique coin machine as defined in
8535 Section 27-27-12.

8536 (n) "Gaming employee" means any person connected
8537 directly with the operation of a gaming establishment licensed to
8538 conduct any game, including:

- 8539 (i) Boxmen;
- 8540 (ii) Cashiers;
- 8541 (iii) Change personnel;
- 8542 (iv) Counting room personnel;



- 8543 (v) Dealers;
- 8544 (vi) Floormen;
- 8545 (vii) Hosts or other persons empowered to extend
- 8546 credit or complimentary services;
- 8547 (viii) Keno runners;
- 8548 (ix) Keno writers;
- 8549 (x) Machine mechanics;
- 8550 (xi) Security personnel;
- 8551 (xii) Shift or pit bosses;
- 8552 (xiii) Shills;
- 8553 (xiv) Supervisors or managers; and
- 8554 (xv) Ticket writers.

8555 The term "gaming employee" also includes employees of
8556 manufacturers or distributors of gaming equipment within this
8557 state whose duties are directly involved with the manufacture,
8558 repair or distribution of gaming equipment.

8559 "Gaming employee" does not include bartenders, cocktail
8560 waitresses or other persons engaged in preparing or serving food
8561 or beverages unless acting in some other capacity.

8562 (o) "Gaming license" means any license issued by the
8563 state which authorizes the person named therein to engage in
8564 gaming.

8565 (p) "Gross revenue" means the total of all of the
8566 following, less the total of all cash paid out as losses to
8567 patrons and those amounts paid to purchase annuities to fund
8568 losses paid to patrons over several years by independent financial
8569 institutions:

- 8570 (i) Cash received as winnings;
- 8571 (ii) Cash received in payment for credit extended
- 8572 by a licensee to a patron for purposes of gaming; and
- 8573 (iii) Compensation received for conducting any
- 8574 game in which the licensee is not party to a wager.



8575 For the purposes of this definition, cash or the value of
8576 noncash prizes awarded to patrons in a contest or tournament are
8577 not losses.

8578 The term does not include:

8579 (i) Counterfeit money or tokens;

8580 (ii) Coins of other countries which are received
8581 in gaming devices;

8582 (iii) Cash taken in fraudulent acts perpetrated
8583 against a licensee for which the licensee is not reimbursed; or

8584 (iv) Cash received as entry fees for contests or
8585 tournaments in which the patrons compete for prizes.

8586 (q) "Hearing examiner" means a member of the
8587 Mississippi Gaming Commission or other person authorized by the
8588 commission to conduct hearings.

8589 (r) "Investigation division" means a particular
8590 division supervised by the executive director that provides
8591 investigative functions.

8592 (s) "License" means a gaming license or a
8593 manufacturer's, seller's or distributor's license.

8594 (t) "Licensee" means any person to whom a valid license
8595 has been issued.

8596 (u) "License fees" means monies required by law to be
8597 paid to obtain or continue a gaming license or a manufacturer's,
8598 seller's or distributor's license.

8599 (v) "Licensed gaming establishment" means any premises
8600 licensed pursuant to the provisions of this chapter wherein or
8601 whereon gaming is done.

8602 (w) "Manufacturer's," "seller's" or "distributor's"
8603 license means a license issued pursuant to Section 75-76-79.

8604 (x) "Navigable waters" shall have the meaning ascribed
8605 to such term under Section 27-109-1.

8606 (y) "Operation" means the conduct of gaming.



8607 (z) "Party" means the Mississippi Gaming Commission and
8608 any licensee or other person appearing of record in any proceeding
8609 before the commission; or the Mississippi Gaming Commission and
8610 any licensee or other person appearing of record in any proceeding
8611 for judicial review of any action, decision or order of the
8612 commission.

8613 (aa) "Person" includes any association, corporation,
8614 firm, partnership, trust or other form of business association as
8615 well as a natural person.

8616 (bb) "Premises" means land, together with all
8617 buildings, improvements and personal property located thereon, and
8618 includes all parts of any vessel or cruise vessel.

8619 (cc) "Race book" means the business of accepting wagers
8620 upon the outcome of any event held at a track which uses the
8621 pari-mutuel system of wagering.

8622 (dd) "Regulation" means a rule, standard, directive or
8623 statement of general applicability which effectuates law or policy
8624 or which describes the procedure or requirements for practicing
8625 before the commission. The term includes a proposed regulation
8626 and the amendment or repeal of a prior regulation but does not
8627 include:

8628 (i) A statement concerning only the internal
8629 management of the commission and not affecting the rights or
8630 procedures available to any licensee or other person;

8631 (ii) A declaratory ruling;

8632 (iii) An interagency memorandum;

8633 (iv) The commission's decision in a contested case
8634 or relating to an application for a license; or

8635 (v) Any notice concerning the fees to be charged
8636 which are necessary for the administration of this chapter.

8637 (ee) "Respondent" means any licensee or other person
8638 against whom a complaint has been filed with the commission.



8639 (ff) "Slot machine" means any mechanical, electrical or
8640 other device, contrivance or machine which, upon insertion of a
8641 coin, token or similar object, or upon payment of any
8642 consideration, is available to play or operate, the play or
8643 operation of which, whether by reason of the skill of the operator
8644 or application of the element of chance, or both, may deliver or
8645 entitle the person playing or operating the machine to receive
8646 cash, premiums, merchandise, tokens or anything of value, whether
8647 the payoff is made automatically from the machine or in any other
8648 manner. The term does not include any antique coin machine as
8649 defined in Section 27-27-12.

8650 (gg) "Sports pool" means the business of accepting
8651 wagers on sporting events, except for athletic events, by any
8652 system or method of wagering other than the system known as the
8653 "pari-mutuel method of wagering."

8654 (hh) "State Tax Commission" or "department" means the
8655 Department of Revenue of the State of Mississippi.

8656 (ii) "Temporary work permit" means a work permit which
8657 is valid only for a period not to exceed ninety (90) days from its
8658 date of issue and which is not renewable.

8659 (jj) "Vessel" or "cruise vessel" shall have the
8660 meanings ascribed to such terms under Section 27-109-1.

8661 (kk) "Work permit" means any card, certificate or
8662 permit issued by the commission, whether denominated as a work
8663 permit, registration card or otherwise, authorizing the employment
8664 of the holder as a gaming employee. A document issued by any
8665 governmental authority for any employment other than gaming is not
8666 a valid work permit for the purposes of this chapter.

8667 (ll) "School or training institution" means any school
8668 or training institution which is licensed by the commission to
8669 teach or train gaming employees pursuant to Section 75-76-34.

8670 (mm) "Cheat" means to alter the selection of criteria
8671 that determine:



- 8672 (i) The rules of a game; or
8673 (ii) The amount or frequency of payment in a game.

8674 **SECTION 142.** Section 75-76-83, Mississippi Code of 1972, is
8675 amended as follows:

8676 75-76-83. Any person aggrieved by the final order of the
8677 Board of Tax Appeals regarding any action taken by the
8678 Commissioner of Revenue and/or the Department of Revenue under the
8679 provisions of this chapter, including any person charged with any
8680 tax, fee, interest, penalties and damages imposed by this chapter
8681 and required to pay same, may appeal from such order as provided
8682 in Section 27-77-7. * * *

8683 **SECTION 143.** Sections 27-3-11, 27-3-21, 27-3-25, 27-3-27,
8684 27-3-32, 27-3-55, 27-3-75 and 67-1-21, Mississippi Code of 1972,
8685 are repealed.

8686 **SECTION 144.** Nothing in this act shall affect or defeat any
8687 assessment, refund claim, request for waiver of a tax penalty, the
8688 suspension, revocation, surrender, seizure or denial of permit,
8689 tag or title, the suspension, revocation or denial of a permit,
8690 approved manager status, qualified resort area or forfeiture under
8691 the Local Option Alcoholic Beverage Control Law, Section 67-1-1 et
8692 seq., the administrative appeal or judicial appeal of any of the
8693 foregoing acts or any other action taken by the Mississippi State
8694 Tax Commission or by the Chairman of the Mississippi State Tax
8695 Commission prior to the effective date of this act. The
8696 provisions of the laws relating to the administrative appeal or
8697 judicial review of such actions which were in effect prior to the
8698 effective date of this act are expressly continued in full force,
8699 effect and operation for the purpose of providing an
8700 administrative appeal and/or judicial review, where previously
8701 provided, of such actions, except to the extent that any matter is
8702 pending on an administrative appeal before the three (3) member
8703 Mississippi State Tax Commission on the effective date will after
8704 the effective date of this act be heard and decided by the Board



8705 of Tax Appeals as the successor of the Mississippi State Tax
8706 Commission in regard to administrative appeals.

8707 **SECTION 145.** This act shall take effect and be in force from
8708 and after July 1, 2010.

