

House Amendments to Senate Bill No. 2712

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

158 (2) The Board of Tax Appeals shall consist of three (3)
159 members; a chairman and two (2) associate members. Except as
160 provided in subsection (5) of this section, the chairman and
161 associate members shall be appointed by the Governor with the
162 advice and consent of the Senate. Each member of the board shall
163 be a qualified elector, shall have at least a bachelor degree from
164 an accredited college or university, and shall possess a special
165 knowledge of taxation and revenue in the State of Mississippi.
166 The members of the Board of Tax Appeals, while holding office,
167 shall not engage in any other occupation or business interfering
168 with or inconsistent with their official duties on the board.

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

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

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

208 (6) Each member of the Board of Tax Appeals shall, before
209 entering upon the discharge of the duties of his office, take and
210 subscribe to the oath of office prescribed by the Constitution and
211 shall file the oath in the Office of the Secretary of State, and
212 each member, including the chairman, shall execute a bond in some
213 surety company authorized to do business in the state, to be
214 approved by the Governor, and filed in the Office of the Secretary

of State in the penal sum of Fifty Thousand Dollars (\$50,000.00),
conditioned for the faithful and impartial discharge of the duties
of his office. The premium on the bonds shall be paid as provided
by law out of funds appropriated to the Board of Tax Appeals.

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3. (1) Except as provided in subsection (7) of this section, the Chairman of the Board of Tax Appeals shall appoint an executive director of the board who will serve at the will and pleasure of the chairman, but the executive director is subject to

removal from office as provided for under Section 25-5-1; however, the executive director may also be removed from office for a criminal conviction for violating the Internal Revenue Code.

(2) The executive director shall be admitted to practice law in this state and have a familiarity with the tax appeals process sufficient to fulfill the duties of the office of executive director. The salary of the executive director shall be set by the State Personnel Board. The executive director shall devote full time to the duties assigned to him by the board and/or its chairman.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Commission, the Commissioner of Revenue, the Chairman of the Mississippi State Tax Commission, the Chairman of the State Tax Commission and/or the Chairman of the Tax Commission.

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

(3) In regard to any action taken by the Chairman of the State Tax Commission and/or by the State Tax Commission prior to the effective date of this act, the creation of the Department of Revenue and the transfer of powers, duties and functions to the Commissioner of Revenue of the Department of Revenue from the Chairman of the State Tax Commission and from the State Tax Commission as set out in subsection (1) of this section shall be treated as only a change in the name of the entity taking such action from the Chairman of the State Tax Commission to the Commissioner of Revenue of the Department of Revenue or from the State Tax Commission to the Department of Revenue, and the Commissioner of Revenue acting through the Department of Revenue shall succeed to any right, duty or obligation as the result of such action and shall be treated as the same entity that took such action without the execution and/or filing of any document. Any

425 action taken by the Commissioner of Revenue, including those taken
426 by and through the Department of Revenue, after the effective date
427 of this act in regard to any interest, right, duty or obligation
428 arising from the actions of the Chairman of the State Tax
429 Commission and/or the State Tax Commission prior to the effective
430 date of this act shall be taken in the name of the Commissioner of
431 Revenue of the Department of Revenue or in the name of the
432 Department of Revenue and be treated as an action by the official
433 or entity which originally took the action that gave rise to such
434 interest, right, duty or obligation, including, but not limited
435 to, any interest, right or obligation arising from the execution
436 or performance of a contract or agreement, the issuance of a tax
437 assessment, the issuance of a tax lien, the issuance and execution
438 of a distress warrant and the issuance of a notice to extend the
439 time period for issuing a tax assessment.

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

and any reference to the Commissioner of Revenue, the Chairman of the Mississippi State Tax Commission, the Chairman of the State Tax Commission, the Chairman of the Tax Commission and/or chairman shall mean Commissioner of Revenue of the Department of Revenue.

(5) The terms "Mississippi State Tax Commission," "State Tax Commission," "Tax Commission," and "commission" appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue, and, more particularly, such words or terms shall mean the Department of Revenue whenever they appear in Sections 7-5-25, 7-7-49, 9-21-51, 11-51-77, 13-3-157, 13-3-169, 17-17-53, 17-17-219, 17-17-327, 17-17-415, 17-17-423, 19-2-11, 19-5-357, 19-9-151, 21-29-229, 21-29-233, 21-33-3, 21-33-5, 21-33-9, 21-33-13, 21-33-43, 21-33-45, 21-33-47, 21-33-205, 21-33-207, 21-33-209, 21-45-21, 25-1-73, 25-1-87, 25-3-1, 25-3-3, 25-3-15, 25-15-9, 25-17-9, 25-53-151, 25-55-15, 25-58-21, 25-60-1, 25-65-5, 25-65-7, 27-5-101, 27-5-103, 27-5-155, 27-5-159, 27-7-901, 27-7-903, 27-8-19, 27-17-423, 27-19-11, 27-19-27, 27-19-31, 27-19-39, 27-19-40, 27-19-41, 27-21-7, 27-21-19, 27-31-1, 27-31-31, 27-31-37, 27-31-38, 27-31-87, 27-31-101, 27-31-107, 27-31-109, 27-31-113, 27-35-15, 27-35-17, 27-35-19, 27-35-23, 27-35-25, 27-35-35, 27-35-50, 27-35-55, 27-35-75, 27-35-77, 27-35-81, 27-35-97, 27-35-111, 27-35-119, 27-35-123, 27-35-127, 27-35-131, 27-35-133, 27-35-135, 27-35-141, 27-35-143, 27-35-145, 27-35-147, 27-35-165, 27-35-167, 27-35-301, 27-35-303, 27-35-305, 27-35-307, 27-35-310, 27-35-313, 27-35-321, 27-35-327, 27-35-337, 27-35-509, 27-35-511, 27-35-513, 27-35-515, 27-35-519, 27-35-525, 27-35-527, 27-35-531, 27-37-19, 27-37-21, 27-37-23, 27-37-27, 27-37-29, 27-37-31, 27-37-301, 27-37-303, 27-38-5, 27-38-7, 27-39-317, 27-39-319, 27-39-325, 27-39-329, 27-41-21, 27-41-37, 27-41-101, 27-45-21, 27-51-13, 27-51-15, 27-51-17, 27-51-21, 27-71-501, 27-71-503, 27-71-507, 27-73-9, 27-75-16, 27-103-209, 27-103-211, 27-104-13, 27-104-17, 27-107-75, 27-107-95, 27-107-115, 27-107-135, 27-107-157, 27-107-205, 27-107-321,

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

516 (6) The terms "Chairman of the Mississippi State Tax
517 Commission," "Chairman of the State Tax Commission," "Chairman of
518 the Tax Commission" and "chairman" appearing in the laws of this
519 state in connection with the performance of the duties and
520 functions by the Chairman of the Mississippi State Tax Commission,
521 the Chairman of the State Tax Commission or the Chairman of the
522 Tax Commission shall mean the Commissioner of Revenue of the
523 Department of Revenue, and, more particularly, such words or terms
524 shall mean the Commissioner of Revenue of the Department of
525 Revenue whenever they appear in Sections 7-5-25, 13-3-157,
526 13-3-169, 21-33-205, 21-33-207, 21-33-209, 25-53-151, 25-60-1,
527 27-31-31, 27-41-69, 27-75-16, 31-17-3, 31-19-29, 57-62-9,
528 57-73-21, 65-1-46 and 75-57-2.

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

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

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

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

542 One (1) set to each of the following: the Lieutenant
543 Governor; each member of the Legislature; the Treasurer; each
544 district attorney; each county attorney; each judge of the Court
545 of Appeals and each judge of the Supreme, circuit, chancery,
546 county, family, justice and municipal courts; each Mississippi
547 Senator and Mississippi Representative in Congress; State
548 Superintendent of Education; Director of the Department of Finance
549 and Administration; six (6) sets to the Performance Evaluation and
550 Expenditure Review (PEER) Committee, three (3) sets to the
551 Director of the Legislative Budget Office; the Commissioner of
552 Agriculture and Commerce; each Mississippi Transportation
553 Commissioner; six (6) sets to the Department of Corrections; the
554 Insurance Commissioner; the Clerk of the Supreme Court; the State
555 Board of Health; each circuit clerk; each chancery clerk in the
556 state for the use of the chancery clerk and the board of
557 supervisors; each sheriff in the state for the use of his office
558 and the county officers; and each county for the county library
559 (and an additional set shall be given to each circuit clerk,
560 chancery clerk, sheriff and county library in counties having two
561 (2) judicial districts).

562 Two (2) sets to the Department of Archives and History; two
563 (2) sets to the State Soil and Water Conservation Commission;

sixty-eight (68) sets to the Attorney General's Office; six (6) sets to the Public Service Commission; four (4) sets to the Public Utilities Staff; thirty-five (35) sets to the Department of Revenue; one (1) set to the Board of Tax Appeals; two (2) sets to the State Personnel Board; six (6) sets to the State Law Library; one (1) set to the Library of Congress; ten (10) sets to the University of Mississippi Law School; one (1) set each to the Mississippi School for the Deaf and the Mississippi School for the Blind; one (1) set each to the University of Mississippi, Mississippi State University, Mississippi University for Women, University of Southern Mississippi, Delta State University, Alcorn State University, Jackson State University, Mississippi Valley State University, and the Board of Trustees of State Institutions of Higher Learning; and one (1) set to the Supreme Court judges' conference room. In furtherance of the State Library's reciprocal program of code exchange with libraries of the several states, the joint committee shall, at the direction and only upon the written request of the State Librarian, distribute or provide for the distribution of sets of the code to such libraries.

One (1) set to each state junior or community college; three (3) sets to the Department of Wildlife, Fisheries and Parks; two (2) sets to the Department of Environmental Quality; two (2) sets to the Department of Marine Resources; two (2) sets to the Mississippi Ethics Commission; six (6) sets to the Mississippi Workers' Compensation Commission; four (4) sets to the State Department of Rehabilitation Services; and seven (7) sets to the Department of Human Services. One (1) set to each of the following: State Textbook Procurement Commission; University Medical Center; State Library Commission; Department of Agriculture and Commerce; Forestry Commission; and seventeen (17) sets to the Department of Public Safety. Also, one (1) set to each of the following: Adjutant General, Mississippi Development Authority, Department of Banking and Consumer Finance, Bureau of Building, Grounds and Real Property Management, the State Educational Finance Commission, the Mississippi Board of

599 Vocational and Technical Education, Division of Medicaid, State
600 Board of Mental Health, and Department of Youth Services.

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

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

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

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

617 Before the joint committee delivers or provides for delivery
618 of a copy of the Mississippi Code of 1972 to an individual
619 officeholder, the joint committee shall prepare and submit a
620 written agreement to the officeholder. The agreement shall, among
621 other provisions, state that the code is the property of the State
622 of Mississippi, that it shall be transferred to the officeholder's
623 successor in office, that the officeholder has an obligation to
624 make such transfer and that the officeholder shall be responsible
625 for the failure to deliver the code and for any damage or
626 destruction to the code, normal wear and tear excepted. The joint
627 committee shall execute the agreement and forward it to the
628 officeholder for execution. The joint committee shall not deliver
629 or provide for delivery of the code to the officeholder until the
630 executed agreement is received by the committee. The joint
631 committee may include in the agreement such other provisions as it
632 may deem reasonable and necessary. In addition to damages or any
633 other remedy for not transferring a set of the code to his

634 successor, an officeholder who does not transfer his set of the
635 code shall be guilty of a misdemeanor and shall, upon conviction,
636 pay a fine of One Thousand Dollars (\$1,000.00). Upon request of
637 the joint committee, the Attorney General shall assist the joint
638 committee in taking such actions as necessary to require an
639 officeholder to transfer the set of code provided under this
640 section to his successor, or to the joint committee if there is no
641 successor, and to recover reimbursement or damages from any
642 officeholder for the loss of or damage or destruction to any
643 volumes of the set of the code provided under this section, other
644 than normal wear and tear.

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

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

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

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

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

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

668 or special committee of the Mississippi Legislature. There shall
669 be exempted from the provisions of this chapter:

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

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

674 (iii) Law enforcement officials;

675 (iv) The military;

676 (v) The State Probation and Parole Board;

677 (vi) The Workers' Compensation Commission;

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

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

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

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

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

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

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

Governor for the unexpired portion of the term in which the
vacancy occurs.

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

(3) The Commissioner of Revenue shall, before entering upon
the discharge of the duties of his office, take and subscribe to
the oath of office prescribed by the Constitution, shall file the
oath in the Office of the Secretary of State, and * * * shall
execute a bond in some surety company authorized to do business in
the state, to be approved by the Governor, and filed in the Office
of the Secretary of State in the penal sum of Two Hundred Fifty
Thousand Dollars (\$250,000.00), conditioned for the faithful and
impartial discharge of the duties of his office * * *. The
premium on the bond shall be paid as provided by law out of funds
appropriated to the Department of Revenue * * *.

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

* * *

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

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

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

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

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

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

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

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

769 27-3-9. The Commissioner of Revenue shall receive an annual
770 salary fixed by the State Personnel Board. The actual traveling
771 expenses of the commissioners and of the employees of the
772 Department of Revenue incurred in the performance of their

official duties shall be allowed, and such salaries and expenses shall be payable out of funds appropriated for the expenses of the Department of Revenue. * * *

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

27-3-13. The Commissioner of Revenue is * * * empowered to employ * * * such accountants, appraisers, information systems programmers, information systems technicians, information systems managers, clerical help, stenographers, and such other assistants and/or attorneys as he may deem necessary to the proper discharge of the duties of the Department of Revenue, to prescribe their duties and to fix the compensation of each employee within the rules, regulations and guidelines of the State Personnel Board. Such employees may be used interchangeably in the administration of the various duties imposed by law upon the commissioner in the several offices of the Department of Revenue. Further, the Commissioner of Revenue may designate any ten (10) employees of the commission to be law enforcement officers, as defined in Section 45-6-3, with police powers to enforce any laws administered by the Department of Revenue. Temporary employees * * * may be employed as hereinabove, when in the opinion of the commissioner a seasonal press of business requires, except that such temporary employees shall be retained no longer than is necessary to the discharge of the duties imposed by law upon the department.

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

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

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

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

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

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

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

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

840 27-3-23. The Commissioner of Revenue may forthwith have
841 prepared a complete audit and survey of the books, records,
842 accounts, operations and affairs of the Department of Revenue to

the end of obtaining a comprehensive outline of the conditions thereof, and of securing a more economical administration of the business, duties and operations of the department. The expense incident to such audit and survey shall be paid out of the contingent fund of the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

885 * * *

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

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

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

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

908 (p) To keep informed of the work of the assessors and
909 supervisors of the various counties of the state as required by
910 Section 27-3-51, and to have charge of the details necessary to

the equalization by the commissioner of assessments among the various counties pursuant to Section 27-35-113.

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

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

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

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

* * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27-3-43. When land is purchased by the Commissioner of Revenue as the successful bidder in accordance with Section 27-7-63, 27-13-37 or 27-65-65, the Commissioner of Revenue may then sell the state's interest in the land at a public or private

sale to the best interest of the state. If after such purchase, the Commissioner of Revenue determines that it is not in the best interest of the state for him to sell the state's interest in the land, he shall, after the expiration of any applicable redemption period, render a full description of the land to the land commissioner, and after such rendering, the land shall be registered at the land office and sold as other state lands. * * *

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

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

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

27-3-47. No county, municipality, drainage district, levee board, or other administrative body, shall be chargeable with any fees or expenses on account of any investigation, demand or suit made or instituted by the Commissioner of Revenue; nor shall any fees or commissions be deducted or retained from any funds collected for or belonging to the state, any county, municipality, drainage district, levee district or other political subdivision, from any state or any other subdivision or department thereof. Nothing in this section shall be construed, however, to prohibit the Commissioner of Revenue from expending funds appropriated for the support of the Department of Revenue in administering the provisions hereof, and in making investigations and demands and bringing and maintaining suits and other actions hereunder.

1085 **SECTION 26.** Section 27-3-49, Mississippi Code of 1972, is
1086 amended as follows:

1087 27-3-49. The Commissioner of Revenue shall investigate all
1088 matters of taxation and recommend to the Legislature, at each
1089 regular session, such changes and alterations in the tax laws of
1090 the state as in his judgment he may deem best to bring about a
1091 more perfect, equitable, adequate, just and thorough system of
1092 taxation and valuation of property for state and county taxation.

1093 **SECTION 27.** Section 27-3-51, Mississippi Code of 1972, is
1094 amended as follows:

1095 27-3-51. (1) In order that the Commissioner of Revenue may
1096 be familiar with the character and values of the several classes
1097 of property within each of the several counties of the state and
1098 of the economic conditions therein, and throughout the state, the
1099 Commissioner of Revenue, or his designees, shall annually visit
1100 each of the several counties of the state. In the course of his
1101 visitation within each county, the Commissioner of Revenue, or his
1102 designees, shall perform the duties enumerated in Sections 27-3-39
1103 and 27-3-53, and he shall investigate the work and methods adopted
1104 by the board of supervisors and county tax assessors and confer
1105 with such officers and other well-informed persons, ascertain
1106 wherein existing laws are defective or improperly or negligently
1107 administered and shall be authorized to exercise the authority
1108 granted under Sections 27-1-21 and 27-1-23. * * * However, * * *
1109 any language in Section 27-1-21 and Section 27-1-23 relative to
1110 the actual assessing or appraising of property by the county or
1111 municipal tax assessor is not granted to the Commissioner of
1112 Revenue. He shall report the results of his investigation and the
1113 facts ascertained to the Governor, from time to time, when
1114 required by him, and to each session of the Legislature.

1115 (2) The chancery clerk shall require that the current
1116 mailing address and current business or employment telephone
1117 number, if any, and current residential telephone number, if any,
1118 of each grantor and grantee be included on all deeds as a
1119 prerequisite for the deed to be filed for record after July 1,

1120 1987. If the residential telephone number is unlisted, the
1121 grantor or grantee shall include on the deed a telephone number
1122 where he or she can be reached during business hours. If the
1123 grantee may receive mail at the address of the property
1124 transferred, then the address of the transferred property shall be
1125 the mailing address of the grantee for the purposes of this
1126 section. The information provided by the grantor and grantee
1127 shall be true and correct and complete to the best of his or her
1128 knowledge and belief under penalty of perjury under Section
1129 97-9-61. The chancery clerk may refuse to accept delivery of any
1130 deed for filing that does not contain on the deed the information
1131 required in this section. The fact that the information provided
1132 by the grantor or grantee may be incorrect, incomplete or false,
1133 however, shall not invalidate the deed or the filing thereof for
1134 record. The Commissioner of Revenue shall annually audit the
1135 deeds filed with the chancery clerk of each county and assess a
1136 penalty of One Hundred Dollars (\$100.00) against the county for
1137 each deed filed in violation of this section, and the aggregate of
1138 such sum shall be withheld by the Commissioner of Revenue from the
1139 next installment of homestead exemption reimbursement due under
1140 Section 27-33-41.

1141 (3) The Commissioner of Revenue or his designees are hereby
1142 authorized to verify sales data regarding the transfer of real
1143 property by obtaining such information from the grantor or
1144 grantee. The information provided by the grantor or grantee to
1145 the Commissioner of Revenue or his designee shall be true, correct
1146 and complete to the best of his or her knowledge and belief under
1147 penalty of perjury under Section 97-9-61. Any information
1148 obtained in this manner shall be shared with the county tax
1149 assessors and used only for the purpose of valuing property.

1150 (4) The Commissioner of Revenue may request sales data of
1151 Class I and Class II property from the county tax assessors in
1152 order to develop sales ratios. If a county tax assessor fails to
1153 supply accurate information requested by the Commissioner of
1154 Revenue, the commissioner shall reject the county's tax roll. The

avails of the one (1) mill levy as provided for in Section 27-39-329(2)(b) shall not be expended until the county complies with such request.

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

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

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

(3) When any tax assessor and/or his deputies or assistants travel outside of their county to attend an appraisal school, seminar or workshop approved by the Department of Revenue, such persons shall receive as reimbursement of expenses of such travel the same mileage and actual and necessary expenses for food, lodging and travel by public carrier or private motor vehicles as is allowed under Section 25-3-41. However, mileage shall not be authorized when such travel is done by a motor vehicle owned by the county.

(4) The county board of supervisors shall reimburse the assessors, tax collectors and deputies for reasonable and necessary expenses sustained in attending annual conferences, regional conferences, schools and seminars. The Department of Revenue shall have the authority to prescribe forms and to promulgate rules and regulations necessary to implement the provisions of this section. No expenses authorized herein shall

be reimbursed unless the expenses have been authorized or approved by an order of the board duly made and spread upon the minutes of such board.

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

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

(7) When any tax assessor and/or his deputies or assistants attend and successfully complete all qualifications pursuant to the Mississippi Education and Certification Program and receive the certification level of Mississippi Assessment Evaluator (MAE), they shall receive an additional One Thousand Five Hundred Dollars (\$1,500.00) annually beginning the next fiscal year after completion.

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

(9) When any deputy tax assessor successfully completes all qualifications to become a licensed certified general real estate appraiser under Sections 73-34-1 through 73-34-63, on the recommendation of the tax assessor, the county board of supervisors may pay, in its discretion, an additional amount not

to exceed Five Thousand Dollars (\$5,000.00) annually to the deputy beginning the next fiscal year after the completion of such qualifications.

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

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

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

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

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

(b) All individuals, firms, partnerships and corporations engaged wholly or in part in mercantile, manufacturing or any other business, (except banks and insurance companies) occupation or calling, shall, on demand by the Department of Revenue in writing, furnish a sworn statement of their taxable property, as of January first of each year; and of their assets and liabilities on that date. Any person or concern failing or refusing to furnish the information required within thirty (30) days after written notice so to do from the Department of Revenue shall be guilty of a misdemeanor, and on conviction shall be punished as for a misdemeanor. The information herein

provided for shall be confidential, and shall not be given anyone by the Department of Revenue, except to county and municipal tax assessors. And for the illegal disclosure of any information provided for under this section, the injured party shall have a right of action against the Commissioner of Revenue or the assessor, on their or his official bond, for any actual damages sustained.

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

27-3-57. All funds collected by the Commissioner of Revenue and by the Department of Revenue under the provisions of any law are designated as public funds of the State of Mississippi. All such funds shall be deposited in the State Treasury on the same day in which the funds are collected, in accordance with Section 7-9-21. The State Treasurer shall transfer such monies to municipalities, counties and other special accounts, as provided by law.

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

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

1295 **SECTION 31.** Section 27-3-58, Mississippi Code of 1972, is
1296 amended as follows:

1297 27-3-58. For any tax levied and collected under the
1298 authority of a local and private law of the State of Mississippi,
1299 and collected and paid to the Department of Revenue in the same or
1300 similar manner that state sales taxes are collected and paid, the
1301 Department of Revenue may retain three percent (3%) of the
1302 proceeds of such tax for the purpose of defraying the costs
1303 incurred by the Department of Revenue in the collection of the
1304 tax.

1305 **SECTION 32.** Section 27-3-59, Mississippi Code of 1972, is
1306 amended as follows:

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

shall be the duty of the tax assessors and collectors, or deputies, to attend and participate in these regional conferences and each tax assessor and collector, or his deputy, who attends and participates in these regional conferences shall be reimbursed for his expenses in the same manner as those attending the annual conference.

Each tax assessor and collector attending and participating in the annual or regional conferences in person, or by deputy, shall be entitled to receive as expenses for attending the conferences, travel, meals, lodging and other necessary expenses at the rate provided for in Section 25-3-41, which expenses shall be paid from the county general fund or proceeds from the levy imposed for the maintenance of the reappraisal program in such county.

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

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

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

27-3-61. (1) The Department of Revenue and the Commissioner of Revenue shall file and preserve for the time specified by this section, and as required by any other laws of this state, complete and full records of their official acts with respect to the laws

1365 which the Department of Revenue and/or the Commissioner of Revenue
1366 are required to enforce and administer, including, but not limited
1367 to, copies or reproductions of such copies of the land and
1368 personal assessment rolls, and the assessment rolls of railroads
1369 and other persons, corporations and associations required to be
1370 assessed by the * * * Commissioner of Revenue as the state
1371 assessor of railroad * * *. The Department of Revenue and the
1372 Commissioner of Revenue shall preserve, in their office, copies or
1373 reproductions of such copies of the land assessment rolls of the
1374 counties in this state for ten (10) years, and copies or
1375 reproductions of such copies of the personal assessment rolls of
1376 the counties in this state for three (3) years, the time to begin
1377 on the first day of January of the year in which such assessment
1378 rolls were made, the assessment rolls of railroads, persons,
1379 corporations or associations assessed by the commissioner for ten
1380 (10) years, and all other records, documents and papers for three
1381 (3) years. The records and documents required by this subsection
1382 to be filed and preserved by the Department of Revenue and the
1383 Commissioner of Revenue may be preserved digitally and/or
1384 electronically * * *.

1385 (2) When the records, documents, rolls, or reproductions of
1386 such rolls, papers and correspondence have been preserved by the
1387 Department of Revenue and the Commissioner of Revenue for the
1388 period of time required by subsection (1) of this section, all of
1389 the records, or such parts thereof as may be considered useless,
1390 may be disposed of in accordance with approved records control
1391 schedules. No records, however, may be destroyed without the
1392 approval of the Director of the Department of Archives and
1393 History. Nothing in this subsection shall prevent the Department
1394 of Revenue and/or the Commissioner of Revenue from destroying the
1395 paper copy of any record or document after it has been preserved
1396 digitally or electronically.

1397 **SECTION 34.** Section 27-3-63, Mississippi Code of 1972, is
1398 amended as follows:

1399 27-3-63. When, in the judgment of the Department of Revenue,
1400 an audit, examination or inspection of the books, records,
1401 invoices, papers, memoranda or other data appears to be required
1402 or necessary to determine the assessment of a tax, or to establish
1403 a tax liability, or to verify a payment of a tax, under the
1404 income, any privilege, sales, and excise tax laws of any kind of
1405 this state, of a taxpayer doing business both within and without
1406 the state and maintaining his principal place of business outside
1407 the state; such audit, or examination, or inspection may be made
1408 at the principal place of business outside the state to the same
1409 extent and same effect as audits, examinations, or inspections are
1410 made of books, records, invoices, papers, memoranda or other data
1411 located in this state.

1412 The Department of Revenue, when directly charged with the
1413 duty of assessing and collecting any tax under any law which
1414 requires a taxpayer to keep adequate books, records, papers,
1415 invoices, memoranda or other data, at a place in this state,
1416 reflecting his liability for any tax due the state, and which
1417 taxpayer conducts his business both within and without
1418 Mississippi, and maintains his principal place of business outside
1419 this state at which his books, records, etc., are located; may
1420 elect to audit, examine or inspect all books, records, papers,
1421 invoices, memoranda or other data reflecting upon the Mississippi
1422 tax assessment and tax liability at the principal place of
1423 business of the taxpayer, rather than require the taxpayer to
1424 transport all of his books, records, papers, invoices, memoranda
1425 and other data to some place in this state.

1426 **SECTION 35.** Section 27-3-65, Mississippi Code of 1972, is
1427 amended as follows:

1428 27-3-65. When the Department of Revenue in the course of
1429 directly administering any of the tax laws enumerated in Section
1430 27-3-63 shall elect to audit, examine or inspect the books,
1431 records, papers, invoices, memoranda or other data of a taxpayer
1432 at his principal place of business outside this state, it shall
1433 designate, in writing, the agent or agents, employee or employees,

to make the audit, examination or inspection at the principal place of business of the taxpayer, and shall state the kind of tax for which the audit, examination or inspection is thereby made, but for an inspection in regard to those taxes administered by the Department of Revenue there shall be no charge of any kind made against the taxpayer for the expenses of such inspection.

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

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

The term "proper judicial order" as used in this section shall not include subpoenas or subpoenas duces tecum but shall include only those orders entered by a court of record in this state after furnishing notice and a hearing to the taxpayer and the Department of Revenue. The court shall not authorize the

1469 furnishing of such information unless it is satisfied that the
1470 information is needed to pursue pending litigation wherein the
1471 return itself is in issue, or the judge is satisfied that the need
1472 for furnishing the information outweighs the rights of the
1473 taxpayer to have such information secreted.

1474 * * * However, * * * information relating to possible tax
1475 liability to other states or the federal government may be
1476 furnished to the revenue departments of those states or the
1477 federal government when the states or federal government grant a
1478 like comity to Mississippi.

1479 (2) The State Auditor and the employees of his office shall
1480 have the right to examine only such tax returns as are necessary
1481 for auditing the Department of Revenue, and the same prohibitions
1482 against disclosure which apply to the Department of Revenue shall
1483 apply to the State Auditor and his office.

1484 (3) Any person who violates the provisions of this section
1485 shall be guilty of a misdemeanor and on conviction thereof shall
1486 be fined not more than One Thousand Dollars (\$1,000.00) or
1487 imprisoned not more than six (6) months in the county jail, or
1488 both.

1489 **SECTION 37.** Section 27-3-79, Mississippi Code of 1972, is
1490 amended as follows:

1491 27-3-79. (1) The State Tax Commission shall develop and
1492 implement a tax amnesty program in accordance with the provisions
1493 of this section. The program shall begin on September 1, 2004,
1494 and end on December 31, 2004. The program shall apply to all
1495 taxes that are required to be collected by the State Tax
1496 Commission or commissioner and that were first due and payable for
1497 the year 1999 and after. Tax amnesty shall be available to any
1498 individuals or corporations who are liable for those taxes and who
1499 have failed to pay all or any portion of their taxes, failed to
1500 file returns or filed inaccurate returns; however, tax amnesty
1501 shall not be available to individuals or corporations subject to
1502 tax-related criminal investigations or prosecution, or where the
1503 taxes have been previously assessed by the commission, or to

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

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

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

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

27-3-80. (1) The Attorney General, the Department of Revenue, the Department of Public Safety and the Bureau of Narcotics shall create a task force to facilitate the transfer of information from law enforcement agencies to the Attorney General indicating that an individual is a drug trafficking kingpin, is laundering money received from drug trafficking and is likely evading the income reporting requirements of state law. The Attorney General shall examine all relevant information to determine the probability that such violations of law exist. The Attorney General may enlist the aid of any other law enforcement

agency in the state in an investigation under this section. If the Attorney General determines that tax evasion is probably occurring, he shall forward the information to the Department of Revenue with a request that the Department of Revenue perform a criminal tax evasion investigation. The Department of Revenue shall report its preliminary findings to the Attorney General within one hundred twenty (120) days after receiving the information.

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

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

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

(5) As used in this section:

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

(b) "Kingpin organization" means a group of individuals, operating as a group either formally or informally, who sell, transport, manufacture and/or deliver controlled

substances in felony violation of the Uniform Controlled Substances Law. To qualify as a kingpin organization, the group would either have to distribute major quantities of controlled substances, or their trafficking activities would have to occur in or affect more than one (1) circuit court district.

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

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

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

27-3-83. (1) The Commissioner of Revenue may specify by rule or regulation the manner and method by which tax returns and other tax documents and information may be filed with the Department of Revenue. Such filings may be accomplished by

submitting the forms or documents manually or by submitting them electronically.

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

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

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

(4) If a person fails to comply with the rules and regulations promulgated by the commissioner under the provisions of subsection (1) or (2) of this section, the commissioner may impose a penalty of Twenty-five Dollars (\$25.00) for each instance of noncompliance. Any penalty imposed under this section shall be collected in the same manner as that set forth for the collection of penalties under the Mississippi Sales Tax Law, being Section 27-65-1 et seq.

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

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

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

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

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

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

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

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

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

(h) "State Tax Commission" or "Tax Commission" means the Department of Revenue. "Commission" or "department" also means the Department of Revenue except where such words are specifically given other meanings.

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

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

1678 (k) "Paid or accrued" means paid or accrued, or paid or
1679 incurred, and these terms, "paid or incurred" or "paid or
1680 accrued," shall be construed according to the method of accounting
1681 or the basis on which the net income is computed. The term
1682 "received for the purpose of computation of net income" means
1683 received or accrued, and the term "received or accrued" shall be
1684 construed according to the method of accounting or the basis on
1685 which the net income is computed.

1686 (1) "Dividend" means any distribution made by a
1687 corporation, association, trust or estate, to its shareholders or
1688 members, whether in cash, other property, or its own stock.

1689 **SECTION 42.** Section 27-7-45, Mississippi Code of 1972, is
1690 amended as follows:

1691 27-7-45. (1) The tax levied by this article shall be paid
1692 when the return is due except as hereinafter provided.

1693 (2) If any officer or employee of the State of Mississippi,
1694 or any political subdivision thereof, does not pay his state
1695 income tax on or before August 15 after such income tax becomes
1696 due and payable, or is in arrears in child support payments for
1697 thirty (30) days after such payments become due and payable, his
1698 wages, salary or other compensation shall be withheld and paid to
1699 the Tax Commission or the Department of Human Services, as the
1700 case may be, in satisfaction of such income tax, interest, and
1701 penalty, if any, and any child support arrearage until paid in
1702 full. This provision shall apply to any installments of income
1703 tax or child support due, after the first installment, to require
1704 payment of the entire balance of child support tax due, plus
1705 interest and penalty, if any, before an officer or employee of the
1706 State of Mississippi, or any political subdivision thereof, is
1707 eligible to draw any salary or other emoluments of office. The
1708 Commissioner of Revenue is required to furnish the State Fiscal
1709 Officer, chancery clerk, city clerk or other appropriate fiscal
1710 officer of a political subdivision, as the case may be, with
1711 notice that income taxes have not been paid. The Department of
1712 Human Services is required to furnish the officer's or the

1713 employee's employer, or other appropriate officer of the State of
1714 Mississippi or its political subdivision, as the case may be, with
1715 notice that child support payments have not been made. This
1716 notice shall serve as a lien or attachment upon any salary or
1717 compensation due any employee or officer, disregard of this notice
1718 creating personal liability against such officer for the full
1719 amount of the income tax due, plus interest and penalty. The
1720 Department of Revenue may, in its discretion * * *, waive the
1721 provisions of this subsection on behalf of any public officer or
1722 employee in the event of an extended personal illness, an extended
1723 illness in his immediate family or other emergency. Regardless of
1724 the amount designated in the Department of Human Service's notice
1725 for withholding and regardless of other fees imposed or amounts
1726 withheld pursuant to this section, the payor shall not deduct from
1727 the income of the officer or employee in excess of the amounts
1728 allowed under Section 303(b) of the Consumer Credit Protection
1729 Act, being 15 USCS 1673, as amended.

1730 (3) The tax or child support payment may be paid with
1731 uncertified check during such time and under such regulations as
1732 the commissioner or the Department of Human Services shall
1733 prescribe, but if the check so received is not paid by the bank on
1734 which it is drawn, the officer or employee for whom such check is
1735 tendered shall remain liable for the payment of the tax, child
1736 support payment and for all penalties, the same as if such check
1737 had not been tendered.

1738 (4) If a corporation is subject to LIFO recapture pursuant
1739 to Section 1363(d) of the Code, then:

1740 (a) Any increase in the tax imposed by Section 27-7-5
1741 by reason of the inclusion of the LIFO recapture amount in its
1742 income shall be payable in four (4) equal installments;

1743 (b) The first installment shall be paid on or before
1744 the due date (determined without regard to extensions) for filing
1745 the return for the first taxable year for which the corporation
1746 was subject to the LIFO recapture;

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

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

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

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

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

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

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

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

(4) Where the reported net income of a taxpayer is increased by the Internal Revenue Service, a taxpayer who, without action by the commissioner, amends a return filed under this article on the basis of a change in taxable income made by the Internal Revenue Service, and pays the additional tax due within thirty (30) days after agreeing to the federal change (and has received statement of the federal changes to which agreement has been made or payment thereof), shall add interest to the additional tax at the rate of one percent (1%) per month from due date of the original return. If the additional tax, based on changes in taxable income by the Internal Revenue Service, is assessed by the commissioner under subsection (1) of this section, in addition to the interest there may be added a penalty of one-half of one percent (1/2 of 1%) of the additional tax due if the failure is for not more than one (1) month, with an additional one-half of one percent (1/2 of 1%) for each additional month or fraction thereof during which the failure to pay continues, not to exceed twenty-five percent (25%) in the aggregate, unless it is shown that the failure is due to reasonable cause and not due to willful neglect.

(5) In the case of a taxpayer who files a bond when appealing the decision of the Board of Tax Appeals instead of

1817 paying the amount of the additional tax found to be due by the
1818 Board of Tax Appeals, and the tax assessment or a part of the
1819 assessment is upheld by the chancery court and/or the Supreme
1820 Court, the assessment shall bear interest at the rate of one
1821 percent (1%) per month from the due date until paid.

1822 (6) (a) Nothing in this section shall be construed as
1823 authorizing a refund of taxes for claims pursuant to the United
1824 States Supreme Court decision of Davis v. Michigan Department of
1825 Treasury, 109 S.Ct. 1500 (1989). These taxes were not incorrectly
1826 and/or erroneously collected as contemplated by this chapter.

1827 (b) In the event a court of final jurisdiction
1828 determines the above provision to be void for any reason, it is
1829 hereby declared the intent of the Legislature that affected
1830 taxpayers shall be allowed a credit against future income tax
1831 liability as opposed to a tax refund.

1832 **SECTION 44.** Section 27-7-53, Mississippi Code of 1972, is
1833 amended as follows:

1834 27-7-53. (1) (a) Except as otherwise provided in this
1835 section, if a return is timely filed by the taxpayer but the tax
1836 due is not paid, the commissioner shall make his assessment of tax
1837 due by mail or by personal delivery of the assessment to the
1838 taxpayer, which assessment shall constitute notice and demand for
1839 payment. The taxpayer shall be given a period of sixty (60) days
1840 from the date of the notice in which to pay the tax due, including
1841 penalty and interest as hereinafter provided, and if the sum is
1842 not paid within the period of sixty (60) days, the commissioner
1843 shall proceed to collect it under the provisions of Sections
1844 27-7-55 through 27-7-67 of this article; provided that within the
1845 period of sixty (60) days the taxpayer may appeal to the board of
1846 review as provided by law.

1847 (b) (i) If an individual return is timely filed by the
1848 taxpayer and the amount of tax liability (determined without
1849 regard to interest, penalties, additions to the tax and additional
1850 amounts) of the taxpayer exceeds Seventy-five Dollars (\$75.00) but
1851 does not exceed Three Thousand Dollars (\$3,000.00), the taxpayer

may request to pay the tax liability through an installment agreement. The taxpayer must file such a request with the return and must provide all information required by the commissioner. If the commissioner determines a taxpayer is financially unable to pay the tax liability, the commissioner may enter into an agreement to accept payment of the tax liability in installments if:

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

a. Failed to file any return required by this chapter,

b. Failed to pay any tax required by this chapter, or

c. Entered into an installment agreement under this paragraph (b);

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

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

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

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

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

1. Pay any installment due under the agreement;

1887 2. Pay any other tax liability due under this
1888 chapter when the liability is due; or

1889 3. Provide a statement of financial condition
1890 required by the commissioner.

1891 (2) If no return is made by a taxpayer required by this
1892 chapter to make a return, the commissioner shall determine the
1893 taxpayer's liability from the best information available, which
1894 determination shall be prima facie correct for the purpose of this
1895 article, and the commissioner shall forthwith make an assessment
1896 of the tax so determined to be due by mail or by personal delivery
1897 of the assessment to the taxpayer, which assessment shall
1898 constitute notice and demand for payment. The taxpayer shall be
1899 given a period of sixty (60) days from the date of the notice in
1900 which to pay the tax due, including penalty and interest as
1901 hereinafter provided, and if the sum is not paid within the period
1902 of sixty (60) days, the commissioner shall proceed to collect it
1903 under the provisions of Sections 27-7-55 through 27-7-67 of this
1904 article; provided that within the period of sixty (60) days the
1905 taxpayer may appeal to the board of review as provided by law.

1906 (3) Interest at the rate of one percent (1%) per month from
1907 the due date of the return may be added or assessed in addition to
1908 the tax due as provided in subsections (1) and (2) of this
1909 section.

1910 (4) In case of failure to file a return as required by this
1911 chapter, there may be added to the amount required to be shown as
1912 tax on the return a penalty of five percent (5%) of the amount of
1913 the tax if the failure is for not more than one (1) month, with an
1914 additional five percent (5%) for each additional month or fraction
1915 thereof during which the failure continues, not to exceed
1916 twenty-five percent (25%) in the aggregate. The failure to file a
1917 return penalty shall not be less than One Hundred Dollars
1918 (\$100.00).

1919 (5) In case of failure to pay the amount shown as tax on any
1920 return specified in subsections (1) and (2) of this section on or
1921 before the date prescribed for payment of the tax, determined with

regard to any extension of time for payment or installment agreement, or both, there may be added to the amount shown as tax on the return one-half of one percent (1/2 of 1%) of the amount of the tax if the failure is for not more than one (1) month, with an additional one-half of one percent (1/2 of 1%) for each additional month or fraction thereof during which the failure continues, not to exceed twenty-five percent (25%) in the aggregate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) * * * "Nonresident" shall apply to any natural person whose domicile is without the State of Mississippi or who maintains a place of abode without the state, and spends in the aggregate, more than six (6) months of the taxable year without the state.

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

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

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

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

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

27-9-45. If no return is made by an executor required to make returns, as provided herein, the commissioner shall give written notice by mail to such executor to make such returns within thirty (30) days from the date of such notice and if such executor shall fail or refuse to make such returns as he may be required to make in such notice, then such return shall be made by

2129 the commissioner from the best information available and such
2130 return shall be prima facie correct for the purposes of this
2131 chapter, and the amount of tax shown due thereby shall be a lien
2132 against all the property of the decedent until discharged by
2133 payment and if any payment be not made within sixty (60) days
2134 after the demand therefor by the commissioner, there shall be
2135 added fifty percent (50%) as damages, together with interest at
2136 the rate of one percent (1%) per month on the tax from the time
2137 such tax was due. If such tax be paid within sixty (60) days
2138 after notice by the commissioner, then there shall be added ten
2139 percent (10%) as damages and interest at the rate of one percent
2140 (1%) from the time such tax was due until paid; * * * however, in
2141 the event the executor in answer to the notice from the
2142 commissioner shall state that he is not required under the law to
2143 make such returns, the commissioner shall investigate that
2144 question fully before proceeding further under this section.

2145 The commissioner's authority to make collection of estate tax
2146 shall be determined at the end of four (4) years from the date of
2147 filing of estate tax return, but in the event that no return is
2148 filed, the commissioner's authority to make a return from any
2149 information available at that time shall be terminated at the end
2150 of ten (10) years from the due date of the return.

2151 In the event the federal estate tax or any part thereof is
2152 being contested with the federal government, the commissioner's
2153 right to make an additional assessment based on final
2154 determination of the federal estate tax assessment shall be in
2155 force for a period of two (2) years after the determination.

2156 **SECTION 52.** Section 27-13-1, Mississippi Code of 1972, is
2157 amended as follows:

2158 27-13-1. The words, terms and phrases when used in this
2159 chapter shall have the following meanings ascribed to them:

2160 (a) "Commission," "State Tax Commission," "Tax
2161 Commission" or "department" means the Department of Revenue of the
2162 State of Mississippi.

2163 (b) "Commissioner," "Chairman of the State Tax
2164 Commission," "chairman of the commission" or "chairman" means the
2165 Commissioner of Revenue of the Department of Revenue.

2166 (c) "Taxpayer" means any corporation, association or
2167 joint-stock company liable for or having paid any tax to the State
2168 of Mississippi under the provisions of this chapter or any
2169 corporation, association or joint-stock company subject to the
2170 provisions of this chapter.

2171 (d) "Domestic," when applied to a corporation or
2172 association, means created or organized under the laws of the
2173 State of Mississippi.

2174 (e) "Foreign," when applied to a corporation or
2175 association, means created or organized under some authority other
2176 than the laws of the State of Mississippi.

2177 (f) "Accounting period" or "accounting year" means a
2178 period of twelve (12) months ending on the last day of the month
2179 of December, known as a calendar year, or a period of twelve (12)
2180 months ending on the last day of any month other than December,
2181 known as a fiscal year.

2182 (g) "Corporation," "association" or "joint-stock
2183 company" means and includes each and every form of organization
2184 for pecuniary gain, having authorized capital stock, whether with
2185 or without par value, having privileges not possessed by
2186 individuals or partnerships; and whether organized with or without
2187 statutory authority; and may be referred to as "organizations."
2188 When any form of organization is treated as a corporation for
2189 federal income tax purposes it shall be treated as a corporation
2190 for purposes of this chapter.

2191 (h) "Doing business" means and includes each and every
2192 act, power or privilege, including any income-producing
2193 activities, exercised or enjoyed in this state as an incident to,
2194 or by virtue of, the powers and privileges acquired by the nature
2195 of such organization, whether the form of existence be corporate,
2196 associate, joint-stock company or common law trust. An entity
2197 that is required to file and report for federal income tax

2198 purposes the activity conducted in Mississippi of a qualified
2199 subchapter S subsidiary shall be considered to be doing business
2200 in this state for purposes of this chapter. An entity that is
2201 required to file and report for federal income tax purposes on the
2202 activity conducted in Mississippi of a single member limited
2203 liability company which is not classified as a corporation, and
2204 thus disregarded, shall be considered to be doing business in this
2205 state for purposes of this chapter.

2206 (i) "Holding corporation" means a corporation,
2207 association or joint-stock company: (i) owning capital stock of
2208 one or more other corporations, associations or joint-stock
2209 companies, which stock ownership represents at least eighty
2210 percent (80%) of the value and at least eighty percent (80%) of
2211 the combined voting power of all classes of issued and outstanding
2212 capital stock of such other corporation, association or
2213 joint-stock company; except that for purposes of this definition
2214 the term "stock" does not include nonvoting stock which is limited
2215 and preferred as to dividends; and (ii) deriving at least
2216 ninety-five percent (95%) of its gross receipts from dividends,
2217 interest, royalties, rents, services provided to members of an
2218 affiliated group (as defined in Section 27-7-37(2)(d)) to the
2219 extent of the cost of providing such services, and from such
2220 additional sources as the commissioner may specify by regulation.
2221 The definition of the various sources of gross receipts referred
2222 to herein shall be governed by applicable provisions of Chapter 7,
2223 Title 27, Mississippi Code of 1972, and regulations thereunder and
2224 shall include only passive categories of receipts in the
2225 computation of gross receipts.

2226 (j) "Subsidiary corporation" means a corporation,
2227 association or joint-stock company of which at least eighty
2228 percent (80%) of the value and at least eighty percent (80%) of
2229 the combined voting power of all classes of its issued and
2230 outstanding capital stock is owned by a holding corporation,
2231 except that for purposes of this definition the term "stock" does

2232 not include nonvoting stock which is limited and preferred as to
2233 dividends.

2234 (k) "Stock or securities" means any share of stock,
2235 certificate of stock, or interest in a corporation, note, bond,
2236 debenture, or evidence of indebtedness, or any evidence of an
2237 interest in or right to subscribe to or purchase any of the
2238 foregoing.

2239 **SECTION 53.** Section 27-13-23, Mississippi Code of 1972, is
2240 amended as follows:

2241 27-13-23. (1) If a return is timely filed by the taxpayer
2242 but the tax is not paid, the commissioner shall make his
2243 assessment of tax due by mail or by personal delivery of the
2244 assessment to the taxpayer, which assessment shall constitute
2245 notice and demand for payment. The taxpayer shall be given a
2246 period of sixty (60) days from the date of the notice in which to
2247 pay the tax due, including penalty and interest as provided in
2248 this section, and if the sum is not paid within the sixty-day
2249 period, the commissioner shall proceed to collect it under the
2250 provisions of Sections 27-13-29 through 27-13-41 of this chapter;
2251 provided that within the sixty-day period the taxpayer may appeal
2252 to the board of review as provided by law.

2253 (2) If no return is made by a taxpayer required by this
2254 chapter to make a return, the commissioner shall determine the
2255 taxpayer's liability from the best information available, which
2256 determination shall be prima facie correct for the purpose of this
2257 chapter, and the commissioner shall forthwith make an assessment
2258 of the tax so determined to be due by mail or by personal delivery
2259 of the assessment to the taxpayer, which assessment shall
2260 constitute notice and demand for payment. The taxpayer shall be
2261 given a period of sixty (60) days from the date of the notice in
2262 which to pay the tax due, including penalty and interest as
2263 provided in this section, and if the sum is not paid within the
2264 sixty-day period, the commissioner shall proceed to collect it
2265 under the provisions of Sections 27-13-29 through 27-13-41 of this

chapter; provided that within the sixty-day period the taxpayer may appeal to the board of review as provided by law.

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

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

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

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

27-13-25. (1) If, upon examination of a return made under the provisions of this chapter, it appears that the correct amount of tax is greater or less than that shown in the return, the tax shall be recomputed. Any overpayment of tax so determined shall be credited or refunded to the taxpayer. If the correct amount of tax is greater than that shown in the return of the taxpayer, the commissioner shall make his assessment of additional tax due

2301 by * * * mail or by personal delivery of the assessment to the
2302 taxpayer, which assessment shall constitute notice and demand for
2303 payment. The taxpayer shall be given a period of sixty (60) days
2304 from the date of the notice in which to pay the additional tax
2305 due, including penalty and interest as provided in this section,
2306 and if the sum is not paid within the sixty-day period, the
2307 commissioner shall proceed to collect it under the provisions of
2308 Sections 27-13-29 through 27-13-41, provided that within the
2309 sixty-day period the taxpayer may appeal to the board of review as
2310 provided by law.

2311 (2) In the case of an overpayment of tax, interest shall be
2312 computed under the provisions of Section 27-7-315. In the case of
2313 an underpayment of tax, interest at the rate of one percent (1%)
2314 per month from the due date of the return shall be added or
2315 assessed in addition to the additional tax due as provided in
2316 subsection (1) of this section.

2317 (3) In case of failure to pay any additional taxes as
2318 assessed under this section, unless it is shown that the failure
2319 is due to reasonable cause and not due to willful neglect, there
2320 shall be added to the additional amount assessed a penalty of
2321 one-half of one percent ($1/2$ of 1%) of the amount of the
2322 additional tax if the failure is for not more than one (1) month,
2323 with an additional one-half of one percent ($1/2$ of 1%) for each
2324 additional month or fraction thereof during which the failure
2325 continues, not to exceed twenty-five percent (25%) in the
2326 aggregate.

2327 **SECTION 55.** Section 27-15-3, Mississippi Code of 1972, is
2328 amended as follows:

2329 27-15-3. As used in this chapter:

2330 (a) * * * "Population" means the population as shown by
2331 the last census made by the United States; provided, that when any
2332 municipality makes and certifies an enumeration, as provided by
2333 law, it shall mean the population shown by such enumeration.

2334 (b) * * * "Person" or "company," herein used
2335 interchangeably, shall be taken to include any individual, firm,

2336 partnership, joint adventure, association, corporation, estate,
2337 trust, or any other group or combination acting as a unit, and
2338 includes the plural as well as the singular number, unless the
2339 intention to give a more limited meaning is disclosed by the
2340 context.

2341 (c) * * * "Year" and "annually" means either the
2342 calendar year, or a period of twelve (12) calendar months.

2343 (d) * * * "Capacity," when used with reference to
2344 manufacturing establishments, means and shall be determined from
2345 the rated capacity of the machinery installed by the manufacturer
2346 thereof.

2347 (e) * * * "Business" shall include all activities or
2348 acts personal, professional, or corporate, engaged in or caused to
2349 be engaged in with the object of gain, profit, benefit, or
2350 advantage, either direct or indirect, or following or engaging in
2351 any trade, calling or profession, and all things which occupy the
2352 time, attention and labor of men for the purpose of a livelihood
2353 or profit.

2354 (f) * * * "Place of business" means a store, shop,
2355 counting room, office, factory, or other location or locations
2356 whether in a building, enclosed space, or in any undefined place
2357 or places where any business as herein defined is done, conducted,
2358 or carried on.

2359 (g) * * * "State-wide license" means a license issued
2360 by the Commissioner of Revenue, Commissioner of Insurance, or
2361 other officer required to collect the tax usable, good and valid,
2362 in each and every county in the state, unless otherwise limited
2363 and it shall be the authority of the licensee to engage in the
2364 business designated for the period of time under the conditions
2365 specified therein, and at the place or places stated, if the
2366 business carried on be at a definite place.

2367 (h) * * * "State-wide tax" means the tax paid or
2368 imposed for a state-wide license.

2369 (i) * * * "Officer" or "collector" when used with
2370 reference to officers whose duty it is to collect privilege taxes,

means and includes every officer of the state of Mississippi, subdivisions or departments thereof whose duty it is to collect privilege taxes as by law provided.

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

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

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

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

27-15-205. Upon the receipt of the application herein required, and payment of the amount shown thereby to be due for the privilege to be exercised, the officer to whom the application is made shall determine if the application is in proper form, and if the correct amount be tendered, and may require the applicant to furnish such other and further information as in his opinion is necessary to ascertain the correct amount of tax due. When the correct amount of the tax has been so ascertained, the * * * officer shall issue to the applicant taxpayer a privilege license according to such application, and shall date the same as of the first day of the month of its issuance. The officer issuing the license shall countersign the same when issued by him, and he shall enter the same in the register prescribed by law therefor. The license issued by collectors as herein provided shall be executed in duplicate, the original shall be delivered to the licensee by the officer, and the duplicate shall be attached to the application therefor, and preserved by the officer as a public record.

If, however, such officer, shall, before issuing the * * * license, or at any time thereafter, have reason to believe that the statements of the business contained in the application are incorrect or false in any material particular, the * * * officer

2406 shall duly notify the applicant wherein the supposed discrepancy
2407 lies, and he is hereby empowered to require the applicant to
2408 render such other information as will enable him to determine the
2409 proper tax due. After making such determination of the proper tax
2410 due, if the license has not been issued, the officer shall
2411 forthwith proceed to collect the amount of tax due; and if the
2412 license shall have been issued under the original application, he
2413 shall collect the difference between the sum shown to be properly
2414 due, and the sum paid with the original application, and shall
2415 issue an additional license therefor which shall expire at the
2416 same time as the original. If the additional tax is paid within
2417 sixty (60) days after the determination by the office of the
2418 proper amount due, no penalty shall be applied. If the taxpayer
2419 shall willfully fail or refuse to furnish the information
2420 requested by such officer, he shall be liable for damages as in
2421 other cases of payment of an insufficient privilege tax, and may
2422 be proceeded against civilly or criminally as otherwise provided
2423 herein, and shall suffer the penalties provided herein therefor.

2424 The license issued pursuant to this section shall be good,
2425 usable, and valid for one (1) year after the date thereof, or for
2426 such other period as is fixed by law for the privilege, which
2427 period shall be so designated in the license. All statewide
2428 licenses shall be issued for a period no longer than one (1) year.

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

the provisions of Section 93-11-157 or Section 93-11-163, as the case may be, shall control.

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

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

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

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

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

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

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

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

(5) "Motorcycle" means every vehicle designed to travel on not more than three (3) wheels in contact with the ground,

2474 except vehicles included within the term "tractor" as herein
2475 classified and defined.

2476 (6) "Truck tractor" means every motor vehicle designed
2477 and used for drawing other vehicles and so constructed as to carry
2478 a load other than a part of the weight of the vehicle and load so
2479 drawn and has a gross vehicle weight (GVW) in excess of ten
2480 thousand (10,000) pounds.

2481 (7) "Trailer" means every vehicle without motive power,
2482 designed to carry property or passengers wholly on its structure
2483 and which is drawn by a motor vehicle.

2484 (8) "Semitrailer" means every vehicle (of the trailer
2485 type) so designed and used in conjunction with a truck tractor.

2486 (9) "Foreign vehicle" means every motor vehicle,
2487 trailer or semitrailer, which shall be brought into the state
2488 otherwise than by or through a manufacturer or dealer for resale
2489 and which has not been registered in this state.

2490 (10) "Pneumatic tires" means all tires inflated with
2491 compressed air.

2492 (11) "Solid rubber tires" means every tire made of
2493 rubber other than pneumatic tires.

2494 (12) "Solid tires" means all tires, the surface of
2495 which in contact with the highway is wholly or partly of metal or
2496 other hard, nonresilient material.

2497 (13) "Person" means every natural person, firm,
2498 copartnership, corporation, joint-stock or other association or
2499 organization.

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

2509 mortgagor shall be deemed the owner for the purposes of this
2510 article.

2511 (15) "School bus" means every motor vehicle engaged
2512 solely in transporting school children or school children and
2513 teachers to and from schools; however, such vehicles may transport
2514 passengers on weekends and legal holidays and during summer months
2515 between the terms of school for compensation when the
2516 transportation of passengers is over a route of which not more
2517 than fifty percent (50%) traverses the route of a common carrier
2518 of passengers by motor vehicle and when no passengers are picked
2519 up on the route of any such carrier.

2520 (16) "Dealer" means every person engaged regularly in
2521 the business of buying, selling or exchanging motor vehicles,
2522 trailers, semitrailers, trucks, tractors or other character of
2523 commercial or industrial motor vehicles in this state, and having
2524 an established place of business in this state.

2525 (17) "Highway" means and includes every way or place of
2526 whatever nature, including public roads, streets and alleys of
2527 this state generally open to the use of the public or to be opened
2528 or reopened to the use of the public for the purpose of vehicular
2529 travel, and notwithstanding that the same may be temporarily
2530 closed for the purpose of construction, reconstruction,
2531 maintenance or repair.

2532 (18) "State Tax Commission," "commission" or
2533 "department" means the Commissioner of Revenue of the Department
2534 of Revenue of this state, acting directly or through his duly
2535 authorized officers, agents, representatives and employees.

2536 (19) "Common carrier by motor vehicle" means any person
2537 who or which undertakes, whether directly or by a lease or any
2538 other arrangement, to transport passengers or property or any
2539 class or classes of property for the general public in interstate
2540 or intrastate commerce on the public highways of this state by
2541 motor vehicles for compensation, whether over regular or irregular
2542 routes. The term "common carrier by motor vehicle" shall not
2543 include passenger buses operating within the corporate limits of a

municipality in this state or not exceeding five (5) miles beyond the corporate limits of the municipality, and hearses, ambulances, school buses as such. In addition, this definition shall not include taxicabs.

(20) "Contract carrier by motor vehicle" means any person who or which under the special and individual contract or agreements, and whether directly or by a lease or any other arrangement, transports passengers or property in interstate or intrastate commerce on the public highways of this state by motor vehicle for compensation. The term "contract carrier by motor vehicle" shall not include passenger buses operating wholly within the corporate limits of a municipality in this state or not exceeding five (5) miles beyond the corporate limits of the municipality, and hearses, ambulances, school buses as such. In addition, this definition shall not include taxicabs.

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

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

(22) "Private carrier of passengers" means all other passenger motor vehicle carriers not included in the above definitions. The term "private carrier of passengers" shall not include passenger buses operating wholly within the corporate limits of a municipality in this state, or not exceeding five (5)

2579 miles beyond the corporate limits of the municipality, and
2580 hearses, ambulances, and school buses as such. In addition, this
2581 definition shall not include taxicabs.

2582 (23) "Operator" means any person, partnership,
2583 joint-stock company or corporation operating on the public
2584 highways of the state one or more motor vehicles as the beneficial
2585 owner or lessee.

2586 (24) "Driver" means the person actually driving or
2587 operating such motor vehicle at any given time.

2588 (25) "Private carrier of property" means any person
2589 transporting property on the highways of this state as defined
2590 below:

2591 (a) Any person, or any employee of such person,
2592 transporting farm products, farm supplies, materials and/or
2593 equipment used in the growing or production of his own
2594 agricultural products in his own truck.

2595 (b) Any person transporting his own fish,
2596 including shellfish, in his own truck.

2597 (c) Any person, or any employee of such person,
2598 transporting unprocessed forest products, or timber harvesting
2599 equipment wherein ownership remains the same, in his own truck.

2600 (26) "Taxicab" means any passenger motor vehicle for
2601 hire with a seating capacity not greater than ten (10) passengers.
2602 For purposes of this paragraph (26), seating capacity shall be
2603 determined according to the manufacturer's suggested seating
2604 capacity for a vehicle. If there is no manufacturer's suggested
2605 seating capacity for a vehicle, the seating capacity for the
2606 vehicle shall be determined according to regulations established
2607 by the Department of Revenue.

2608 (27) "Passenger coach" means any passenger motor
2609 vehicle with a seating capacity greater than ten (10) passengers,
2610 operating wholly within the corporate limits of a municipality of
2611 this state or within five (5) miles of the corporate limits of the
2612 municipality, or motor vehicles substituted for abandoned electric
2613 railway systems in or between municipalities. For purposes of

this paragraph (27), seating capacity shall be determined according to the manufacturer's suggested seating capacity for a vehicle. If there is no manufacturer's suggested seating capacity for a vehicle, the seating capacity for the vehicle shall be determined according to regulations established by the Department of Revenue.

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

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

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

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

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

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

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

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

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

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

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

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

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

2683 (a) "Motor vehicle" shall mean every vehicle intended
2684 primarily for use and operation on the public highways, which is
2685 self-propelled and every vehicle intended primarily for operation
2686 on the public highways, which is not driven or propelled by its
2687 own power, but which is designed either to be attached to and
2688 become a part of or to be drawn by a self-propelled vehicle, but
2689 not including farm tractors and other machines and tools used in
2690 production, harvesting and care of farm products.

2691 (b) "Person" shall mean every natural person, firm,
2692 copartnership, association or corporation.

2693 (c) "Motor vehicle dealer" shall mean any business
2694 engaged in the selling or exchanging of new or new and used motor
2695 vehicles or used vehicles; and, which has an established place of
2696 business open for inspection at any time by any peace officer or
2697 the Commissioner of Revenue of the Department of Revenue or one
2698 (1) of his authorized representatives during reasonable hours;
2699 and, which buys and sells or exchanges at least twenty-four (24)
2700 motor vehicles per year that are the same motor vehicle type for
2701 which distinguishing number tags are being sought under this
2702 article. For purposes of this paragraph each of the following
2703 categories shall be considered a different motor vehicle type:

2704 (i) Motor vehicles (as defined under Section
2705 27-19-3) with a gross vehicle weight (as defined under Section
2706 27-19-3) of less than sixteen thousand (16,000) pounds, not
2707 including motorcycles;

2708 (ii) Motorcycles;

2709 (iii) Trailers, semitrailers and house trailers;

2710 and

2711 (iv) Motor vehicles not included in subparagraphs
2712 (i), (ii) and (iii) of this paragraph.

2713 (d) "Dealer" shall mean such of the principal officers
2714 of a corporation registered as a motor vehicle dealer, and such of
2715 the partners of a copartnership registered as a motor vehicle
2716 dealer as are actively and principally engaged in the motor
2717 vehicle business. The term "dealer" shall not include:

2718 (i) Directors, stockholders or inactive partners;
2719 or
2720 (ii) Receivers, trustees, administrators,
2721 executors, guardians, or other persons appointed by or acting
2722 under any judgment or order of any court, whether state or
2723 federal; or
2724 (iii) Public officers while performing their
2725 official duties; or
2726 (iv) Persons disposing of motor vehicles acquired
2727 for their own use and actually so used when the same shall have
2728 been used, so acquired in good faith, and not for the purpose of
2729 avoiding the provisions of this article; or
2730 (v) Persons who shall sell motor vehicles as an
2731 incident to their principal business but who are not engaged
2732 primarily in selling motor vehicles. The foregoing shall include
2733 only finance companies or banks which sell repossessed motor
2734 vehicles, and insurance companies which sell motor vehicles which
2735 they have taken into their possession as an incident of payment
2736 made under policies of insurance, and which do not maintain a used
2737 car lot or building with one (1) or more employed motor vehicle
2738 salesmen.
2739 (e) "New motor vehicle dealer" shall mean a business
2740 dealing in new motor vehicles, tractors, trailers or semitrailers,
2741 or new and used motor vehicles, tractors, trailers or
2742 semitrailers.
2743 (f) "Used motor vehicle dealer" shall mean a business
2744 dealing in used motor vehicles, tractors, trailers or
2745 semitrailers. "Automobile dismantlers" shall also be classified
2746 as used motor vehicle dealers.
2747 (g) "Established place of business" shall mean any
2748 place owned or leased and regularly occupied by any person for the
2749 primary and principal purpose of engaging in selling, buying,
2750 bartering, exchanging or dealing in motor vehicles, tractors,
2751 trailers or semitrailers, whether same may be displayed or offered
2752 for sale and where the books and records required of the conduct

2753 of such business are maintained and kept. Established places of
2754 business shall be open for inspection at any time by any peace
2755 officer or employee of the Department of Revenue during reasonable
2756 hours. To constitute a place of business, it shall be apparent
2757 that there is a holding out to the general public that an
2758 establishment is offering motor vehicles, tractors, trailers and
2759 semitrailers for sale. There shall be an office separate from and
2760 not in conjunction with or related to any other business for the
2761 purpose of transacting the business of offering motor vehicles,
2762 tractors, trailers or semitrailers for sale, or in lieu of such
2763 office there shall be an adequate display of identification as a
2764 motor vehicle dealer as specified by the Commissioner of Revenue
2765 of the Department of Revenue.

2766 (h) "Automobile dismantler" shall mean any person who
2767 maintains an established place of business and who is engaged in
2768 the business of buying, selling or exchanging used motor vehicles,
2769 mobile homes or house trailers for the purpose of remodeling,
2770 taking apart or rebuilding same or buying and selling of parts of
2771 used motor vehicles and shall be classified as a used motor
2772 vehicle dealer.

2773 (i) "Automobile auction" shall mean any person, firm,
2774 association, corporation or trust, resident or nonresident, acting
2775 as an agent for the purchaser or seller of motor vehicles.

2776 (j) "Department" or "commission" shall mean the
2777 Commissioner of Revenue of the Department of Revenue.

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

2788 provisions and requirements of this article associated with a
2789 "motor vehicle dealer."

2790 (1) "Wholesale motor vehicle dealer" or "wholesale
2791 dealer" shall mean any business engaged in the selling or
2792 exchanging of new or used motor vehicles, or both, strictly on a
2793 wholesale basis with no inventory being maintained which is
2794 granted a wholesale license at the discretion of the Commissioner
2795 of Revenue of the Department of Revenue. Such wholesale dealer
2796 shall be awarded all privileges of a "motor vehicle dealer,"
2797 except for the purchase and use of distinguishing number tags. A
2798 wholesale dealer shall abide by all provisions and requirements of
2799 this article associated with a "motor vehicle dealer," except for
2800 the requirement of the "established place of business" and the
2801 requirement to buy, sell or exchange a certain number of motor
2802 vehicles per year.

2803 **SECTION 60.** Section 27-21-1, Mississippi Code of 1972, is
2804 amended as follows:

2805 27-21-1. The administration of this chapter is vested in and
2806 shall be exercised by the Commissioner of Revenue of the
2807 Department of Revenue, hereinafter referred to as commissioner,
2808 and who may do any act required in the administration of the law
2809 by and through his duly appointed and constituted deputies or
2810 agents, who shall serve under him, and shall perform such duties
2811 as may be required by the commissioner, including the signing of
2812 notices, warrants and such other documents as may be specifically
2813 designated by the commissioner, not inconsistent with this
2814 chapter. The Commissioner of Revenue of the Department of
2815 Revenue, as commissioner, may require the assistance of and act
2816 through the Attorney General, prosecuting attorney of any county,
2817 or any district attorney, or any attorney for the department.
2818 The * * * commissioner may, with the assent of the Governor,
2819 employ special counsel in any county to aid the prosecuting
2820 attorney of such county or the Attorney General or district
2821 attorney, and the compensation of such special counsel shall be
2822 fixed by and paid only upon the approval of the Governor; but the

Attorney General, district attorney or prosecuting attorney of any county shall receive no fees or compensation for services rendered in enforcing this chapter in addition to the salary paid such officer.

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

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

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

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

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

(d) "Lumber" means products sawed or hewed from logs, and shall be measured by actual board measure in units of board feet, but does not mean other products manufactured from logs such as veneer sheets, tight or slack cooperage, hardwood shuttle blocks, hickory, furniture or handle dimension blanks.

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

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

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

2858 (h) "Sever" means to cut, fell, or otherwise separate
2859 or produce from the soil or water any timber or timber products.

2860 (i) "Timber" means timber after severance or
2861 production.

2862 (j) "Timber products" means timber of all kinds,
2863 species, or sizes, after severance, including logs, lumber, poles,
2864 piling, posts, blocks, bolts, cordwood, and pulpwood, pine
2865 stumpwood, pine knots or other distillate wood, crossties,
2866 turpentine (crude gum), and all other products derived from timber
2867 which have a sale or commercial value.

2868 **SECTION 62.** Section 27-25-303, Mississippi Code of 1972, is
2869 amended as follows:

2870 27-25-303. The words, terms and phrases used in this article
2871 shall have the meanings ascribed to them herein.

2872 (a) "Tax commission," State Tax Commission or
2873 "department" means the Department of Revenue of the State of
2874 Mississippi.

2875 (b) "Commissioner" or "Chairman of the State Tax
2876 Commission" means the Commissioner of Revenue of the Department of
2877 Revenue.

2878 (c) "Person" means and includes any individual, firm,
2879 copartnership, joint venture, association, corporation, estate,
2880 trust or other group or combination acting as a unit, and includes
2881 the plural as well as the singular in number.

2882 (d) "Taxpayer" means any person liable for or having
2883 paid any tax to the State of Mississippi under the provisions of
2884 this article.

2885 (e) "Producer" means any person who produces or severs
2886 or who is responsible for the production of salt from the earth or
2887 water for sale, profit or commercial use.

2888 (f) "Production" means the total amount or quantity of
2889 marketable salt produced by whatever measurement used.

2890 (g) "Value" means and includes the purchase price or
2891 royalty, cost, and any other expense as determined by generally

accepted accounting principles of underground mining and handling of production to the point where processing begins.

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

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

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

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

27-25-501. Whenever used in this article, the following words and terms shall have the definition and meaning ascribed to them in this section, unless the intention to give a more limited meaning is disclosed by the context:

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

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

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

(d) "Value" means the sale price, or market value, at the mouth of the well. If the oil is exchanged for something other than cash, or if there is no sale at the time of severance, or if the relation between the buyer and the seller is such that the consideration paid, if any, is not indicative of the true value or market price, then the commissioner shall determine the value of the oil subject to tax, considering the sale price for cash of oil of like quality. With respect to salvaged crude oil as hereinafter defined, the term "value" shall mean the sale price or market value of such salvaged crude oil at the time of its sale

2927 after such salvaged crude oil has been processed or treated so as
2928 to render it marketable.

2929 (e) "Taxpayer" means any person liable for the tax
2930 imposed by this article. With respect to the tax imposed upon
2931 salvaged crude oil as hereafter defined, the term "taxpayer" shall
2932 mean the person having title to the salvaged crude oil at the time
2933 it is being processed or treated so as to render it marketable.

2934 (f) "Oil" means petroleum, other crude oil, natural
2935 gasoline, distillate, condensate, casinghead gasoline, asphalt or
2936 other mineral oil which is mined, or produced, or withdrawn from
2937 below the surface of the soil or water, in this state. Any type
2938 of salvaged crude oil which, after any treatment, becomes
2939 marketable shall be defined as crude oil which has been severed
2940 from the soil or water.

2941 (g) "Severed" means the extraction or withdrawing from
2942 below the surface of the soil or water of any oil, whether such
2943 extraction or withdrawal shall be by natural flow, mechanically
2944 enforced flow, pumping or any other means employed to get the oil
2945 from below the surface of the soil or water, and shall include the
2946 withdrawing by any means whatsoever of oil upon which the tax has
2947 not been paid, from any surface reservoir, natural or artificial,
2948 or from a water surface. Provided, however, that in the case of
2949 salvaged crude oil, "severed" means the process of treating such
2950 oil so that it will become marketable and the time of severance
2951 shall occur upon completion of the treatment.

2952 (h) "Person" means any natural person, firm,
2953 copartnership, joint venture, association, corporation, estate,
2954 trust or any other group, or combination acting as a unit, and the
2955 plural as well as the singular number.

2956 (i) "Producer" means any person owning, controlling,
2957 managing or leasing any oil property, or oil well, and any person
2958 who produces in any manner any oil by taking it from the earth or
2959 water in this state, and shall include any person owning any
2960 royalty or other interest in any oil or its value, whether

2961 produced by him, or by some other person on his behalf, either by
2962 lease contract or otherwise.

2963 (j) "Engaging in business" means any act or acts
2964 engaged in (personal or corporate) by producers, or parties at
2965 interest, the result of which, oil is severed from the soil or
2966 water, for storage, transport or manufacture, or by which there is
2967 an exchange of money, or goods, or thing of value, for oil which
2968 has been or is in process of being severed, from the soil or
2969 water.

2970 (k) "Barrel" for oil measurement, means a barrel of
2971 forty-two (42) United States gallons of two hundred thirty-one
2972 (231) cubic inches per gallon, computed at a temperature of sixty
2973 (60) degrees Fahrenheit.

2974 (l) "Production" means the total gross amount of oil
2975 produced, including all royalty or other interest; that is, the
2976 amount for the purpose of the tax imposed by this article shall be
2977 measured or determined by tank tables compiled to show one hundred
2978 percent (100%) of the full capacity of tanks without deduction for
2979 overage or losses in handling. Allowance for any reasonable and
2980 bona fide deduction for basic sediment and water, and for
2981 correction of temperature to sixty (60) degrees Fahrenheit will be
2982 allowed. If the amount of oil produced has been measured or
2983 determined by tank tables compiled to show less than one hundred
2984 percent (100%) of the full capacity of tanks, then such amount
2985 shall be raised to a basis by one hundred percent (100%) for the
2986 purpose of the tax imposed by this article.

2987 (m) "Gathering system" means the pipelines, pumps and
2988 other property used in gathering oil from the property on which it
2989 is produced, the tanks used for storage at a central place,
2990 loading racks and equipment for loading oil into tank cars or
2991 other transporting media, and all other equipment and
2992 appurtenances necessary to a gathering system for transferring oil
2993 into trunk pipelines.

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

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

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

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

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

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

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

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

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

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

(d) "Value" means the sale price, or market value, at the mouth of the well. If the gas is exchanged for something other than cash, or if there is no sale at the time of severance, or if the relation between the buyer and the seller is such that the consideration paid, if any, is not indicative of the true

value or market price, then the commissioner shall determine the value of the gas subject to tax, considering the sale price for cash of gas of like quality in the same or nearest gas-producing field.

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

(f) "Gas" means natural and casinghead gas and any gas or vapor taken from below the surface of the soil or water in this state, regardless of whether produced from a gas well or from a well also productive of oil or any other product; provided, however, the term "gas" shall not include carbon dioxide.

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

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

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

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

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

(l) "Production" means the total gross amount of gas produced, including all royalty or other interest; that is, the

amount for the purpose of the tax imposed by this article shall be measured or determined by meter readings showing one hundred percent (100%) of the full volume expressed in cubic feet at a standard base and flowing temperature of sixty (60) degrees Fahrenheit and at the absolute pressure at which the gas is sold and purchased; correction to be made for pressure according to Boyle's law, and for specific gravity according to the gravity at which the gas is sold and purchased or if not so specified, according to test made by the balance method.

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

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

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

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

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

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

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

3099 27-33-11. The subject words and terms of this section, for
3100 the purpose of this article, shall have meaning as follows:

3101 (a) "Tax loss" means the exemption from ad valorem
3102 taxes allowed homeowners in this article. "Reimbursement of tax
3103 loss" means the amount of tax losses to be reimbursed to each
3104 taxing unit as determined by Sections 27-33-77 and 27-33-79.

3105 (b) "Taxing unit" means (i) any county, (ii) any
3106 special municipal separate school district with or without added
3107 territory, (iii) any municipal separate school district with or
3108 without added territory, and (iv) any municipality.

3109 (c) "Added territory" means territory or land lying
3110 outside of a municipality, added or annexed to and being a part of
3111 a municipal separate school district and subject to the tax
3112 permitted to be imposed by the district for school purposes as
3113 provided by Chapter 57, Title 37, Mississippi Code of 1972.

3114 (d) "Municipality" means a city, town or village which
3115 is legally incorporated and which has not been automatically
3116 abolished according to the provisions of Sections 21-1-49 and
3117 21-1-51 or by other lawful process, and in which taxes are
3118 assessed, levied and collected.

3119 (e) "Depository" means the bank or institution and
3120 place officially designated as the depository for funds of a
3121 county.

3122 (f) "Apartment" means rooms in an eligible dwelling
3123 with space and facilities for sleeping and with space and
3124 facilities, or equipment, for preparing and serving meals, which
3125 equipment is supplied by the owner or tenant, or both: (1) in a
3126 building constructed as a dwelling for two (2) or more families,
3127 or (2) in an ordinary dwelling, consisting of three (3) or more
3128 rooms, exclusive of a bathroom; in either case rented or leased or
3129 available for rent or lease, or occupied by a family group other
3130 than the owner. One (1) or two (2) rooms rented and used for
3131 housekeeping shall be counted as rented rooms.

3132 (g) "Commission," "Tax Commission" or "department"
3133 means the Department of Revenue of the State of Mississippi.

3134 (h) "Auditor" means the Auditor of Public Accounts of
3135 the State of Mississippi.

3136 (i) "Treasurer" means the Treasurer of the State of
3137 Mississippi.

3138 (j) "Officer or officers" includes the county tax
3139 assessor, the members of the county board of supervisors, the
3140 clerk of the board of supervisors, the chancery clerk, the county
3141 tax collector, and the legally authorized deputies of each.

3142 (k) "Eligible" when used in this article, (1) with
3143 reference to persons means those persons who are eligible under
3144 the terms of this article for homestead exemption, or (2) with
3145 reference to property means the real property eligible for
3146 exemption as a homestead under the terms of this article as to
3147 title, quantity, occupancy, use to which put, and other conditions
3148 required by this article, or (3) with reference to title or
3149 ownership means title to or ownership of real property as defined
3150 in Section 27-33-17.

3151 (l) "He" and other pronouns in the masculine gender
3152 embrace a female as well as a male, unless a contrary intention is
3153 disclosed by the context.

3154 (m) "Adjoining land, or land actually joined" means two
3155 (2) separately described tracts of land having at one or more
3156 points a common boundary, or where the corners of the two (2)
3157 tracts actually touch, but two (2) tracts connected by an easement
3158 or by a narrow strip of land as a right-of-way for ingress and
3159 egress shall not be treated as adjoining, or actually joined.

3160 (n) "Supplemental roll" means a list containing the
3161 amount of the assessment of all lands and buildings which are all,
3162 or a part, of exempt homesteads, and a list of the homeowners to
3163 whom a homestead exemption has been allowed by the board for the
3164 current year, and showing in strict alphabetical order the names
3165 of all applicants to whom the exemption was granted, and in
3166 vertical columns the amount of the assessment, the assessed value
3167 of the exempted land and buildings, the assessed value of the land
3168 and buildings not exempted, the page and line number of the

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

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

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

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

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

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

(b) As soon as practicable after convening, at each regular monthly meeting, the board, in the light of public records, personal knowledge, information given by the assessor, and any other reliable source of information that may be available, shall examine each application which has been delivered

3204 to the clerk by the tax assessor, and pass upon its correctness
3205 and the eligibility of the property and of the person, under the
3206 law, as fully as may be done before final approval, after the land
3207 roll has been finally approved of minute record; and the board
3208 shall carefully consider and construe the relationship between
3209 buyers and sellers of property on which homestead exemption is
3210 sought, and the terms, conditions, rate of interest, payments made
3211 and to be made, of all conveyances doubtful in such respect. One
3212 (1) member of the board shall check each application prior to the
3213 time for final approval, and shall indicate if it should be
3214 approved, disapproved, or if it requires further investigation.

3215 (c) If any application be found incorrect or incomplete
3216 in any particular required by law, or deficient in any respect,
3217 the board shall give notice immediately to the applicant, in
3218 writing, by mail, advising the applicant of the defect and the
3219 nature thereof, so that the applicant may correct it, if it can be
3220 corrected, before the time for final action by the board.

3221 (d) The year in which the land roll is made, at the
3222 meeting of the board of supervisors at which the certificate of
3223 the department finally approving the land assessment roll is
3224 received and entered in its minutes, and at the September meeting
3225 the board of supervisors shall complete the consideration of each
3226 and every application for homestead exemption; and all
3227 applications, or claims, not clearly within the provisions and
3228 requirements of this article shall be disallowed by the board.
3229 Where it appears to the board, in a case or cases involving
3230 transactions completed after July 1, 1938, that conveyances have
3231 been made without bona fide consideration, and liens taken with
3232 questionable consideration or values, or where the payments on the
3233 principal have not been made as required, or there is evidence of
3234 any kind that the transactions were not bona fide in every
3235 particular, and were entered into for the purpose of obtaining a
3236 homestead exemption contrary to the letter and spirit of law, the
3237 application shall be disallowed.

3238 (e) Each application shall be plainly endorsed
3239 "allowed" or "disallowed" as the case may be, over the date, and
3240 the signature of the president of the board, who may use a
3241 facsimile stamp for the purposes; and, in the space provided on
3242 the application for that purpose, there shall be entered for each
3243 assessment, (1) the page and line number of the assessment on the
3244 land roll, (2) the total number of acres, (3) the total assessed
3245 value of the land, (4) the assessed value of the buildings, (5)
3246 the total assessed value of the exempted land and buildings, (6)
3247 the assessed value of the land and buildings not exempted, (7) the
3248 name of the road district, if any, in which the property lies, and
3249 (8) the name of the school district in which the property lies.

3250 (f) All applicants, whose applications are finally
3251 disallowed by the board, shall be given notice immediately by the
3252 board, in writing, by mail. Petitions and objections by
3253 applicants for correction or amendment shall be heard by the board
3254 at the next regular meeting of the board after notice that the
3255 application was finally disallowed.

3256 (g) It shall not be necessary that an order be entered
3257 on the minutes of the board which allows or disallows an
3258 application as provided by paragraph (f) of this section, unless
3259 there be a division among the board members, then an order shall
3260 be entered on the minutes recording the aye and nay vote.

3261 (h) The board of supervisors shall have, and is hereby
3262 given, the power and authority to summon and examine witnesses
3263 under oath, to examine records, and to do any and all other things
3264 necessary and proper to ascertain the facts with respect to any
3265 application, or claim, for homestead exemption presented to it.
3266 The board shall disallow any application for homestead exemption
3267 when it is found that the person or the property was ineligible,
3268 after the supplemental roll is approved and within one (1) year
3269 after that in which the application was executed; and it shall
3270 correct, likewise, any and all errors found in the supplemental
3271 roll. When an application is disallowed by the board after the
3272 supplemental roll has been approved, it shall give notice and

3273 proceed as in the case of a rejection by the department. A
3274 certified copy of the order finally disallowing an application,
3275 and making a correction in the supplemental roll must be adopted
3276 before the last Monday of August and shall be received by the
3277 department no later than September 15 of the year following the
3278 year in which the supplemental roll was made.

3279 (i) At the first regular or special meeting of the
3280 board of supervisors held after the supplemental roll, required by
3281 Section 27-33-35 of this article, has been made, it shall examine
3282 the * * * roll, and if found correct shall enter in the minutes an
3283 order approving the roll; and the applications disallowed shall be
3284 listed in the minutes by name and amount, with the reason for
3285 disallowance. A copy of the order shall be attached to the
3286 supplemental roll and sent to the department.

3287 (j) All applicants whose applications are rejected for
3288 reimbursement of tax loss by the department, after having been
3289 allowed by the board, shall be given notice immediately by the
3290 board, in writing, by mail, with the reasons for the rejection by
3291 the department, and the applicants shall have thirty (30) days in
3292 which to file objections thereto, which objections shall be heard
3293 by the board at the same or the next regular meeting after
3294 objections are filed by the applicant. If the board finds that in
3295 its opinion the application should be allowed, it shall continue
3296 the matter in its record, and present its objection to the
3297 rejection, with evidence in support of it, to the department. All
3298 applications finally rejected by the department or by the Board of
3299 Tax Appeals shall be disallowed by the board, and entered of
3300 minute record.

3301 (k) When the board shall receive notice from the
3302 department that an application for homestead exemption has been
3303 rejected by the department for reimbursement of tax loss, the
3304 board shall proceed in the manner prescribed in paragraph (j) of
3305 this section. Upon the hearing of objections of the applicant, if
3306 the board finds that the application should be disallowed, it
3307 shall so order and notify the department that its rejection has

3308 been "accepted." If the board is of the opinion that the
3309 application should be allowed, it shall notify the department that
3310 it objects to the rejection of the application, and shall submit,
3311 in writing, its reasons for the "objection." All such matters
3312 between the board and the department may be concluded by
3313 correspondence, or by personal appearance of the board, or one or
3314 more of its members, the clerk, or the assessor, or by a
3315 representative of the department present at any meeting of the
3316 board. If upon consideration of the objection, the department
3317 determines that the application for homestead exemption should be
3318 allowed; it will reverse the adjustment resulting from the
3319 department's rejection of the application and advise the board of
3320 this reversal. If upon consideration of the objection, the
3321 department determines that it had properly rejected the
3322 application for homestead exemption; it shall advise the board
3323 that its objection has been denied by the department. Within
3324 thirty (30) days from the date of the notice from the department
3325 advising the board that its objection had been denied, the board
3326 can appeal this denial of the objection by the department to the
3327 Board of Tax Appeals. The decision of the Board of Tax Appeals on
3328 the appeal by the board from the denial by the department of the
3329 board's objection to the department's rejection of an application
3330 for reimbursement of the tax loss shall be final, and the board
3331 and the department will either allow or disallow the application
3332 based on the decision of the Board of Tax Appeals * * *.

3333 (1) It shall be the duty of the board, and it is hereby
3334 given the power to order the tax collector, by an order entered on
3335 its minutes, to reassess, and list as subject to all taxes, the
3336 property described in an application for homestead exemption and
3337 as entered on the regular land assessment roll, under the
3338 following circumstances:

3339 (i) When an application for homestead exemption is
3340 finally rejected by the department for reimbursement of tax loss
3341 which has been regularly approved by the board and entered on the
3342 supplemental roll; or

3343 (ii) Where an application has been wrongfully
3344 allowed by the board.

3345 When any property has been reassessed as herein provided, all
3346 additional taxes due as a result of such reassessment shall become
3347 due and be payable on or before the first day of February of the
3348 year following that in which notice to make the reassessment is
3349 issued; and if not paid, the tax collector shall proceed to sell
3350 the property for the additional taxes in the same manner and at
3351 the same time other property is sold for the current year's taxes,
3352 or he may collect the taxes by all methods by which other taxes on
3353 real estate may be collected. Provided, no penalty or interest
3354 shall be applied for any period prior to February 1 of the year
3355 following that in which the reassessment is made, and provided
3356 further, that such reassessment shall not take effect or become a
3357 lien on the property of bona fide purchasers or encumbrancers for
3358 value without notice thereof, unless there shall have been filed
3359 prior to their attaining such status a notice of rejection in the
3360 chancery clerk's office in the county in which the property is
3361 located, which notice shall be recorded and indexed as are deeds;
3362 but the applicant shall in all cases remain personally liable for
3363 such reassessment.

3364 (m) The board of supervisors may employ the clerk of
3365 the board to collect and assemble data and information and to
3366 perform the services required of the board by paragraph (e) of
3367 this section and to make investigations required in connection
3368 with the duties of the board in determining the eligibility of
3369 homestead exemptions and to perform all other ministerial duties
3370 required of the board in connection with administering the
3371 Homestead Exemption Law and as directed by the board. If the
3372 board employs the clerk, he shall be paid out of the general
3373 county fund as follows: for the first two thousand (2,000)
3374 applications he may, in the discretion of the board, be paid not
3375 exceeding One Dollar (\$1.00) each, for the next two thousand
3376 (2,000) applications he may be paid not exceeding Seventy-five
3377 Cents (75¢) each, for the next two thousand (2,000) applications

3378 he may be paid not exceeding Fifty Cents (50¢) each, for the next
3379 two thousand (2,000) applications he may be paid not exceeding
3380 Thirty-five Cents (35¢) each, all over the above number he shall
3381 be paid not exceeding Twenty-five Cents (25¢) each. The board
3382 shall require the assessor to correctly describe all lands
3383 included in any applications for homestead exemption, and to
3384 assess all such lands on the land assessment roll, separately from
3385 other lands, as required by this article; and to present to the
3386 board all proper and necessary notices for the correction of land
3387 descriptions on the roll, changes in ownership, and for increases
3388 and decreases in the assessments of exempt homes.

3389 **SECTION 67.** Section 27-33-41, Mississippi Code of 1972, is
3390 amended as follows:

3391 27-33-41. The administration of this article is hereby
3392 vested in the Department of Revenue, and it shall have the power
3393 and the authority necessary to secure compliance with its
3394 provisions uniformly throughout the state. The department shall,
3395 in addition to its general duties of administration of the
3396 article, do the specific things set out in this section:

3397 (a) It shall adopt and issue to tax assessors, clerks,
3398 boards of supervisors, and all other officers or offices to which
3399 this article applies, rules and regulations, not inconsistent with
3400 the provisions of the article, affecting the applications and all
3401 proceedings, records, hearings and other pertinent subjects,
3402 relating to property for which a homestead exemption is claimed;
3403 and such rules and regulations shall be observed by such officers,
3404 boards and offices, in all respects, and in the performance of any
3405 and all duties imposed and powers granted by this article.

3406 (b) It shall prescribe the form of and furnish suitable
3407 application forms, or blanks, for the purpose of carrying out the
3408 provisions of this article, and shall deliver to each assessor a
3409 sufficient number of such blanks for the use of homeowners.

3410 (c) It shall have authority and it shall be its duty to
3411 examine all applications for homestead exemption allowed under
3412 this article, to determine if the provisions of the article have

3413 been complied with by the applicant, the tax assessor, the board
3414 of supervisors, the clerk, and all others, and if the exemptions
3415 have been lawfully allowed; and it shall reject for reimbursement
3416 of tax loss any exemption allowed by the board which does not
3417 conform to the requirements of law in every substantial particular
3418 or for which no application has been sent to the department as
3419 required in Section 27-33-35(a), and shall correct or have
3420 corrected any errors; and the tax loss to be reimbursed shall be
3421 adjusted to accord with the findings of the department.

3422 When an application is rejected, notice thereof shall be
3423 given as provided by this section, and the acceptance or objection
3424 by the board shall be determined as provided by Section
3425 27-33-37(k).

3426 (d) It shall have authority to examine the assessment
3427 rolls, any account register, file, document, record or paper
3428 relating to receipts and disbursements of the taxing unit or any
3429 and all matters relating to homestead exemptions allowed and tax
3430 losses to be reimbursed. It shall also have the authority to
3431 examine any report or return received by the department to verify
3432 any claims made on homestead exemption applications.

3433 (e) It shall have the authority to summon and examine
3434 under oath any officer or other person with respect to any matter
3435 bearing upon the exemption of a home or homes, and to do any and
3436 all other things necessary and proper to ascertain the facts with
3437 respect to any application or claim for homestead exemption; and
3438 it may require the board to furnish any information or document
3439 necessary to the performance of its duties or the correct
3440 determination of any question before it to which the board is a
3441 party.

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

3447 department shall constitute a request by the board for
3448 reimbursement of the tax loss.

3449 (g) It shall, on or before the first day of March each
3450 year, certify to the Department of Finance and Administration the
3451 amount of the first installment to be paid to each taxing unit in
3452 the state, which shall be one-half (1/2) of the amount due, with
3453 adjustments, which is the amount of the first installment less any
3454 charges against the account and plus any credits by reason of
3455 previous charges which have been cancelled. However, if the copy
3456 of the county land roll, the supplemental roll and the clerk's
3457 certificate of tax loss have not been filed with and approved by
3458 the department by February 1, the department shall be allowed
3459 thirty (30) days after the filing of the rolls and the said
3460 certificate in which to perform the duties hereby imposed.

3461 (h) It shall, on or before the first day of September
3462 each year, certify to the Department of Finance and Administration
3463 the amount of the second installment to be paid to each taxing
3464 unit in the state, which shall be the remainder of the amount due
3465 with adjustments, which is an amount equal to the first
3466 installment less any charges against the account and plus any
3467 credits by reason of previous charges which have been cancelled.
3468 Adjustments, either charges or credits, against the amount of tax
3469 loss to any taxing unit may be made at any time as provided in
3470 subsection (j) of this section.

3471 (i) In the event an adjustment in the amount of the tax
3472 loss has been determined by the department, it shall give notice,
3473 in writing, to the board of supervisors, which notice shall be
3474 considered by the board at its next meeting, regular, adjourned or
3475 special. If the board accepts the adjustment, it shall promptly
3476 so advise the department, using such form as may be prescribed and
3477 furnished by the department. If the board objects to the
3478 adjustment, it shall promptly so advise the department, using such
3479 forms as may be prescribed and furnished by the department,
3480 stating in detail the grounds for its objection and providing any
3481 supporting documentation for its objection. Upon receipt of the

board's objection, the department will consider same and determine whether or not the objection is valid. All such matters between the board and the department on this objection may be concluded by correspondence, or by personal appearance of the board, or one or more of its members, the clerk, or the assessor, or by a representative of the department present at any meeting of the board. If upon consideration of the objection, the department determines that the application for homestead exemption should be allowed; it will reverse the adjustment resulting from the department's rejection of the application and advise the board of this reversal. If upon consideration of the objection, the department determines that it had properly rejected the application for homestead exemption; it shall advise the board that its objection has been denied by the department. Within thirty (30) days from the date of the notice from the department advising the board that its objection had been denied, the board can appeal this denial of the objection by the department to the Board of Tax Appeals. At any hearing on the appeal by the board to the Board of Tax Appeals on the department's denial of the board's objection to the department's rejection of an application for homestead exemption, the decision of the department to reject the homestead exemption application shall be prima facie correct.

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

(k) The authority of the department to reject an application for reimbursement of tax loss shall not be exercised later than one (1) year after the first day of January of the year next following that in which the application was filed by the

3517 applicant; but this limitation shall not apply in cases of fraud,
3518 nor where the same person was granted exemption on two (2)
3519 separate homes.

3520 Notice of adjustments in tax loss payments and notice of
3521 applications rejected shall be given by mail, addressed to the
3522 clerk of the board, and the notice directed to the president of
3523 the board of supervisors of the county. The date of mailing shall
3524 be the date of the notice.

3525 (l) The department shall file and preserve full,
3526 complete and accurate records of all tax loss payments and
3527 adjustments in tax loss payments made under the provisions of this
3528 article, including the certificates of tax loss for a period of
3529 three (3) years from the date thereof. The department shall file
3530 and preserve for a period of three (3) years all applications for
3531 homestead exemption filed with it and copies of all supplemental
3532 rolls, counting from the first day of January of the year in which
3533 they are required to be executed or made. All records enumerated
3534 may be destroyed by the department, when kept for the time
3535 required. All other documents, records, papers and correspondence
3536 may be destroyed in accordance with approved record retention
3537 schedules.

3538 (m) The department shall, on or before June 1 of any
3539 year, pay the second installment, or a part thereof, to any school
3540 taxing unit upon submission to the department of proof, in the
3541 form of a certificate of necessity, executed by the county
3542 superintendent of education for the county general school fund, or
3543 for a county school district fund, and by the city superintendent
3544 of schools for a municipal separate school district, that there is
3545 not sufficient money in the maintenance fund of the taxing unit to
3546 pay the salaries of teachers and school bus drivers for the
3547 current school term. Such payment shall be made as provided in
3548 paragraph (h) of this section.

3549 (n) The county tax collectors shall enter, or cause to
3550 be entered, all transactions regarding the titling or registration
3551 of vehicles into the statewide telecommunications system in

compliance with the provisions of Section 63-21-18. Failure of any tax collector to comply with the provisions of this paragraph shall subject the county to the withholding of reimbursements of homestead exemption tax loss as provided under Section 63-21-18.

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

27-35-81. (1) If the assessment is conducted by or under the direction of the assessor, the assessor shall complete the assessment of both real and personal property and file the roll or rolls with the clerk of the board of supervisors on or before the first Monday in July of each year. He shall make an affidavit and append it to each roll, showing that he has faithfully endeavored to ascertain and assess all the persons and property in his county, that he has not omitted any person or thing, or placed upon, or accepted an under valuation of any property, through fear, favor or partiality, and that he has required every taxpayer to make the oath required to be taken by the person rendering a list of his taxable property wherever possible. The assessor shall file with the roll or rolls, under oath, a list showing the name of every taxpayer who has failed or refused to make oath to his tax lists.

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

(3) Upon receipt of such certificate from the board of supervisors of any county, the Department of Revenue shall * * * provide when such roll shall be completed and filed, and the date when the board of supervisors shall meet to equalize the roll or rolls, and the time when objections to the assessments contained in such roll or rolls, shall be heard by the board of supervisors, provided that not less than ten-days' notice shall be given prior to the hearing of such objections. When such roll or rolls shall

be filed, they shall be dealt with in all respects as now provided by law except as to the time.

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

27-35-113. (1) It shall be the duty of the Department of Revenue to carefully examine the recapitulations of the assessment rolls of the counties, when received, to compare the assessed valuation of the various classes of property in the respective counties, to investigate and determine if the assessed valuation of any classes of property in any one or more counties of the state is not equal and uniform with the assessed values fixed upon the same classes of property in other counties of the state, and to ascertain if any class of property in any one or more counties is assessed contrary to law.

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

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

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

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

(3) To perform its examination of the recapitulations of the assessment rolls of the counties, the department shall annually conduct assessment/ratio studies of each county or utilize other means, as determined appropriate by the department, to determine if each county's assessment records comply with acceptable performance standards. The department shall send notice of the results of this examination to the assessor and the board of supervisors of each county no later than thirty (30) days after receipt of the board of supervisors' recapitulation. Any county not in compliance with the acceptable performance standards shall, within ninety (90) days from the date of the notice concerning the department's examination of the county's assessments records,

3622 adopt and submit to the department for approval a plan for
3623 achieving compliance and begin the implementation of the plan so
3624 that compliance can be achieved by the second succeeding year's
3625 assessment roll after the tax year for which the department's
3626 notice of noncompliance with performance standards was issued.
3627 Failure to adopt and submit an approved plan for achieving
3628 compliance or failure to properly implement and follow an approved
3629 plan shall cause the department to withhold the county's homestead
3630 exemption reimbursement monies until such time as the county has
3631 complied with this provision. In the event the county has not
3632 complied with this provision by the end of the state's fiscal
3633 year, then the department shall place the funds so held in a
3634 special escrow account. All interest shall accrue to the benefit
3635 of the county on this account.

3636 (4) The department shall approve the recapitulation of the
3637 assessment rolls and the property tax rolls of any county
3638 operating under a supervised plan to achieve compliance within the
3639 first two (2) roll years as provided for in the paragraph above,
3640 notwithstanding that the county may be failing a test or tests of
3641 the accuracy or equity of assessment.

3642 (5) Any county failing to achieve such compliance for the
3643 second succeeding year's assessment roll as outlined above shall
3644 be subject to the following restrictions until such time as said
3645 tax rolls come into compliance:

3646 (a) The department shall place into escrow all
3647 homestead exemption reimbursements;

3648 (b) The county shall levy and pay over to the
3649 department, for purposes of being placed in the escrow account,
3650 the proceeds of the one (1) mill levy provided for in Section
3651 27-39-329(1)(b). All interest shall accrue to the benefit of the
3652 county on any funds placed in an escrow account; and

3653 (c) The department shall identify the class or classes
3654 of property whose assessment level is not in conformity with the
3655 regulation of the department governing same, and shall have the
3656 authority to adjust and equalize that class or classes of property

by, either requiring a fixed percent (1) to be added to the assessed valuation of any class of property in any county found too low; or (2) to be deducted from the assessed valuation of any class of property found too high; in order that the class or classes of property are being assessed in conformity with the department's regulation.

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

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

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

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

27-35-115. When the Department of Revenue has completed its examination of the recapitulations, and within thirty (30) days after the receipt of recapitulations from each of the counties of the state, it shall * * * direct what action the county must take in order to comply with the provisions of Section 27-35-113. On the other hand, if the department finds that the assessment of any county or counties is reasonably equal and uniform with the assessment of other counties, and in proportion to the true value of the property and does not require an increase or decrease in the assessment of any class of property, in order to secure such equality and uniformity, the department, shall * * * approve the * * * assessment roll or rolls, or reproductions thereof, and direct the board of supervisors thereof, to have copies of the * * * rolls made as required by law. Like determinations shall be made by the department with respect to the recapitulations of all the remaining counties as they are received by the department. The department shall send notice of the results of its examination of the recapitulation of the assessment rolls and the action taken in regard the recapitulation by United States mail to the president of the board of supervisors * * * of the county whose recapitulation was examined.

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

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

pursuant to the * * * call and notice of the president, it shall proceed to consider the instructions of the Department of Revenue, and if the board be dissatisfied with the decision of the Department of Revenue, the board may, by order, appeal the decision of the department as provided in Section 27-35-113. The members of the board, its attorney, tax assessor and chancery clerk may appear before the Board of Tax Appeals and give evidence with reference to the * * * decision of the department. In its aforesaid order, the board may fix a day for its meeting for the further performance of its duties required under this section. The * * * witnesses shall appear before the Board of Tax Appeals at the location set by the Board of Tax Appeals for the hearing on the board's appeal at the time established by the Board of Tax Appeals, or they shall lose their right to be heard. The compensation and expenses, if any, shall be paid by the board of supervisors of the county affected. The Board of Tax Appeals shall hear the complaints and objections of any board of supervisors and witnesses and may adopt an order modifying or rescinding the decision of the department as the evidence so requires but not inconsistent with the provisions of Section 27-35-113. Unless appealed, the decision of the department when made shall be final and it shall be the duty of the board of supervisors to immediately take the appropriate action in accordance with the instructions of the department. If the department's decision is appealed, the decision of the Board of Tax Appeals shall be final and it shall be the duty of the board of supervisors to immediately take the appropriate action in accordance with the decision of the Board of Tax Appeals.

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

27-35-129. The board of supervisors, at its July meeting, shall carefully examine the assessment roll, or rolls, returned by the tax assessor and shall then decide if a new assessment be necessary. If it be found that the assessor is incapable, or that his assessment is so imperfect that it ought not to be approved,

3761 even if objections be not filed, the board may appoint some
3762 suitable person to proceed immediately to make the assessment.
3763 The board of supervisors shall in such case adopt an order setting
3764 forth the true facts and conditions and the time necessary for
3765 making of a new assessment roll, or rolls, and shall certify the
3766 order to the Department of Revenue. The Department of Revenue
3767 shall, upon receipt of the certificate from the board of
3768 supervisors, determine and notify the board of supervisors when
3769 the roll, or rolls, shall be filed, the time for equalization by
3770 the board of supervisors, the giving of notice to taxpayers and
3771 the time when objections to the roll, or rolls, shall be heard and
3772 determined by the board of supervisors. The person appointed to
3773 make the assessment shall proceed immediately to make the
3774 assessment in the same manner and with the same powers of the tax
3775 assessor when assessments are made at the time provided by law,
3776 and shall prepare and file the assessment roll, or rolls, within
3777 the time prescribed by the order of the department. The person so
3778 appointed and discharging the duty shall be allowed the
3779 compensation allowed by law to the assessor for like services, and
3780 shall have the same deputies allowed by law to the tax assessor.
3781 The board of supervisors shall require of the persons appointed
3782 the same bond as is required of the tax assessor. The roll, or
3783 rolls, made under the provisions of this section shall be the
3784 legal assessment roll and the old one shall be thereby annulled.

3785 **SECTION 73.** Section 27-35-163, Mississippi Code of 1972, is
3786 amended as follows:

3787 27-35-163. (1) Except as otherwise provided in subsection
3788 (2) of this section, any person, firm or corporation aggrieved by
3789 an order of the Board of Tax Appeals affirming, in whole or in
3790 part, the assessment of property by the Department of Revenue for
3791 the purpose of ad valorem taxation may, within thirty (30) days
3792 from the date of this order, appeal with supersedeas as to the
3793 amount of taxes in controversy to the Circuit Court of the First
3794 Judicial District of Hinds County, or to the circuit court of any
3795 county in which the property, or any part thereof, is located, or

3796 to the circuit court of any county in which such person, firm or
3797 corporation whose property is assessed resides, upon giving bond
3798 with sufficient sureties, to be approved by the clerk of such
3799 court, in a sum equal to the amount of taxes due on the contested
3800 value of such property as affirmed by the Board of Tax Appeals,
3801 but never less than One Hundred Dollars (\$100.00), payable to the
3802 state and conditioned to perform the judgment of the circuit
3803 court. The ad valorem taxes due on the uncontested portion of the
3804 value as determined by the Board of Tax Appeals shall be due and
3805 payable at the same time as all other ad valorem taxes are for
3806 real and personal property. The person, firm or corporation who
3807 appeals shall file with the clerk of the circuit court a petition
3808 for appeal and review, together with the bond herein provided for,
3809 and the clerk shall thereupon give notice to the Department of
3810 Revenue, who will be the appellee in the appeal, and to the Board
3811 of Tax Appeals. The Department of Revenue shall file with the
3812 clerk of the circuit court where the petition is pending a
3813 certified copy of * * * the assessment in issue and the Board of
3814 Tax Appeals shall file a certified copy of its order or orders in
3815 regard to this assessment. The assessment by the Department of
3816 Revenue and the order or orders of the Board of Tax Appeals are to
3817 be filed with the circuit clerk within thirty (30) days from the
3818 date that each respective agency and board received the notice
3819 from the clerk of the circuit court concerning the filing of the
3820 appeal. * * * The matter of assessing such property shall be
3821 heard de novo by the circuit court at the first term of the court
3822 thereafter, or by the judge of the circuit court in vacation, by
3823 agreement of the parties, without a jury, and such proceeding
3824 shall be given preference over other pending matters in the court.
3825 After hearing the evidence, the circuit court, or the judge
3826 thereof in vacation, shall make an order setting aside, modifying
3827 or affirming the order of the Board of Tax Appeals. A copy of
3828 such order shall be certified by the clerk of the court to the
3829 Department of Revenue, which shall conform thereto.

3830 If the order of the Board of Tax Appeals * * * is affirmed,
3831 then the person, firm or corporation who appealed, and the
3832 sureties on the appeal bond, shall be liable to the state for
3833 damages at the rate of ten percent (10%) on the amount of taxes in
3834 controversy, and all cost of such appeal.

3835 If the Department of Revenue shall be aggrieved by an order
3836 of the Board of Tax Appeals regarding an assessment by the
3837 department for ad valorem tax purposes, the department may, within
3838 thirty (30) days from the date of the order of the Board of Tax
3839 Appeals regarding this assessment, appeal to the circuit court of
3840 any county in which the property being assessed, or any part
3841 thereof, is located or of any county in which the taxpayer
3842 resides, in like manner as in the case of any person, firm or
3843 corporation aggrieved as provided in this subsection, except no
3844 bonds shall be required of the Department of Revenue. Upon the
3845 filing of a petition for appeal or review as provided in this
3846 subsection, the clerk of the court in which the petition is filed
3847 shall thereupon issue process to the person, firm or corporation
3848 whose property is assessed, and such person, firm or corporation
3849 shall plead to the petition within thirty (30) days after the
3850 receipt of the notice.

3851 If the state shall be aggrieved by an assessment for ad
3852 valorem tax purposes by the Department of Revenue or by an order
3853 of the Board of Tax Appeals regarding an assessment by the
3854 Department of Revenue for ad valorem taxes purposes, the Attorney
3855 General or the district attorney, if all the property sought to be
3856 taxed is located within the judicial district for which such
3857 district attorney is elected, may, within thirty (30) days from
3858 the date of the notice from the Department of Revenue to the tax
3859 assessor or tax assessors in the county or counties where the
3860 property being assessed is located of the amount of the final
3861 assessment, appeal to the circuit court of any county in which the
3862 property, or any part thereof, is located or of any county in
3863 which the taxpayer resides, in like manner as in the case of any
3864 person, firm or corporation aggrieved as hereinbefore provided,

3865 except no bonds shall be required of the Attorney General or
3866 district attorney who may appeal. Upon the filing of a petition
3867 for appeal or review as herein provided, the clerk of the court in
3868 which the petition is filed shall thereupon issue process to the
3869 person, firm or corporation whose property is assessed, and such
3870 person, firm or corporation shall plead to the petition within
3871 twenty (20) days after the receipt of the notice.

3872 In the event more than one (1) person appeals an assessment
3873 by the Department of Revenue for ad valorem tax purposes or an
3874 order of the Board of Tax Appeals regarding an assessment by the
3875 Department of Revenue for ad valorem tax purposes under this
3876 section, * * * the matter shall be heard by the circuit court of
3877 the county in which the petition for appeal was first filed,
3878 unless otherwise agreed by the parties.

3879 Any taxpayer aggrieved by an order of the circuit court may
3880 appeal, with supersedeas, to the Supreme Court by giving bond in
3881 the amount and conditioned as provided in the preceding paragraphs
3882 of this section.

3883 The officer who appealed the matter from the ad valorem
3884 assessment of the Department of Revenue or from the order of the
3885 Board of Tax Appeals concerning an ad valorem assessment by the
3886 Department of Revenue may have an appeal to the Supreme Court
3887 without bond.

3888 If the Department of Revenue appeals the matter from the
3889 order of the Board of Tax Appeals concerning an assessment by the
3890 Department of Revenue for ad valorem tax purposes, it may have an
3891 appeal to the Supreme Court without bond.

3892 In the event the appeal by the taxpayer delays the collection
3893 of the tax due by him, then the taxpayer shall be liable for and
3894 shall pay, at the time the taxes are paid to the tax collector
3895 whose duty it is to collect the taxes, interest at the rate of
3896 twelve percent (12%) per annum from the date the taxes were due
3897 until paid.

3898 (2) Any telephone company operating in more than six (6)
3899 counties, which is aggrieved by an assessment by the Department of

3900 Revenue for ad valorem tax purposes, may, within thirty (30) days
3901 from the date of the order of the Board of Tax Appeals regarding
3902 this assessment, appeal without bond as to the amount of taxes in
3903 controversy to the Circuit Court of the First Judicial District of
3904 Hinds County, or to the circuit court of any county in which the
3905 property, or any part thereof, is located, or to the circuit court
3906 of any county in which such telephone company resides.

3907 Notwithstanding such appeal, all of the ad valorem taxes due on
3908 the value as set by the Department of Revenue as adjusted by the
3909 Board of Tax Appeals shall be due and payable at the same time as
3910 all other ad valorem taxes are for real and personal property;
3911 provided, however, that the ad valorem taxes due on the contested
3912 portion of such value shall be paid under protest. Such telephone
3913 company shall file with the clerk of the circuit court a petition
3914 for appeal and review and the clerk shall thereupon give notice to
3915 the Department of Revenue, who will be the appellee in the appeal,
3916 and to the Board of Tax Appeals. The Department of Revenue shall
3917 file with the clerk of the circuit court where the petition is
3918 pending a certified copy of the assessment in issue and the Board
3919 of Tax Appeals shall file a certified copy of its order or orders
3920 in regard to this assessment. The assessment by the Department of
3921 Revenue and the order or orders of the Board of Tax Appeals are to
3922 be filed with the circuit clerk within thirty (30) days from the
3923 date that each respective agency and board received the notice
3924 from the clerk of the circuit court concerning the filing of the
3925 appeal. * * * The matter of assessing such property shall be
3926 heard de novo by the circuit court at the first term of the court
3927 thereafter, or by the judge of the circuit court in vacation, by
3928 agreement of the parties, without a jury, and such proceeding
3929 shall be given preference over other pending matters in the court.
3930 After hearing the evidence, the circuit court, or the judge
3931 thereof in vacation, shall make an order setting aside, modifying
3932 or affirming the order of the Board of Tax Appeals. A copy of
3933 such order shall be certified by the clerk of the court to the
3934 Department of Revenue, which shall conform thereto.

3935 If the Department of Revenue shall be aggrieved by an order
3936 of the Board of Tax Appeals regarding an assessment by the
3937 department for ad valorem tax purposes, the department may, within
3938 thirty (30) days from the date of the order of the Board of Tax
3939 Appeals regarding this assessment, appeal to the circuit court of
3940 any county in which the property being assessed, or any part
3941 thereof, is located or of any county in which the taxpayer
3942 resides, in like manner as in the case of any person, firm or
3943 corporation aggrieved as provided in this subsection, except no
3944 bonds shall be required of the Department of Revenue. Upon the
3945 filing of a petition for appeal or review as provided in this
3946 subsection, the clerk of the court in which the petition is filed
3947 shall thereupon issue process to the person, firm or corporation
3948 whose property is assessed, and such person, firm or corporation
3949 shall plead to the petition within thirty (30) days after the
3950 receipt of the notice.

3951 If the state shall be aggrieved by an assessment for ad
3952 valorem purposes by the Department of Revenue or by an order of
3953 the Board of Tax Appeals regarding an assessment by the Department
3954 of Revenue for ad valorem tax purposes, the Attorney General or
3955 the district attorney, if all the property sought to be taxed is
3956 located within the judicial district for which such district
3957 attorney is elected, may, within thirty (30) days from the date of
3958 the notice from the Department of Revenue to the tax assessor or
3959 tax assessors in the county or counties where the property being
3960 assessed is located of the amount of the final assessment, appeal
3961 without bond to the circuit court of any county in which the
3962 property, or any part thereof, is located or of any county in
3963 which such telephone company resides. Upon the filing of a
3964 petition for appeal or review as herein provided, the clerk of the
3965 court in which the petition is filed shall thereupon issue process
3966 to such telephone company, and such telephone company shall plead
3967 to the petition within thirty (30) days after the receipt of the
3968 notice.

3969 In the event more than one (1) person appeals an assessment
3970 of a telephone company by the Department of Revenue for ad valorem
3971 tax purposes or an order of the Board of Tax Appeals regarding an
3972 assessment of a telephone company by the Department of Revenue for
3973 ad valorem tax purpose, * * * the matter shall be heard by the
3974 circuit court of the county in which the petition for appeal was
3975 first filed, unless otherwise agreed by the parties.

3976 Any such telephone company aggrieved by an order of the
3977 circuit court may appeal without bond to the Supreme Court.

3978 The officer who appealed the matter from ad valorem
3979 assessment of the Department of Revenue of a telephone company or
3980 from the order of the Board of Tax Appeals concerning an ad
3981 valorem tax assessment by the Department of Revenue of a telephone
3982 company may have an appeal to the Supreme Court without bond.

3983 If the Department of Revenue appeals the matter from the
3984 order of the Board of Tax Appeals concerning an assessment of a
3985 telephone company by the Department of Revenue for ad valorem tax
3986 purposes, it may have an appeal to the Supreme Court without bond.

3987 If the value as set by the final assessment of the Department
3988 of Revenue of the telephone company, including any adjustment
3989 ordered by the Board of Tax Appeals, is reduced by the courts as a
3990 result of appeals filed by such telephone company, the ad valorem
3991 taxes attributable to such reduction shall be disposed of by each
3992 affected local taxing district in the following manner:

3993 (a) (i) Such local telephone company shall be entitled
3994 to a refund equal to the amount of ad valorem taxes paid by such
3995 company to the taxing district which are attributable to such
3996 reduction in value, less the portion of any refunds previously
3997 received by such telephone company pursuant to Section 27-38-5,
3998 which are attributable to such reduction in value.

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

ad valorem tax liability for such subsequent year or years up to the total amount of the refund owed to such telephone company pursuant to this paragraph (a).

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

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

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

27-35-309. (1) The Department of Revenue shall, if practicable, on or before the first Monday of June of each year, make out for each person, firm, company or corporation listed in Section 27-35-303, Mississippi Code of 1972, an assessment of the company's property, both real and personal, tangible and intangible. The Department of Revenue shall apportion the assessment of value of each company's property according to the provisions of this article, except as provided in subsection (3) of this section, as follows:

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

(b) When the property of such public utility required to be assessed by the provisions of this article is located in more than one (1) state, the assessed value thereof shall be

apportioned by the Department of Revenue in such manner as will fairly and equitably determine the principal sum for the value thereof in this state, and after ascertaining such value it shall be apportioned by them as herein provided.

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

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

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

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

4074 a sum based on the assessed value of such nuclear generating plant
4075 in an amount to be determined and distributed as follows:

4076 (a) The Department of Revenue shall annually assign an
4077 assessed value to any nuclear generating plant described in this
4078 subsection in the same manner as for ad valorem tax purposes by
4079 using accepted industry methods for appraising and assessing
4080 public utility property. The assessed value assigned shall be
4081 used for the purpose of determining the in-lieu tax due under this
4082 section and shall not be included on the ad valorem tax rolls of
4083 the situs taxing authority nor be subject to ad valorem taxation
4084 by the situs taxing authority nor shall the assessed value
4085 assigned be used in determining the debt limit of the situs taxing
4086 authority. However, the assessed value so assigned may be used by
4087 the situs taxing authority for the purpose of determining salaries
4088 of its public officials.

4089 (b) On or before February 1, 1987, for the 1986 taxable
4090 year and on or before February 1 of each year through the 1989
4091 taxable year, such utility shall pay to the Department of Revenue
4092 a sum equal to two percent (2%) of the assessed value as
4093 ascertained by the Department of Revenue, but such payment shall
4094 not be less than Sixteen Million Dollars (\$16,000,000.00) for any
4095 of the four (4) taxable years; all such payments in excess of
4096 Sixteen Million Dollars (\$16,000,000.00) for these four (4)
4097 taxable years shall be paid into the General Fund of the state.
4098 On or before February 1, 1991, for the 1990 taxable year and on or
4099 before February 1 of each year thereafter, such utility shall pay
4100 to the Department of Revenue a sum equal to two percent (2%) of
4101 the assessed value as ascertained by the Department of Revenue,
4102 but such payment shall not be less than Twenty Million Dollars
4103 (\$20,000,000.00) for any taxable year for as long as such nuclear
4104 power plant is licensed to operate and is not being permanently
4105 decommissioned; all such payments in excess of Sixteen Million
4106 Dollars (\$16,000,000.00) for taxable years 1990 and thereafter
4107 shall be paid as follows:

4108 (i) An amount of Three Million Forty Thousand
4109 Dollars (\$3,040,000.00) annually, beginning with fiscal year 1991,
4110 shall be transferred by the Department of Revenue to Claiborne
4111 County. Such payments may be expended by the Board of Supervisors
4112 of Claiborne County for any purpose for which a county is
4113 authorized by law to levy an ad valorem tax and shall not be
4114 included or considered as proceeds of ad valorem taxes for the
4115 purposes of the growth limitation on ad valorem taxes under
4116 Sections 27-39-305 and 27-39-321. * * * However, should the Board
4117 of Supervisors of Claiborne County withdraw its support of the
4118 Grand Gulf Nuclear Station off-site emergency plan or otherwise
4119 fail to satisfy its off-site emergency plan commitments as
4120 determined by the Mississippi Emergency Management Agency and the
4121 Federal Emergency Management Agency, Five Hundred Thousand Dollars
4122 (\$500,000.00) annually of the funds designated for Claiborne
4123 County as described by this subsection (i) shall be deposited in
4124 the Grand Gulf Disaster Assistance Fund as provided in Section
4125 33-15-51.

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

subsection (ii) shall be deposited in the Grand Gulf Disaster Assistance Fund as provided in Section 33-15-51.

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

(c) Pursuant to certification by the Attorney General to the State Treasurer and the State Tax Commission that the suit against the State of Mississippi pending on the effective date of House Bill 8, First Extraordinary Session of 1990, [Laws, 1990 Ex Session, Ch. 12, eff June 26, 1990], in the Chancery Court for the First Judicial District of Hinds County, Mississippi, styled Albert Butler et al v. the Mississippi State Tax Commission et al, has been voluntarily dismissed with prejudice as to all plaintiffs at the request of the complainants and that no attorney's fees or court costs have been assessed against the state and each of the parties, including Claiborne County and each municipality and school district located in the county, have signed and delivered to the Attorney General a full and complete release in favor of the State of Mississippi and its elected officials of all claims that have been asserted or may be asserted in the suit pending on the effective date of House Bill 8, First Extraordinary Session of 1990, [Laws, 1990 Ex Session, Ch. 12, eff June 26, 1990], in the Chancery Court for the First Judicial District of Hinds County, Mississippi, styled Albert Butler et al v. the Mississippi State Tax Commission et al, and the deposit into the State General Fund of in-lieu payments and interest thereon due the state under subsection (3)(b) of this section but placed in escrow because of the lawsuit described above, the state shall promptly transfer to the Board of Supervisors of Claiborne County out of the State General Fund an amount of Two Million Dollars (\$2,000,000.00) which shall be a one-time distribution to Claiborne County from the state. Such payment may be expended by the Board of Supervisors of Claiborne County for any purposes for which a

county is authorized by law to levy an ad valorem tax and shall not be included or considered as proceeds of ad valorem taxes for the purposes of the growth limitation on ad valorem taxes for the 1991 fiscal year under Sections 27-39-321 and 27-39-305.

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

(e) After distribution of the one-time payment to Claiborne County as set forth in subsection (3)(c) of this section and the payment to the Grand Gulf Disaster Assistance Trust Fund as set forth in subsection (3)(d) of this section, the Department of Revenue upon certification that the pending lawsuit as described in subsection (3)(c) of this section has been voluntarily dismissed shall promptly distribute ten percent (10%) of the remainder of the prior payments remaining in escrow to the General Fund of the state and the balance of the prior payments remaining in escrow shall be distributed to the counties and municipalities in this state wherein such public utility has rendered electric service in the proportion that the amount of electric energy consumed by the retail customers of such public utility in each county, excluding municipalities therein, and in each municipality, for the next preceding fiscal year bears to the total amount of electric energy consumed by all retail customers of such public utility in the State of Mississippi for the next preceding fiscal year. The payments distributed to the counties and municipalities under this paragraph (e) may be expended by such counties and municipalities for any lawful purpose and shall not be included or considered as proceeds of ad valorem taxes for

the purposes of the growth limitation on ad valorem taxes under Sections 27-39-321 and 27-39-305.

(f) After distribution of the payments for fiscal year 1991 as set forth in Section 19-9-151 and distribution of the payments as provided for in subsection (3)(b) of this section, the Department of Revenue shall distribute ten percent (10%) of the remainder of the payments to the General Fund of the state and the balance to the counties and municipalities in this state wherein such public utility renders electric service in the proportion that the amount of electric energy consumed by the retail customers of such public utility in each county, excluding municipalities therein, and in each municipality for the next preceding fiscal year bears to the total amount of electric energy consumed by all retail customers of such public utility in the State of Mississippi for the next preceding fiscal year.

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

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

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

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

(2) Any objection shall be in writing and filed with the Executive Director of the Board of Tax Appeals within the thirty-day period set out in Section 27-35-309(2)(a). At the time of filing the objection with the Executive Director of the Board

of Tax Appeals, the taxpayer shall also file a copy of his written objection with the Department of Revenue.

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

27-35-313. So soon as the assessment rolls have remained subject to objection for thirty (30) days, and when all objections, if any, are disposed of, the assessment rolls shall be approved by the Department of Revenue, and a certified copy of the assessment rolls shall be sent immediately to the clerks of the board of supervisors of the respective counties, who shall file and preserve it as a record.

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

27-35-325. The Department of Revenue is hereby authorized and empowered and it shall be its duty to assess any property required to be assessed by the Department of Revenue as the state assessor of railroads, which it discovers escaping taxation in former years by reason of not being assessed; and to assess or cause to be assessed and taxed, any such property which it discovers escaping taxation by reason of not being assessed in or for the benefit of any road district, school district, or other taxing district or municipality, although the property may have been assessed and taxed for state and general county taxes; * * * however, * * * the right to so assess property shall expire at the end of seven (7) years from the date when the right so to do first accrued. When any property is discovered escaping assessment and taxation which, under the law, is required to be assessed by the Department of Revenue as state assessor of railroads, the Department of Revenue shall assess the same for such purpose and for the years it has escaped taxation, and shall give notice by United States mail, or otherwise, by the Commissioner of Revenue of the Department of Revenue to the owner of the property, or agent, of such owner, showing what property has escaped assessment and for what years, and all other proper information, and the owner shall have thirty (30) days in which to file objections.

4280 The Department of Revenue shall deal with the assessment in all
4281 respects with the same powers as if made at the time regular
4282 assessment of such property is made, and shall have power to
4283 require such information as it may desire for the correct
4284 determination of all questions before it. When any objection is
4285 heard and determined, the Board of Tax Appeals shall by order
4286 approve or disapprove, or may modify the assessment, and make it
4287 final * * *. If no objection is made in regard to the assessment
4288 or if the assessment is approved or modified by the Board of Tax
4289 Appeals, the Department of Revenue shall certify it to the clerk
4290 of the board of supervisors of the county or counties where the
4291 property is located, and such assessment shall be dealt with by
4292 the clerk and tax collector as is required in cases of assessments
4293 when made at the regular time. In all cases where suit is
4294 necessary, it shall be the duty of the Attorney General to
4295 represent the Department of Revenue whenever requested to do so.

4296 **SECTION 78.** Section 27-35-501, Mississippi Code of 1972, is
4297 amended as follows:

4298 27-35-501. It shall be the duty of the Commissioner of
4299 Revenue, constituting the state assessor of railroads and other
4300 public service corporations, to annually assess for taxation the
4301 property of the persons, firms, partnerships, companies,
4302 associations, or corporations, as hereinafter defined, engaged in
4303 the business of operating, furnishing or leasing cars for the
4304 transportation of freight, or to be used in the operation of any
4305 railway line or lines wholly or partially within this state.

4306 **SECTION 79.** Section 27-35-517, Mississippi Code of 1972, is
4307 amended as follows:

4308 27-35-517. (1) The assessment when made and completed shall
4309 remain open for thirty (30) days for inspection in the offices of
4310 the Department of Revenue and be subject to objections by the
4311 railcar companies for the same time period. The Board of Tax
4312 Appeals shall hear all objections, and it may increase or decrease
4313 any assessment if such action appears to be necessary and proper.

(2) Any objection shall be in writing and filed with the Executive Director of the Board of Tax Appeals within the thirty-day period set out in subsection (1) of this section for objections. At the time of filing the objection with the Executive Director of the Board of Tax Appeals, the taxpayer shall also file a copy of his written objection with the Department of Revenue.

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

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

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

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

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

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

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

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

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

(2) Each airline company shall file with the department, on or before the first Monday in April of each year, a complete schedule of all aircraft of a type or model operated in this state by such company. Such schedule shall be made under oath on forms prescribed and furnished by the department. If any airline company shall fail, refuse or neglect to file the required schedules, such company may be penalized in the manner provided for in Section 27-35-305.

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

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

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

27-41-69. In case of grave public emergency, to be determined by the Commissioner of Revenue of the Department of Revenue, with the approval of the Governor and Attorney General, the Commissioner of Revenue, may * * * postpone in any county the date fixed by law for the sale of lands for delinquent taxes. In the event any such sale is postponed, the Commissioner of Revenue of the Department of Revenue, with the approval of the Governor and Attorney General, * * * shall designate a date for such sale. Notice of a sale * * * shall be given by advertising it in the manner prescribed by law for the sale of land for taxes; and the same shall be made at the same place and subject to all the provisions of law applicable to such sales at the time appointed

4383 by law, and lists of lands sold to the state and to individuals
4384 shall be filed in the office of the clerk of the chancery court
4385 within the same relative period of time after the sale as is
4386 allowed for filing such lists after sales at the regular time, and
4387 the clerk shall at once record them; and such lists shall be as
4388 valid and have the same effect and be subject to all the
4389 provisions of law applicable to such lists made of lands sold at
4390 the regular sale for taxes. The Commissioner of Revenue of the
4391 Department of Revenue shall provide notice to the clerk of the
4392 board of supervisors * * * of the * * * postponement of any sale
4393 for taxes in such county and the clerk of the board of supervisors
4394 shall enter such notice on the minutes of the board, but the
4395 failure of the Commissioner of Revenue to so notify * * * the
4396 clerk of the board of supervisors to so record the same shall not
4397 invalidate any sale made hereunder.

4398 **SECTION 83.** Section 27-51-19, Mississippi Code of 1972, is
4399 amended as follows:

4400 27-51-19. The Department of Revenue shall, on or before the
4401 fifteenth day of June of each year, prepare and adopt * * * an
4402 assessment schedule of motor vehicles, as defined in this chapter,
4403 which such assessment schedule, and no other, excepting as may be
4404 hereinafter provided, shall be used by the tax collector of each
4405 county and each municipality in the state, in assessing,
4406 calculating and collecting ad valorem taxes in each respective
4407 jurisdiction on all motor vehicles liable for such tax as
4408 authorized by this chapter.

4409 In preparing the assessment schedule, the Department of
4410 Revenue may make use of, as a base, the values of the various
4411 makes, models, year of manufacture, and types of motor vehicles as
4412 adopted by some reputable nationwide agency or association which
4413 regularly compiles and furnishes such information as to actual
4414 value of the different motor vehicles as to make, model, type and
4415 year of manufacture, or by any other method or methods or
4416 combination of methods which in its judgment will tend to equalize
4417 the assessed value of property of this class with property of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) "Gasoline" means:

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

(ii) Any liquid prepared, advertised, offered for sale or sold for use as or commonly and commercially used as a

4488 fuel in internal combustion engines, which when subjected to
4489 distillation in accordance with the standard method of test for
4490 distillation of gasoline, naphtha, kerosene and similar petroleum
4491 products (American Society for Testing Materials Designation D-86)
4492 shows not less than ten percent (10%) distilled (recovered) below
4493 two hundred sixty (260) degrees Fahrenheit and not less than
4494 ninety-five percent (95%) distilled (recovered) below four hundred
4495 sixty-four (464) degrees Fahrenheit.

4496 The term "gasoline" shall include "aviation gasoline."

4497 The term "gasoline" shall not include:

4498 (i) Liquefied gases which would not exist as
4499 liquid at a temperature of sixty (60) degrees Fahrenheit and at a
4500 pressure of fourteen and seven-tenths (14.7) pounds per square
4501 inch absolute;

4502 (ii) Commercial solvents or naphthas or raw
4503 petroleum products or petrochemicals intermediates when used as or
4504 sold for use in production or manufacture of plastics, detergents,
4505 synthetic rubber, herbicides or other chemicals or products which
4506 are not prepared, advertised, offered for sale or sold for use or
4507 suitable for use as fuel for generating power in internal
4508 combustion engines;

4509 (iii) Racing gasoline.

4510 (b) "Aviation gasoline" means gasoline refined or
4511 manufactured, according to the specifications for aviation
4512 gasoline set forth in ASTM D-910, for exclusive use in
4513 reciprocating aviation engines.

4514 (c) "Person" means any individual, firm, copartnership,
4515 joint venture, association, corporation, estate, trust or any
4516 other group or combination acting as a unit, and the plural as
4517 well as the singular number unless the intention to give a more
4518 limited meaning is disclosed by the context.

4519 (d) "Distributor of gasoline" means:

4520 (i) Any person importing gasoline into this state;

4521 (ii) Any person receiving, purchasing, acquiring,
4522 using, storing or selling any gasoline in this state on which the
4523 gasoline excise tax imposed by this article has not been paid;

4524 (iii) Refiners, blenders, marine terminal
4525 operators or pipeline terminal operators; and

4526 (iv) Any person licensed to sell gasoline in
4527 another state or jurisdiction who is authorized by that state or
4528 jurisdiction to collect the gasoline excise tax imposed by this
4529 article.

4530 (e) "Highway" means every way or place, of whatever
4531 nature including public roads, toll roads, streets and alleys of
4532 this state generally open to the use of the public or to be opened
4533 or reopened to the use of the public for the purpose of vehicular
4534 travel, and notwithstanding that the same may be temporarily
4535 closed for the purpose of construction, reconstruction,
4536 maintenance or repair. The confines of a highway shall include
4537 the entire width and length of the right-of-way.

4538 (f) "Refiner" means every person who manufactures
4539 finished petroleum products from crude oil, unfinished oils,
4540 natural gas liquids, other hydrocarbons, or alcohol.

4541 (g) "Bonded distributor of gasoline" means any person
4542 holding a valid gasoline distributor's permit issued by the
4543 department.

4544 (h) "For agricultural or maritime purposes" means
4545 gasoline used:

4546 (i) In operating farm tractors or other farm
4547 equipment used exclusively in plowing, planting or harvesting farm
4548 products, or in operating boats, and no part of which is used in
4549 any motor vehicle or equipment driven or operated upon the public
4550 roads, streets or highways of this state; and

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

4555 or feed to the farm, where the title to such products is still in
4556 the user.

4557 (i) "For industrial purposes" means gasoline used in
4558 engines or motors of stationary or portable type for the purpose
4559 of operating machinery used for manufacturing or used for
4560 industrial purposes, and no part of which machinery is driven or
4561 operated upon the public roads, streets or highways of this state.

4562 (j) "For domestic purposes" means gasoline used for any
4563 other purpose than agricultural, maritime, industrial or
4564 manufacturing, and no part of which is used for operating motor
4565 vehicles or motor-propelled machines of any description along the
4566 public roads, streets, alleys or highways (as defined in this
4567 article) of this state.

4568 (k) "For nonhighway purposes" means gasoline used for
4569 any other purpose than agricultural, maritime, industrial,
4570 manufacturing or domestic purposes, and no part of which is used
4571 for operating motor vehicles or motor-propelled machines of any
4572 description along the public roads, streets, alleys or highways
4573 (as defined in this article) of this state.

4574 (l) "For aviation purposes" means gasoline used for the
4575 operation of aircraft.

4576 (m) "Refund gasoline" means gasoline used or to be used
4577 for agricultural, maritime, industrial, manufacturing, domestic or
4578 nonhighway purposes only, as these terms are defined in this
4579 article.

4580 (n) "Commission" or "department" means the Department
4581 of Revenue, acting either directly or through its duly authorized
4582 officers, agents or employees.

4583 (o) "United States government" means and includes all
4584 purchasing officers of the Armed Forces of the United States and
4585 the United States Property and Fiscal Officer for the State of
4586 Mississippi or any other state appointed pursuant to Section 708,
4587 Title 32, United States Code, when purchasing gasoline with
4588 federal funds for the account of and use by a component of the
4589 Armed Forces as herein defined.

4590 (p) "Armed Forces" means and includes all components of
4591 the Armed Forces of the United States including the Army National
4592 Guard, the Army National Guard of the United States, the Air
4593 National Guard and the Air National Guard of the United States, as
4594 those terms are defined in Section 101, Title 10, United States
4595 Code, and any other reserve component of the Armed Forces of the
4596 United States enumerated in Section 261, Title 10, United States
4597 Code.

4598 (q) "Blend stock" means ethanol, methanol or any other
4599 products blended with gasoline to produce motor fuel.

4600 (r) "Blender" means any person other than a refiner who
4601 blends blend stock with gasoline or who sells or distributes blend
4602 stock for the purpose of being blended with gasoline.

4603 (s) "Racing gasoline" means gasoline manufactured
4604 exclusively for use in racing and gasoline containing lead, or
4605 having an octane rating of 105 or higher that is not suitable for
4606 use on the highways.

4607 **SECTION 88.** Section 27-55-23, Mississippi Code of 1972, is
4608 amended as follows:

4609 27-55-23. Any person who shall purchase and use gasoline
4610 other than aviation gasoline for agricultural, maritime,
4611 industrial, or domestic purposes, as defined in this article,
4612 which is not used in operating motor vehicles upon the highways of
4613 this state, shall be entitled to a refund of all but Six and
4614 Four-tenths Cents (6.4¢) per gallon of the tax actually paid on
4615 gasoline which is used for agricultural, maritime, industrial,
4616 domestic, or nonhighway purposes, as herein defined, provided that
4617 no such refund shall be payable unless the provisions of this
4618 article are complied with. Provided, however, no refund shall be
4619 allowed to any person who may purchase, sell or use gasoline,
4620 either on or off the highway, in performing contracts for
4621 construction, reconstruction, maintenance or repair, where such
4622 contracts are entered into with the State of Mississippi or with
4623 any department, agency or institution of the State of Mississippi,
4624 or with any political subdivision of the State of Mississippi, or

with any department, agency, or institution of such political subdivision. Also, provided that no refund of tax paid on gasoline used on the highways of this state in motor vehicles owned or operated by the federal government, State of Mississippi, or any department or political subdivision of either will be allowed.

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

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

Before any person shall be entitled to claim refund of any tax paid on gasoline under the provisions of this section, he shall file an information blank for a refund permit with the department. Such information blank shall be made on forms furnished by the department and shall give a detailed description of the equipment and such other information as the department may require with respect to the equipment or machinery in which refund gasoline is to be used. If such gasoline is not to be used in equipment or machinery, the purpose for which such gasoline is to be used shall be stated. The information blank and supplements thereto shall be signed by the person desiring to use refund gasoline or his authorized agent and filed under the penalty of perjury.

If additional or replacement equipment or machinery is acquired, or if the status of the claimant otherwise changes after the original information blank is filed, supplemental information

reflecting these changes shall be filed at the time of filing the next refund claim. The supplemental information blank shall contain the same information with respect to the changes as is required on the original information blank.

Upon approval of the information blank, the department shall assign a file number to be used by the refund user. Provided, also, that such refund user will be issued a refund certificate book to be used when purchasing refund gasoline. Each refund certificate shall carry the file number of the refund user and, upon each purchase of refund gasoline, a certificate shall be filled in and signed on the calendar day of delivery, by either the dealer or the refund user or their authorized agents, but in no case may one (1) individual sign such certificate as both the dealer and the user. Each certificate, however, must be signed by both the claimant and dealer, or their authorized agents, before a refund of tax can be allowed on the certificate. Such refund certificate book shall not be transferable or assignable and shall be kept in the possession of the refund user or in his control at all times. Upon receipt of the information blank properly completed, the department shall forward to such refund user the file number and certificate book. Should the department refuse to issue a file number and refund certificate book, or refuse to pay any refund alleged to be due, the applicant or user may, within sixty (60) days from the date of the notice of the refusal by the department, appeal to the board of review of the Department of Revenue as hereinafter provided.

It shall be the duty of the consumer of gasoline for which refund application is to be made, including any distributor of gasoline using his own gasoline for a refund purpose, to have storage facilities available for delivery of refund gasoline. Such storage facilities shall be plainly marked "refund gasoline" in lettering of contrasting color and not less than four (4) inches in height. Where refund gasoline is delivered directly into the fuel tank of equipment belonging to or used by the refund user, such equipment shall be plainly marked "refund gasoline" in

4695 lettering of contrasting color as near to the fuel tank as
4696 possible. Such lettering shall not be less than four (4) inches
4697 in height. It shall also be the duty of the distributor of
4698 gasoline delivering gasoline into the tanks to dye the refund
4699 gasoline a distinctive mahogany color at the time of delivery.
4700 However, in no case shall dye be added to gasoline to be used in
4701 aircraft.

4702 The department is authorized to waive the requirement that
4703 refund gasoline be dyed in any case where damage to equipment or
4704 machinery would result from the addition of such dye, or where
4705 addition of dye would otherwise render gasoline unfit for its
4706 intended use. It shall be the obligation of the user to obtain
4707 the aforementioned waiver from the department.

4708 Any person desiring a refund on any gasoline purchased shall
4709 make claim to the department, on forms provided by the department,
4710 within three (3) years from the date the gasoline was purchased.
4711 No refund shall be allowed on any gasoline which shall not have
4712 been already used or consumed by the purchaser thereof before the
4713 filing of the claim; provided, however, when a claim is filed and
4714 there is an unused part of any purchase to be carried forward to
4715 the next claim, the dating of this carry-over shall take the same
4716 date of the first purchase entered on the next claim. No person
4717 shall file more than one (1) claim during any one (1) month. The
4718 claim shall be personally signed by the purchaser or his duly
4719 authorized agent. The claimant shall in the claim, state that the
4720 refund claim has not and will not be assigned. The original and
4721 duplicate of the certificate shall be retained by the claimant, at
4722 the time of purchase. The original certificate with vendor's
4723 invoices shall be attached to the refund claim, and the duplicate
4724 shall remain in the certificate book of the claimant and shall be
4725 subject to inspection by the department at all reasonable hours.
4726 The claimant shall preserve the duplicate certificates for three
4727 (3) years from date of purchase. The claim shall be in the name
4728 of the purchaser and shall show the purchaser's refund file
4729 number. Supporting invoices shall state that dye has been added

to refund gasoline or that the requirement that dye be added has been waived by the department. The claim shall be certified under the penalty of perjury.

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

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

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

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

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

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

The department shall be notified by the owner of gasoline lost or destroyed within five (5) days after the loss or

4765 destruction is discovered. The department shall make such
4766 investigation of the facts and circumstances surrounding such loss
4767 or destruction as may be reasonably necessary for the effective
4768 administration of this article.

4769 The claim shall be made in the name of the owner of gasoline
4770 lost or destroyed and shall be signed by the owner or his
4771 authorized agent and filed within three (3) years after the date
4772 of loss. All such claims must be accompanied by proof
4773 satisfactory to the department that the gasoline for which credit
4774 is claimed was destroyed by or through one of the means set forth
4775 in the first paragraph of this section, and in all cases where
4776 gasoline alleged to have been destroyed was covered by insurance,
4777 the department shall not approve such claims unless and until the
4778 insurer has acknowledged and actually paid the loss.

4779 Upon receipt of the claim, the department shall determine the
4780 amount of refund or tax credit due the claimant and in the case of
4781 refund, the amount shall be refunded to the claimant as provided
4782 in Section 27-55-19.

4783 If the department determines that any refund claim shall not
4784 be paid, it shall notify the claimant, stating the reason why such
4785 claim is disallowed. A claimant may, within sixty (60) days from
4786 the date of the written notice of the disallowance of his claims,
4787 appeal to the board of review as hereinafter provided in this
4788 article.

4789 **SECTION 90.** Section 27-55-501, Mississippi Code of 1972, is
4790 amended as follows:

4791 27-55-501. (1) This act may be cited as the "Mississippi
4792 Special Fuel Tax Law."

4793 (2) The Department of Revenue is hereby vested with the sole
4794 power and authority, and is charged with the duty of administering
4795 and enforcing the terms and provisions of this article.

4796 **SECTION 91.** Section 27-55-505, Mississippi Code of 1972, is
4797 amended as follows:

27-55-505. The words, terms and phrases as used in this article shall have the following meanings unless the context requires otherwise:

(a) "Special fuel" means kerosene, diesel fuel, fuel oils, and any petroleum fuel or any other product other than gasoline or compressed gas which is usable as fuel in an internal combustion engine, and any combustible liquid other than gasoline or compressed gas used or capable of being used as a fuel in aircraft. The term "special fuel" shall not include racing gasoline as defined in Section 27-55-5.

(b) "Bunker oil" means a residual product obtained in the refining of crude petroleum intended for use for the generation of heat in a firebox or furnace when its flash point, as determined by use of the Pensky-Martens tester, shall not be less than one hundred fifty (150) degrees Fahrenheit and when its viscosity at one hundred (100) degrees Fahrenheit shall not be less than one hundred fifty (150) seconds when determined by use of the Saybolt Universal Tubes.

(c) "Person" means any individual, firm, copartnership, joint venture, association, corporation, estate, trust, or any group or combination acting as a unit, and the plural as well as the singular number unless the intention to give a more limited meaning is disclosed by the context.

(d) "Distributor of special fuel" means:

(i) Any person importing special fuel into this state;

(ii) Any person who shall receive, purchase, acquire, use, store or sell any special fuel in this state on which the excise tax hereinafter imposed by this article has not been paid;

(iii) Any person exporting special fuel;

(iv) Any person engaged in the distribution of special fuel by tank car or tank truck or both; however, no person may qualify as a distributor of special fuel for the sole purpose of using special fuel, as defined in this article, as a fuel to

4833 propel a vehicle or vehicles owned or operated by him on the
4834 highways of this state; and

4835 (v) All persons meeting the definition of
4836 "refiners," "processors," "terminal operator," "blenders" and any
4837 person licensed to sell motor fuel in another state or
4838 jurisdiction who is authorized by that state or jurisdiction to
4839 collect the special fuel excise tax imposed by this article.

4840 (e) "Bonded distributor of special fuel" means any
4841 person holding a valid distributor of special fuel permit issued
4842 by the Department of Revenue.

4843 (f) "Refiner" or "processor" means every person who
4844 shall receive, produce, manufacture, refine, distill, blend or
4845 compound special fuel in this state, when such person shall engage
4846 in any business incident to or necessary for refining or
4847 processing petroleum products in this state; provided further,
4848 that such refiner or processor must have at least two (2)
4849 ten-thousand-gallon or larger tanks for product storage, and the
4850 blending or mixing process produces a finished product that has
4851 entirely different physical and chemical properties from the
4852 original products.

4853 (g) "For nonhighway purposes" means special fuel which
4854 is not used for operating motor vehicles or motor-propelled
4855 machines of any description along the public roads, streets,
4856 alleys or highways of this state as defined in this article.

4857 (h) "Highway" means every way or place of whatever
4858 nature, including public roads, toll roads, streets and alleys of
4859 this state generally open to the use of the public or to be opened
4860 or reopened to the use of the public for the purpose of vehicular
4861 travel, and notwithstanding that the same may be temporarily
4862 closed for the purpose of construction, reconstruction,
4863 maintenance or repair. The confines of a highway shall include
4864 the entire width and length of the right-of-way.

4865 (i) "Commission" or "department" means the Department
4866 of Revenue of the State of Mississippi, acting either directly or
4867 through its duly authorized officers, agents or employees.

4868 (j) "Terminal" means a tank farm within the State of
4869 Mississippi with storage capacity for the receipt of a full barge
4870 delivery or common carrier pipeline delivery of taxable petroleum
4871 products when such products are to be distributed within the
4872 state.

4873 (k) "Marine dealer" means any person selling special
4874 fuel from marine or dockside storage facilities when such special
4875 fuel is for use in boats, vessels, barges or ships.

4876 (l) "United States government" means and includes all
4877 purchasing officers of the Armed Forces of the United States and
4878 the United States Property and Fiscal Officer for the State of
4879 Mississippi or any other state appointed pursuant to Section 708,
4880 Title 32, United States Code, when purchasing special fuel with
4881 federal funds for the account of and use by a component of the
4882 Armed Forces as herein defined.

4883 (m) "Armed Forces" means and includes all components of
4884 the Armed Forces of the United States including the Army National
4885 Guard, the Army National Guard of the United States, the Air
4886 National Guard and the Air National Guard of the United States, as
4887 those terms are defined in Section 101, Title 10, United States
4888 Code, and any other reserve component of the Armed Forces of the
4889 United States enumerated in Section 261, Title 10, United States
4890 Code.

4891 (n) "Motor vehicle" means every vehicle designed,
4892 constructed for or used on the highways of this state which is
4893 self-propelled, except a farm tractor using the highways solely in
4894 hauling or transporting farm products of the soil from the farm to
4895 a gin or market when the title to such products is still in the
4896 producer, or a farm tractor used in transporting fertilizer or
4897 food to a farm when the title to such products is still in the
4898 user.

4899 (o) "Consumer" means, in addition to its ordinary
4900 meaning, a person who purchases undyed diesel fuel to be used for
4901 nonhighway purposes and who does not resell such undyed diesel
4902 fuel.

4903 (p) "Retail dealer" means any person who operates a
4904 retail station.

4905 (q) "Dyed diesel fuel" means diesel fuel that is dyed
4906 in accordance with United States Environmental Protection Agency
4907 or Internal Revenue Service requirements.

4908 (r) "Dyed kerosene" means kerosene that is dyed in
4909 accordance with United States Environmental Protection Agency or
4910 Internal Revenue Service requirements.

4911 (s) "Undyed diesel fuel" means diesel fuel that does
4912 not meet the dyeing requirements prescribed by United States
4913 Environmental Protection Agency or Internal Revenue Service
4914 Regulations.

4915 (t) "Fuel oil" means a general classification for one
4916 of the petroleum fractions produced in conventional distillation
4917 operations. For the purposes of this article, "fuel oil" is No.
4918 1, No. 2 and No. 4 fuel oils and No. 1, No. 2 and No. 4 diesel
4919 fuels.

4920 (u) "Blender" shall mean any person who blends or
4921 compounds any product to produce special fuel.

4922 (v) "Terminal operator" means any person who owns,
4923 operates or otherwise controls a terminal.

4924 **SECTION 92.** Section 27-55-535, Mississippi Code of 1972, is
4925 amended as follows:

4926 27-55-535. When special fuel is lost or destroyed in
4927 quantities of seven hundred fifty (750) gallons or more through
4928 explosion, fire, collision, storage tank wreckage, wreckage of
4929 loading or unloading facilities, such as pumps and lines, or acts
4930 of Providence while in storage in this state or while being
4931 transported in this state, the owner of the special fuel shall be
4932 entitled to tax credit or refund of the tax paid thereon.

4933 The department shall be notified by the owner of the lost or
4934 destroyed special fuel within five (5) days after the loss or
4935 destruction is discovered. The department shall make an
4936 investigation of the facts and circumstances surrounding the loss

or destruction as may be reasonably necessary for the effective administration of this article.

The claim shall be made in the name of the owner of the lost or destroyed special fuel and shall be signed by the owner or his authorized agent and filed within three (3) years after the date of loss. All claims must be accompanied by proof satisfactory to the department that the special fuel for which credit is claimed was destroyed by or through one (1) of the means set forth in the first paragraph of this section, and in all cases where the special fuel alleged to have been destroyed was covered by insurance, the department shall not approve such claims unless and until the insurer has acknowledged and actually paid the loss.

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

If the department determines that any refund claim shall not be paid, it shall notify the claimant stating the reason or reasons why the claim is disallowed.

A claimant may, within sixty (60) days from the date of the written notice of the disallowance of his claim, appeal to the board of review as provided by law.

SECTION 93. Section 27-57-1, Mississippi Code of 1972, is amended as follows:

27-57-1. The Department of Revenue, hereinafter called the "commission" or the "department," is hereby vested with the sole power and authority, and is charged with the duty of administering and enforcing the terms and provisions of this article.

SECTION 94. Section 27-57-5, Mississippi Code of 1972, is amended as follows:

27-57-5. The words, terms and phrases as used in this article shall have the following meanings unless the context requires otherwise:

(a) "Lubricating oil" means all petroleum-based oils or synthetic lubricants intended for use in the crankcase of an

4972 internal combustion engine, either spark ignition or diesel type.
4973 The purpose of "lubricating oil" is to reduce friction between two
4974 (2) solid surfaces moving relative to one another. Lubricating
4975 oil shall not mean spindle oils, cutting oils, steam cylinder
4976 oils, transmission fluids or oils, gear oils, industrial oils,
4977 electrical insulating oils, manufactured, recommended, advertised
4978 and intended for such; lubricating oil specifically designed for
4979 use in large stationary engines of five hundred (500) horsepower
4980 or more; oils specifically designed for use in aircraft or
4981 outboard motors, or lubricating oil additives and compounds,
4982 manufactured, recommended, advertised and intended for use as an
4983 additive or compound and packaged in quantities of one (1) gallon
4984 or less; oils which would cause damage to an internal combustion
4985 engine if used as a lubricant, or special purpose oils where the
4986 finished cost would make its use as a lubricating oil in an
4987 internal combustion engine economically prohibitive, or oils used
4988 as raw materials in manufacturing processes and any grease which
4989 is classified as a lubricant and which is manufactured,
4990 recommended, advertised and intended for use as such.

4991 (b) "Person" means any individual, firm, copartnership,
4992 joint venture, association, corporation, estate, trust, or any
4993 other group or combination acting as a unit, and the plural as
4994 well as the singular number unless the intention to give a more
4995 limited meaning is disclosed by the context.

4996 (c) "Class A distributor" means any person who acquires
4997 lubricating oil on which the tax levied by this article has not
4998 been paid and sells or delivers lubricating oil to wholesalers,
4999 retailers or directly to consumers.

5000 (d) "Commission" or "department" means the Department
5001 of Revenue.

5002 (e) "Refiner" or "processor" shall mean every person
5003 who shall receive, produce, manufacture, refine, distill, blend or
5004 compound lubricating oil in this state, when such person shall
5005 engage in refining or processing petroleum products in this state,
5006 and the blending or mixing process produces a finished product

with different physical and chemical properties from the original products.

(f) "Waters" shall mean public waters.

(g) "Retailer" means every person who sells lubricating oil at retail.

SECTION 95. Section 27-57-19, Mississippi Code of 1972, is amended as follows:

27-57-19. When lubricating oil is lost or destroyed in quantities of two hundred fifty (250) gallons or more through explosion, fire, collision, storage tank wreckage, wreckage of loading or unloading facilities or other acts of Providence, only while in storage in this state or while being transported in this state, the owner of the lubricating oil shall be entitled to a refund of the tax paid thereon.

The department shall be notified by the owner of lubricating oil lost or destroyed within five (5) days after the loss or destruction is discovered. The department shall make an investigation of the facts and circumstances surrounding the loss or destruction as may be reasonably necessary for the effective administration of this section.

The claim shall be made in the name of the owner of the lubricating oil lost or destroyed, and shall be signed by the owner or his authorized agent and filed within three (3) years after the date of the loss. All claims must be accompanied by proof satisfactory to the department that the lubricating oil for which credit is claimed was destroyed as herein provided. In all cases where lubricating oil alleged to have been destroyed was covered by insurance, the department shall not approve such claim unless and until the insurer has acknowledged and actually paid the loss.

Upon the receipt of the claim, the department shall determine the amount of refund or tax credit due to the claimant and in the case of refund the amount shall be refunded to the claimant as provided in Section 27-55-19. The refund shall be paid from current lubricating oil tax collections.

If the department determines that any refund claim shall not be paid or any tax credit allowed, it shall notify the claimant at the earliest possible date after it determines the claim cannot be allowed stating the reason or reasons why the claim is rejected.

A claimant may, within sixty (60) days from the date of the rejection of his claim, appeal to the board of review as provided by law.

SECTION 96. Section 27-59-1, Mississippi Code of 1972, is amended as follows:

27-59-1. The Department of Revenue, hereinafter called the "commission" or the "department," is hereby vested with the sole power and authority, and is charged with the duty of administering and enforcing the terms and provisions of this chapter.

SECTION 97. Section 27-59-3, Mississippi Code of 1972, is amended as follows:

27-59-3. The words, terms and phrases as used in this chapter shall have the following meanings unless the context requires otherwise:

(a) "Person" means any individual, firm, copartnership, joint venture, association, corporation, estate, trust, or any other group or combination acting as a unit, and the plural as well as the singular number unless the intention to give a more limited meaning is disclosed by the context.

(b) "Highway" means and includes every way or place, of whatever nature, including public roads, toll roads, streets, and alleys of the state generally open to the use of the public or to be opened or reopened to the use of the public for the purpose of vehicular travel, and notwithstanding that the same may be temporarily closed for the purpose of construction, reconstruction, maintenance or repair. Provided further, that the confines of a highway shall include the entire width and length of the right-of-way.

(c) "Motor vehicle" means every vehicle licensed for highway use by which any person or property is transported or drawn upon the highways of this state and which is self-propelled.

5077 (d) "Liquefied compressed gas" means gases derived from
5078 petroleum or natural gas which are in the gaseous state at normal
5079 atmospheric temperature and pressure, but which may be maintained
5080 in the liquid state at normal atmospheric temperature by suitable
5081 pressure. As used herein, the term shall be deemed to mean and
5082 include methane, ethane, propane, ethylene, propylene, butylene,
5083 butane, isobutane, and any and all liquid flammable materials
5084 derived from petroleum or natural gas having a vapor pressure
5085 exceeding forty (40) pounds per square inch, absolute, at one
5086 hundred (100) degrees F. Normal storage of these gases is a
5087 liquid under pressure.

5088 (e) "Compressed natural gas" and "liquefied natural
5089 gas" mean natural gas after it has been compressed or liquefied
5090 for use as a fuel in a motor vehicle and shall not include natural
5091 gas prior to such final compression or liquefaction.

5092 (f) "Compressed gas" means "liquefied compressed gas,"
5093 "liquefied natural gas," "compressed natural gas" and any other
5094 liquefied or compressed gas that is used or is usable as fuel in a
5095 motor vehicle.

5096 (g) "Use" means, in addition to its original meaning,
5097 the receipt of compressed gas by any person into the fuel supply
5098 tank of a motor vehicle or into a receptacle from which compressed
5099 gas is supplied by any person to his own or other motor vehicles.

5100 (h) "Terminal" means a tank farm within this state with
5101 the minimum storage capacity for the receipt of a full barge
5102 delivery or common carrier pipeline delivery of compressed gas.

5103 (i) "Refiner" or "processor" means every person who
5104 shall produce, manufacture, refine, distill, compress or liquefy
5105 compressed gas in this state.

5106 (j) "Public utility" means a person engaged in the
5107 distribution of natural gas whose rates are subject to regulation
5108 by the Public Service Commission of the State of Mississippi.

5109 (k) "Distributor" means any person who sells or
5110 delivers compressed gas for use in the operation of a motor
5111 vehicle or motor vehicles on the highways of this state and any

5112 person who shall import, receive, purchase, acquire, manufacture,
5113 refine, use, store or sell any compressed gas in this state, on
5114 which the excise taxes hereinafter levied by this chapter have not
5115 been paid or the payment of which is not covered by the bond of a
5116 qualified Mississippi distributor of compressed gas. All
5117 "refiners" and "processors" shall qualify as distributors of
5118 compressed gas. All persons operating marine or pipeline
5119 terminals and all persons operating underground storage facilities
5120 exclusive of those storing natural gas shall qualify as
5121 distributors of compressed gas. No person may qualify as a
5122 distributor for the sole purpose of using compressed gas as a fuel
5123 to propel a motor vehicle or motor vehicles owned by him on the
5124 highways of this state.

5125 (l) "User" means any person who uses compressed gas to
5126 propel a motor vehicle over the highways of this state.

5127 (m) "Commission" or "department" means the Department
5128 of Revenue of the State of Mississippi, either acting directly or
5129 through its duly authorized officers, agents and employees.

5130 (n) "United States government" means and includes all
5131 purchasing officers of the Armed Forces of the United States and
5132 the United States Property and Fiscal Officer for the State of
5133 Mississippi or any other state, appointed pursuant to Section 708,
5134 Title 32, United States Code, when purchasing compressed gas with
5135 federal funds for the account of and use by a component of the
5136 Armed Forces as defined herein.

5137 (o) "Armed Forces" means and includes all components of
5138 the Armed Forces of the United States, including the Army National
5139 Guard, the Army National Guard of the United States, the Air
5140 National Guard and the Air National Guard of the United States, as
5141 those terms are defined in Section 101, Title 10, United States
5142 Code, and any other reserve component of the Armed Forces of the
5143 United States enumerated in Section 261, Title 10, United States
5144 Code.

5145 **SECTION 98.** Section 27-59-301, Mississippi Code of 1972, is
5146 amended as follows:

27-59-301. The Department of Revenue, hereinafter called the commission or the department, is hereby vested with the sole power and authority, and is charged with the duty of administering and enforcing the terms and provisions of this article.

SECTION 99. Section 27-59-303, Mississippi Code of 1972, is amended as follows:

27-59-303. The words, terms and phrases as used in this article shall have the following meanings unless the context requires otherwise.

(a) "Natural gas" means a mixture of hydrocarbons and small quantities of nonhydrocarbons existing in the gaseous phase.

(b) "Locomotive fuel" means diesel fuel and any other fuel except gasoline used as fuel in a railroad locomotive.

(c) "Person" means any individual, firm, copartnership, joint venture, association, corporation, estate, trust or any other combination acting as a unit, and the plural as well as the singular number unless the intention to give a more limited meaning is disclosed by the context.

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

(e) "Permittee" means any person holding a user's permit issued under the provisions of this article.

(f) "Industrial purposes" means the operation of machinery used for manufacturing.

(g) "Engine" or "motor" means internal combustion engine.

(h) "Manufacturer" means a person conducting an activity of an industrial or commercial nature wherein labor or skill is applied by hand or by machinery, to materials belonging to the manufacturer so that a new, different or more useful article of tangible personal property or article of trade or commerce is produced for sale or rental.

(i) "Custom processor" means a person who performs the services of a manufacturer upon the property of a customer.

(j) "Compressed gas" means gases derived from petroleum or natural gas which are in the gaseous state at normal atmospheric temperature and pressure, but which may be maintained in the liquid state at normal atmospheric temperature by suitable pressure. As used herein, the term shall be deemed to mean and include methane, ethane, propane, ethylene, propylene, butylene, butane, isobutane, and any and all liquid flammable materials derived from petroleum or natural gas having a vapor pressure exceeding forty (40) pounds per square inch, absolute, at one hundred (100) degrees Fahrenheit. Normal storage of these gases is a liquid under pressure.

SECTION 100. Section 27-61-1, Mississippi Code of 1972, is amended as follows:

27-61-1. The purpose of this chapter is to insure that all carriers specified herein, using the highways of this state, shall pay a reasonable tax for the privilege of, and as compensation for, such use.

The Department of Revenue, hereinafter called the "commission" or the "department," is hereby vested with the sole power and authority, and is charged with the duty of administering and enforcing the terms and provisions of this chapter.

SECTION 101. Section 27-61-3, Mississippi Code of 1972, is amended as follows:

27-61-3. When used in this chapter, the following words and phrases shall have the meaning ascribed to them hereby, except where the context clearly describes and indicates a different meaning:

(a) Person: Any individual, firm, copartnership, joint venture, association, corporation, estate, trust, or any other group or combination acting as a unit and the plural as well as the singular number unless the intention to give a more limited meaning is disclosed by the context.

(b) Motor vehicle: A motor vehicle used, designed or maintained for transportation of persons or property and (i) having two (2) axles and a gross vehicle weight exceeding

twenty-six thousand (26,000) pounds; (ii) having three (3) or more axles, regardless of weight; or being used in combination when the gross vehicle weight of such combination exceeds twenty-six thousand (26,000) pounds. The term "motor vehicle" does not include recreational vehicles.

(c) Fuel: Any product which is used, or is capable of being used, for the generation of power for the operation of a motor vehicle.

(d) Commission or department: The Department of Revenue, either acting directly or through its duly authorized officers, agents and employees.

(e) Owner: A person who holds the legal title of a motor vehicle, or in the event a motor vehicle is the subject of an agreement for the conditional sale, lease or transfer of the possession, howsoever, thereof, with the right of purchase upon performance of conditions stated in the agreement, and with an immediate right of possession vested in the conditional vendee, lessee, possessor, or in the event such or similar transaction is had by means of a mortgage and the mortgagor of a motor vehicle is entitled to possession, then such conditional vendee, lessee, possessor or mortgagor shall be deemed the owner for the purposes of this chapter.

(f) Highway: The entire width between boundary lines of every way in the state that is publicly maintained or any part of which is publicly maintained and is open or is to be opened to use by the public for the purpose of vehicular travel, including all streets and alleys in cities and towns.

(g) Operator: Any person, partnership, joint stock company or corporation operating on the public highways of this state one or more motor vehicles as the beneficial owner or lessee.

(h) Driver: Any person actually in control of, driving or operating a motor vehicle at any given time.

(i) The terms "gross weight," "common carrier by motor vehicle," "contract carrier by motor vehicle," "private commercial

carrier of property by motor vehicle," "private commercial carrier of passengers by motor vehicle," and "private carrier of property" shall, respectively, have the meaning ascribed to them in Sections 27-19-1 through 27-19-167, Mississippi Code of 1972.

(j) Retail dealer: Any person not licensed as a distributor who sells gasoline, special fuel, diesel fuel or compressed gas.

(k) Motor carrier: Any person operating a motor vehicle, as defined in this section, on the highways of this state.

(l) "Recreational vehicle" means vehicles such as motor homes, pickup trucks with attached campers, and buses when used exclusively for personal pleasure by an individual. In order to qualify as a recreational vehicle, the vehicle shall not be used in connection with any business endeavor.

SECTION 102. Section 27-65-3, Mississippi Code of 1972, is amended as follows:

27-65-3. The words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them herein.

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

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

(c) "Person" means and includes any individual, firm, copartnership, joint venture, association, corporation, promoter of a temporary event, estate, trust or other group or combination acting as a unit, and includes the plural as well as the singular in number. "Person" shall include husband or wife or both where joint benefits are derived from the operation of a business taxed hereunder. "Person" shall also include any state, county, municipal or other agency or association engaging in a business taxable under this chapter.

(d) "Tax year" or "taxable year" means either the calendar year or the taxpayer's fiscal year.

5286 (e) "Taxpayer" means any person liable for or having
5287 paid any tax to the State of Mississippi under the provisions of
5288 this chapter. A taxpayer is required to obtain a sales tax permit
5289 under Section 27-65-27 before engaging in business in this state.
5290 If a taxpayer fails to obtain a sales tax permit before engaging
5291 in business in this state, the taxpayer shall pay the retail rate
5292 on all purchases of tangible personal property and/or services in
5293 this state, even if purchased for resale. Upon obtaining a sales
5294 tax permit, a previously unregistered taxpayer shall file sales
5295 tax returns for all tax periods during which he engaged in
5296 business in this state without a sales tax permit, and report and
5297 pay the sales tax accruing from his operation during this period
5298 and any applicable penalties and interest. On such return, the
5299 taxpayer may take a credit for any sales taxes paid during the
5300 period he operated without a sales tax permit on a purchase that
5301 would have constituted a wholesale sale if the taxpayer had a
5302 sales tax permit at the time of the purchase and if proper
5303 documentation exists to substantiate a wholesale sale. This
5304 credit may also be allowed in any audit of the taxpayer. Any
5305 penalties and interest owed by the taxpayer on the return or in an
5306 audit for a period during which he operated without a sales tax
5307 permit may be determined based on the sales tax accruing from the
5308 taxpayer's operation for that period after the taking of this
5309 credit.

5310 (f) "Sale" or "sales" includes the barter or exchange
5311 of property as well as the sale thereof for money or other
5312 consideration, and every closed transaction by which the title to
5313 taxable property passes shall constitute a taxable event.

5314 "Sale" shall also include the passing of title to property
5315 for a consideration of coupons, trading stamps or by any other
5316 means when redemption is subsequent to the original sale by which
5317 the coupon, stamp or other obligation was created.

5318 The situs of a sale for the purpose of distributing taxes to
5319 municipalities shall be the same as the location of the business
5320 from which the sale is made except that:

5321 (i) Retail sales along a route from a vehicle or
5322 otherwise by a transient vendor shall take the situs of delivery
5323 to the customer.

5324 (ii) The situs of wholesale sales of tangible
5325 personal property taxed at wholesale rates, the amount of which is
5326 allowed as a credit against the sales tax liability of the
5327 retailer, shall be the same as the location of the business of the
5328 retailer receiving the credit.

5329 (iii) The situs of wholesale sales of tangible
5330 personal property taxed at wholesale rates, the amount of which is
5331 not allowed as a credit against the sales tax liability of the
5332 retailer, shall have a rural situs.

5333 (iv) Income received from the renting or leasing
5334 of property used for transportation purposes between cities or
5335 counties shall have a rural situs.

5336 (g) "Delivery charges" shall mean and include any
5337 expenses incurred by a seller in acquiring merchandise for sale in
5338 the regular course of business commonly known as "freight-in" or
5339 "transportation costs-in." "Delivery charges" also include any
5340 charges made by the seller for delivery of property sold to the
5341 purchaser.

5342 (h) "Gross proceeds of sales" means the value
5343 proceeding or accruing from the full sale price of tangible
5344 personal property, including installation charges, carrying
5345 charges, or any other addition to the selling price on account of
5346 deferred payments by the purchaser, without any deduction for
5347 delivery charges, cost of property sold, other expenses or losses,
5348 or taxes of any kind except those expressly exempt by this
5349 chapter.

5350 "Gross proceeds of sales" includes consideration received by
5351 the seller from third parties if:

5352 (i) The seller actually received consideration
5353 from a party other than the purchaser and the consideration is
5354 directly related to a price reduction or discount on the sale;

5355 (ii) The seller has an obligation to pass the
5356 price reduction or discount through to the purchaser;
5357 (iii) The amount of the consideration attributable
5358 to the sale is fixed and determinable by the seller at the time of
5359 the sale of the item to the purchaser; and

5360 (iv) One (1) of the following criteria is met:

5361 1. The purchaser presents a coupon,
5362 certificate or other documentation to the seller to claim a price
5363 reduction or discount where the coupon, certificate or
5364 documentation is authorized, distributed or granted by a third
5365 party with the understanding that the third party will reimburse
5366 any seller to whom the coupon, certificate or documentation is
5367 presented;

5368 2. The purchaser identified himself or
5369 herself to the seller as a member of a group or organization
5370 entitled to a price reduction or discount (a "preferred customer"
5371 card that is available to any patron does not constitute
5372 membership in such a group); or

5373 3. The price reduction or discount is
5374 identified as a third-party price reduction or discount on the
5375 invoice received by the purchaser or on a coupon, certificate or
5376 other documentation presented by the purchaser.

5377 Where a trade-in is taken as part payment on tangible
5378 personal property sold, "gross proceeds of sales" shall include
5379 only the difference received between the selling price of the
5380 tangible personal property and the amount allowed for a trade-in
5381 of property of the same kind. When the trade-in is subsequently
5382 sold, the selling price thereof shall be included in "gross
5383 proceeds of sales."

5384 "Gross proceeds of sales" shall include the value of any
5385 goods, wares, merchandise or property purchased at wholesale or
5386 manufactured, and any mineral or natural resources produced, which
5387 are withdrawn or used from an established business or from the
5388 stock in trade for consumption or any other use in the business or
5389 by the owner. However, "gross proceeds of sales" does not include

5390 meals prepared by a restaurant and provided at no charge to
5391 employees of the restaurant or donated to a charitable
5392 organization that regularly provides food to the needy and the
5393 indigent and which has been granted exemption from the federal
5394 income tax as an organization described in Section 501(c)(3) of
5395 the Internal Revenue Code of 1986.

5396 "Gross proceeds of sales" shall not include bad check or
5397 draft service charges as provided for in Section 97-19-57.

5398 (i) "Gross income" means the total charges for service
5399 or the total receipts (actual or accrued) derived from trades,
5400 business or commerce by reason of the investment of capital in the
5401 business engaged in, including the sale or rental of tangible
5402 personal property, compensation for labor and services performed,
5403 and including the receipts from the sales of property retained as
5404 toll, without any deduction for rebates, cost of property sold,
5405 cost of materials used, labor costs, interest paid, losses or any
5406 expense whatever.

5407 "Gross income" shall also include the cost of property given
5408 as compensation when the property is consumed by a person
5409 performing a taxable service for the donor.

5410 However, "gross income" or "gross proceeds of sales" shall
5411 not be construed to include the value of goods returned by
5412 customers when the total sale price is refunded either in cash or
5413 by credit, or cash discounts allowed and taken on sales. Cash
5414 discounts shall not include the value of trading stamps given with
5415 a sale of property.

5416 (j) "Tangible personal property" means personal
5417 property perceptible to the human senses or by chemical analysis
5418 as opposed to real property or intangibles and shall include
5419 property sold on an installed basis which may become a part of
5420 real or personal property.

5421 (k) "Installation charges" shall mean and include the
5422 charge for the application of tangible personal property to real
5423 or personal property without regard to whether or not it becomes a
5424 part of the real property or retains its personal property

classification. It shall include, but not be limited to, sales in place of roofing, tile, glass, carpets, drapes, fences, awnings, window air conditioning units, gasoline pumps, window guards, floor coverings, carports, store fixtures, aluminum and plastic siding, tombstones and similar personal property.

(1) "Newspaper" means a periodical which:

(i) Is not published primarily for advertising purposes and has not contained more than seventy-five percent (75%) advertising in more than one-half (1/2) of its issues during any consecutive twelve-month period excluding separate advertising supplements inserted into but separately identifiable from any regular issue or issues;

(ii) Has been established and published continuously for at least twelve (12) months;

(iii) Is regularly issued at stated intervals no less frequently than once a week, bears a date of issue, and is numbered consecutively; provided, however, that publication on legal holidays of this state or of the United States and on Saturdays and Sundays shall not be required, and failure to publish not more than two (2) regular issues in any calendar year shall not exclude a periodical from this definition;

(iv) Is issued from a known office of publication, which shall be the principal public business office of the newspaper and need not be the place at which the periodical is printed and a newspaper shall be deemed to be "published" at the place where its known office of publication is located;

(v) Is formed of printed sheets; provided, however, that a periodical that is reproduced by the stencil, mimeograph or hectograph process shall not be considered to be a "newspaper"; and

(vi) Is originated and published for the dissemination of current news and intelligence of varied, broad and general public interest, announcements and notices, opinions as editorials on a regular or irregular basis, and advertising and miscellaneous reading matter.

5460 The term "newspaper" shall include periodicals which are
5461 designed primarily for free circulation or for circulation at
5462 nominal rates as well as those which are designed for circulation
5463 at more than a nominal rate.

5464 The term "newspaper" shall not include a publication or
5465 periodical which is published, sponsored by, is directly supported
5466 financially by, or is published to further the interests of, or is
5467 directed to, or has a circulation restricted in whole or in part
5468 to any particular sect, denomination, labor or fraternal
5469 organization or other special group or class or citizens.

5470 For purposes of this paragraph, a periodical designed
5471 primarily for free circulation or circulation at nominal rates
5472 shall not be considered to be a newspaper unless such periodical
5473 has made an application for such status to the department in the
5474 manner prescribed by the department and has provided to the
5475 department documentation satisfactory to the department showing
5476 that such periodical meets the requirements of the definition of
5477 the term "newspaper." However, if such periodical has been
5478 determined to be a newspaper under action taken by the department
5479 on or before April 11, 1996, such periodical shall be considered
5480 to be a newspaper without the necessity of applying for such
5481 status. A determination by the Department of Revenue that a
5482 publication is a newspaper shall be limited to the application of
5483 this chapter and shall not establish that the publication is a
5484 newspaper for any other purpose.

5485 (m) "MPC" or "Material Purchase Certificate" means a
5486 certificate for which a person that is liable for the tax levy
5487 under Section 27-65-21 can apply and obtain from the commissioner,
5488 and when issued, entitles the holder to purchase materials and
5489 services that are to become a component part of a structure to be
5490 erected or repaired with no tax due. Any person taxable under
5491 Section 27-65-21 who obtains an MPC for a project and purchases
5492 materials and services in this state that are to become a
5493 component part of a structure being erected or repaired in the
5494 project and at any time pays sales tax on these purchases may,

5495 after obtaining the MPC for the project, take a credit against his
5496 sales taxes for the sales tax paid on these purchases if proper
5497 documentation exists to substantiate the payment of the sales tax
5498 on the purchase of component materials and services. This credit
5499 may also be allowed in any audit of the taxpayer. Any penalties
5500 and interest owed by the taxpayer on the return or in the audit
5501 where this credit is taken may be determined based on the sales
5502 tax due after the taking of this credit.

5503 **SECTION 103.** Section 27-65-35, Mississippi Code of 1972, is
5504 amended as follows:

5505 27-65-35. If no return is made on or before the due date by
5506 any taxpayer required to make a return, the commissioner, as soon
5507 as practicable after the due date, shall make an assessment of
5508 taxes and damages from any information available, which shall be
5509 prima facie correct. The commissioner shall give written notice
5510 to the taxpayer of the tax and damages thus assessed and demand
5511 payment within sixty (60) days from the date of the notice. The
5512 notice shall be sent by mail to the taxpayer, or delivered by an
5513 agent of the commissioner either to the taxpayer or someone of
5514 suitable age and discretion at the taxpayer's place of business or
5515 residence. However, if the taxpayer shall file a return and pay
5516 the tax shown to be due within sixty (60) days from the date of
5517 the assessment, the return and payment shall be accepted in lieu
5518 of the assessment.

5519 **SECTION 104.** Section 27-65-37, Mississippi Code of 1972, is
5520 amended as follows:

5521 27-65-37. If adequate records of the gross income or gross
5522 proceeds of sales are not maintained or invoices preserved as
5523 provided herein, or if an audit of the records of a taxpayer, or
5524 any return filed by him, or any other information discloses that
5525 taxes are due and unpaid, the commissioner shall make assessments
5526 of taxes, damages, and interest from any information available,
5527 which shall be prima facie correct. The commissioner shall give
5528 notice to the taxpayer of such assessments and demand payment of
5529 the tax, damages and interest within sixty (60) days from the

date * * * of the notice. The notice shall be sent by certified or registered mail or delivered by an agent of the commissioner either to the taxpayer or someone of suitable age and discretion at the taxpayer's residence or place of business.

If the taxpayer shall fail or refuse to comply with the notice of assessment or shall fail to petition for a hearing, the commissioner shall proceed as provided in Section 27-65-39.

SECTION 105. Section 27-65-87, Mississippi Code of 1972, is amended as follows:

27-65-87. The administration of this chapter is vested in and shall be exercised by the Commissioner of Revenue of the Department of Revenue, except as otherwise herein provided, and the enforcement of any of the provisions of this chapter in any of the courts of the state shall be under the exclusive jurisdiction of the Commissioner of Revenue of the Department of Revenue who may require the assistance of an act through the Attorney General, prosecuting attorney of any county, or any district attorney, or any attorney for the Department of Revenue, and may with the assent of the Governor, employ special counsel in any county to aid the prosecuting attorney, the compensation of whom shall be fixed by and paid only upon the approval of the Governor; but the Attorney General, district attorney or prosecuting attorney of any county shall receive no fees or compensation for services rendered in enforcing this chapter in addition to the salary paid to such officer.

In case of violation of the provisions of this chapter, the commissioner may decline to prosecute for the first offense, if in his judgment such violation is not willful or flagrant.

SECTION 106. Section 27-65-89, Mississippi Code of 1972, is amended as follows:

27-65-89. The Commissioner of Revenue of the Department of Revenue shall appoint, as needed, such deputies, agents, clerks and stenographers as authorized by law, who shall serve under him, and shall perform such duties as may be required by the commissioner, including the signing of notices, warrants and such

5565 other documents as may be specifically designated by the
5566 commissioner, not inconsistent with this chapter, and they are
5567 hereby authorized to act for the commissioner, as he may prescribe
5568 and as provided herein. All of such agents, clerks and
5569 stenographers may be removed by the Commissioner of Revenue of the
5570 Department of Revenue for cause of which the commissioner shall be
5571 the final judge.

5572 **SECTION 107.** Section 27-67-3, Mississippi Code of 1972, is
5573 amended as follows:

5574 27-67-3. Whenever used in this article, the words, phrases
5575 and terms shall have the meaning ascribed to them as follows:

5576 (a) "Tax Commission" or "department" means the
5577 Department of Revenue of the State of Mississippi.

5578 (b) "Commissioner" means the Commissioner of Revenue of
5579 the Department of Revenue.

5580 (c) "Person" means any individual, firm, partnership,
5581 joint venture, association, corporation, estate, trust, receiver,
5582 syndicate or any other group or combination acting as a unit and
5583 includes the plural as well as the singular in number. "Person"
5584 shall also include husband or wife, or both, where joint benefits
5585 are derived from the operation of a business taxed hereunder or
5586 where joint benefits are derived from the use of property taxed
5587 hereunder.

5588 (d) "Taxpayer" means any person liable for the payment
5589 of any tax hereunder, or liable for the collection and payment of
5590 the tax.

5591 (e) "Sale" or "purchase" means the exchange of
5592 properties for money or other consideration, and the barter of
5593 properties. Every closed transaction by which title to, or
5594 possession of, tangible personal property passes shall constitute
5595 a taxable event. A transaction whereby the possession of property
5596 is transferred but the seller retains title as security for
5597 payment of the selling price shall be deemed a sale.

5598 (f) "Purchase price" or "sales price" means the total
5599 amount for which tangible personal property is purchased or sold,

valued in money, including any additional charges for deferred payment, installation and service charges, and freight charges to the point of use within this state, without any deduction for cost of property sold, expenses or losses, or taxes of any kind except those exempt by the sales tax law. "Purchase price" or "sales price" shall not include cash discounts allowed and taken or merchandise returned by customers when the total sales price is refunded either in cash or by credit, and shall not include amounts allowed for a trade-in of similar property.

(g) "Lease" or "rent" means any agreement entered into for a consideration that transfers possession or control of tangible personal property to a person for use within this state.

(h) "Value" means the estimated or assessed monetary worth of a thing or property. The value of property transferred into this state for sales promotion or advertising shall be an amount not less than the cost paid by the transferor or donor. The value of property which has been used in another state shall be determined by its cost less straight line depreciation provided that value shall never be less than twenty percent (20%) of the cost or other method acceptable to the commissioner. On property imported by the manufacturer thereof for rental or lease within this state, value shall be the manufactured cost of the property and freight to the place of use in Mississippi.

(i) "Tangible personal property" means personal property perceptible to the human senses or by chemical analysis, as opposed to real property or intangibles. "Tangible personal property" shall include printed, mimeographed, multigraphed matter, or material reproduced in any other manner, and books, catalogs, manuals, publications or similar documents covering the services of collecting, compiling or analyzing information of any kind or nature. However, reports representing the work of persons such as lawyers, accountants, engineers and similar professionals shall not be included. "Tangible personal property" shall also include tangible advertising or sales promotion materials such as, but not limited to, displays, brochures, signs, catalogs, price

5635 lists, point of sale advertising materials and technical manuals.
5636 Tangible personal property shall also include computer software
5637 programs.

5638 (j) "Person doing business in this state," "person
5639 maintaining a place of business within this state," or any similar
5640 term means any person having within this state an office, a
5641 distribution house, a salesroom or house, a warehouse, or any
5642 other place of business, or owning personal property located in
5643 this state used by another person, or installing personal property
5644 in this state. This definition also includes any person selling
5645 or taking orders for any tangible personal property, either
5646 personally, by mail or through an employee representative,
5647 salesman, commission agent, canvasser, solicitor or independent
5648 contractor or by any other means from within the state.

5649 Any person doing business under the terms of the article by
5650 reason of coming under any one or more of the qualifying
5651 provisions listed above shall be considered as doing business on
5652 all transactions involving sales to persons within this state.

5653 (k) "Use" or "consumption" means the first use or
5654 intended use within this state of tangible personal property and
5655 shall include rental or loan by owners or use by lessees or other
5656 persons receiving benefits from use of the property. "Use" or
5657 "consumption" shall include the benefit realized or to be realized
5658 by persons importing or causing to be imported into this state
5659 tangible advertising or sales promotion materials.

5660 (l) "Storage" means keeping tangible personal property
5661 in this state for subsequent use or consumption in this state.

5662 **SECTION 108.** Section 27-67-503, Mississippi Code of 1972, is
5663 amended as follows:

5664 27-67-503. Whenever used in this article, the following
5665 words and terms shall have the definition and meaning herein
5666 prescribed unless the intention of giving a more limited meaning
5667 is disclosed by the context:

5668 (a) "Tax commission" or "department" shall mean the
5669 Department of Revenue of the State of Mississippi.

(b) "Commissioner" shall mean the Commissioner of Revenue of the Department of Revenue.

(c) "Person" shall include a natural person, firm, corporation, copartnership, joint venture, association, estate or any other group or combination acting as a unit and the plural as well as the singular thereof.

(d) "Taxpayer" shall mean any person liable for the tax hereunder.

(e) "Sale" or "purchase" shall include the barter or exchange of properties as well as the sale or purchase thereof for money, and every closed transaction by which the title to tangible property passes, either within or without this state, shall constitute a taxable event, whether compensation shall be money or service or some other thing of value.

(f) "Purchase price" or "sales price" shall mean the total amount for which tangible personal property is purchased or sold, valued in money, whether paid in money or merchandise; provided that cash discounts allowed and taken shall not be included.

(g) "Tangible personal property" shall mean tangible goods, wares and merchandise when sold, purchased or delivered within this state.

(h) "Salesman" or "salesmen" shall mean and include any and all persons engaged in the itinerant solicitation and taking of orders for tangible personal property by use of the highways of this state for subsequent delivery to retailers or consumers within this state.

SECTION 109. Section 27-68-3, Mississippi Code of 1972, is amended as follows:

27-68-3. As used in this chapter:

(a) "Agreement" means the Streamlined Sales and Use Tax Agreement.

(b) "Certified Automated System" means software certified jointly by the states that are signatories to the agreement to calculate the tax imposed by each jurisdiction on a

transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

(c) "Certified Service Provider" means an agent certified jointly by the states that are signatories to the agreement to perform all of the seller's sales tax functions.

(d) "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.

(e) "Sales tax" means the tax levied under Chapter 65, Title 27, Mississippi Code of 1972.

(f) "Seller" means any person making sales, leases, or rentals of personal property or services.

(g) "State" means any state of the United States and the District of Columbia.

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

(i) "Use tax" means the tax levied under Chapter 67, Title 27, Mississippi Code of 1972.

SECTION 110. Section 27-69-3, Mississippi Code of 1972, is amended as follows:

27-69-3. When used in this chapter:

(a) "State" means the State of Mississippi as geographically defined, and any and all waters under the jurisdiction of the State of Mississippi.

(b) "State Auditor" means the Auditor of Public Accounts of the State of Mississippi, or his legally appointed deputy, clerk or agent.

(c) "Commissioner" means the Commissioner of Revenue of the Department of Revenue, and his authorized agents and employees.

(d) "Person" means any individual, company, corporation, partnership, association, joint venture, estate, trust, or any other group, or combination acting as a unit, and the plural as well as the singular, unless the intention to give a more limited meaning is disclosed by the context.

5740 (e) "Consumer" means a person who comes into possession
5741 of tobacco for the purpose of consuming it, giving it away, or
5742 disposing of it in any way by sale, barter or exchange.

5743 (f) "Tobacco" means any cigarettes, cigars, cheroots,
5744 stogies, smoking tobacco (including granulated, plug cut, crimp
5745 cut, ready rubbed, and other kinds and forms of tobacco, or
5746 substitutes therefor, prepared in such manner as to be suitable
5747 for smoking in a pipe or cigarette) and including plug and twist
5748 chewing tobacco and snuff, when such "tobacco" is manufactured and
5749 prepared for sale or personal consumption. All words used herein
5750 shall be given the meaning as defined in the regulations of the
5751 Treasury Department of the United States of America.

5752 (g) "First sale" means and includes the first sale, or
5753 distribution of such tobacco in intrastate commerce, or the first
5754 use or consumption of such tobacco within this state.

5755 (h) "Drop shipment" means and includes any delivery of
5756 tobacco received by any person within this state, when payment for
5757 such tobacco is made to the shipper, or seller by or through a
5758 person other than a consignee.

5759 (i) "Distributor" includes every person, except
5760 retailers as defined herein, in the state who manufactures or
5761 produces tobacco or who ships, transports, or imports into this
5762 state, or in any manner acquires or possesses tobacco, and makes a
5763 first sale of the same in the state.

5764 (j) "Wholesaler" includes dealers, whose principal
5765 business is that of a wholesale dealer or jobber, who is known to
5766 the retail trade as such, and whose place of business is located
5767 in Mississippi or in a state which affords reciprocity to
5768 wholesalers domiciled in Mississippi, who shall sell any taxable
5769 tobacco to retail dealers only for the purpose of resale.

5770 (k) "Retailer" includes every person, other than a
5771 wholesale dealer, as defined above, whose principal business is
5772 that of selling merchandise at retail, who shall sell, or offer
5773 for sale tobacco to the consumer. The sale of tobacco in quantity
5774 lots by retailers to other retailers, transient vendors, or other

5775 persons, shall not be construed as wholesale and shall not qualify
5776 such retailer for a permit as a wholesaler.

5777 (1) "Dealer" includes every person, firm, corporation
5778 or association of persons, except retailers as defined herein, who
5779 manufacture tobacco for distribution, for sale, for use or for
5780 consumption in the State of Mississippi.

5781 The word "dealer" is further defined to mean any person,
5782 firm, corporation or association of persons, except retailers as
5783 defined herein, who imports tobacco from any state or foreign
5784 country for distribution, sale, use, or consumption in the State
5785 of Mississippi.

5786 (m) "Distributing agent" includes every person in the
5787 state who acts as an agent of any person outside the State of
5788 Mississippi, by receiving tobacco in interstate commerce, and
5789 storing such tobacco in this state subject to distribution, or
5790 delivery upon order from the person outside the state to
5791 distributors, wholesalers, retailers and dealers.

5792 (n) "Transient vendor" means and includes every person
5793 commonly and generally termed "peddlers" and every person acting
5794 for himself, or as an agent, employee, salesman, or in any
5795 capacity for another, whether as owner, bailee, or other custodian
5796 of tobacco, and going from person to person, dealer to dealer,
5797 house to house, or place to place, and selling or offering for
5798 sale at retail or wholesale tobacco, and every person who does not
5799 keep a regular place of business open at all times in regular
5800 hours, and every person who goes from person to person, dealer to
5801 dealer, house to house, or place to place, and sells or offers for
5802 sale tobacco which he carries with him, and who delivers the same
5803 at the time of, or immediately after the sale, or without
5804 returning to the place of business operations (a permanent place
5805 of business within the state) between the taking of the order and
5806 the delivery of the tobacco, or

5807 All persons who go from person to person, house to house,
5808 place to place, or dealer to dealer, soliciting orders by
5809 exhibiting samples, or taking orders, and thereafter making

5810 delivery of tobacco, or filling the order without carrying or
5811 sending the order to the permanent place of business, and
5812 thereafter making delivery of the tobacco pursuant to the terms of
5813 the order, or

5814 All persons who go from person to person, place to place,
5815 house to house, or dealer to dealer, carrying samples and selling
5816 tobacco from samples, and afterwards making delivery without
5817 taking and sending an order therefor to a permanent place of
5818 business for the filling of the order, and delivery of the
5819 tobacco, or the exchange of tobacco having become damaged or
5820 unsalable, or the purchase by tobacco of advertising space, or

5821 All persons who have in their possession, or under their
5822 control, any tobacco offered, or to be offered for sale or to be
5823 delivered, unless the sale or delivery thereof is to be made in
5824 pursuance of a bona fide order for the tobacco, to be sold or
5825 delivered, the order to be evidenced by an invoice or memorandum.

5826 (o) "Contraband tobacco" means all tobacco found in the
5827 possession of any person whose permit to engage in dealing in
5828 tobacco has been revoked by the commissioner; and any cigarettes
5829 found in the possession of any person to which the proper tax
5830 stamps have not been affixed; and any cigarettes improperly
5831 stamped when found in the possession of any person; and all other
5832 tobacco upon which the excise tax has not been paid.

5833 (p) "Sale" means an exchange for money or goods, giving
5834 away, or distributing any tobacco as defined in this chapter.

5835 (q) "Forty-eight (48) hours" and "seventy-two (72)
5836 hours" means two (2) calendar days and three (3) calendar days,
5837 respectively, excluding Sundays and legal holidays.

5838 (r) "Stamp" or "stamping," or the import of such word,
5839 when used in this chapter, means any manner of stamp or impression
5840 permitted by the commissioner that carries out the purposes of the
5841 chapter in clearly indicating upon the packages of cigarettes
5842 taxed the due payment of the tax and clearly identifying, by
5843 serial number or otherwise, the permittee who affixed the stamp to
5844 the particular package.

5845 (s) "Manufacturer's list price" means the full sales
5846 price at which tobacco is sold or offered for sale by a
5847 manufacturer to the wholesaler or distributor in this state
5848 without any deduction for freight, trade discount, cash discounts,
5849 special discounts or deals, cash rebates, or any other reduction
5850 from the regular selling price. In the event freight charges on
5851 shipments to wholesalers or distributors are not paid by the
5852 manufacturer, then such freight charges required to be paid by the
5853 wholesalers and distributors shall be added to the amount paid to
5854 the manufacturer in order to determine "manufacturer's list
5855 price." In the case of a wholesaler or distributor whose place of
5856 business is located outside this state, the "manufacturer's list
5857 price" for tobacco sold in this state by such wholesaler or
5858 distributor shall in all cases be considered to be the same as
5859 that of a wholesaler or distributor located within this state.

5860 **SECTION 111.** Section 27-71-1, Mississippi Code of 1972, is
5861 amended as follows:

5862 27-71-1. This article and the terms and provisions hereof
5863 shall be administered and enforced by the Department of Revenue,
5864 hereinafter referred to as the "State Tax Commission," the
5865 "commission" or the "department".

5866 **SECTION 112.** Section 27-71-301, Mississippi Code of 1972, is
5867 amended as follows:

5868 27-71-301. When used in this article the words and terms
5869 hereafter mentioned shall have the following definitions:

5870 (a) "State Auditor" means the State Auditor of Public
5871 Accounts of the State of Mississippi or any legally appointed
5872 deputy, clerk or agent.

5873 (b) "Person" includes all natural persons or
5874 corporations, a partnership, an association, a joint venture, an
5875 estate, a trust, or any other group or combination acting as a
5876 unit and shall include the plural as well as the singular unless
5877 an intention to give another meaning thereto is disclosed in the
5878 context.

5879 (c) "Consumer" means a person who comes into the
5880 possession of beer or light wine, the sale of which is authorized
5881 by Chapter 3 of Title 67, Mississippi Code of 1972, for the
5882 purpose of consuming it, giving it away or otherwise disposing of
5883 it in any manner except by sale, barter or exchange.

5884 (d) "Retailer" means any person who comes into the
5885 possession of such light wines or beer for the purpose of selling
5886 it to the consumer, or giving it away, or exposing it where it may
5887 be taken or purchased or acquired in any other manner by the
5888 consumer.

5889 (e) "Wholesaler" means any person who comes into
5890 possession of such light wine or beer for the purpose of selling,
5891 distributing, or giving it away to retailers or other wholesalers
5892 or dealers inside or outside of this state.

5893 (f) "Commissioner" means the Commissioner of Revenue of
5894 the Department of Revenue or his duly appointed agents or
5895 employees.

5896 (g) "Sale" includes the exchange of such light wines or
5897 beer for money, or giving away or distributing any such light
5898 wines or beer for anything of value.

5899 (h) "Light wines or beer" means beer and light wines
5900 legalized for sale by the provisions of Chapter 3 of Title 67,
5901 Mississippi Code of 1972.

5902 (i) "Distributor" includes every person who receives
5903 either from within or from without this state, from a brewery, a
5904 winery or any other source, light wines or beer as defined in
5905 Chapter 3 of Title 67, Mississippi Code of 1972, for the purpose
5906 of distributing or otherwise disposing of such light wines or beer
5907 to a wholesaler or retailer of such light wines or beer.

5908 (j) "Brewpub" means the premises of any restaurant, as
5909 defined in Section 67-1-5, Mississippi Code of 1972, in which
5910 light wine or beer is manufactured or brewed, subject to the
5911 production limitation imposed in Section 67-3-22, for consumption
5912 exclusively on the premises. "Premises," for the purpose of this
5913 paragraph (j) for a brewpub operated by a hospitality operator,

means only those areas immediately adjacent and connected to the brewing facility where food is normally sold and consumed.

"Premises," for the purposes of this paragraph (j) for a brewpub not operated by a hospitality operator, means those areas normally used by the brewpub to conduct business and shall include the selling areas, brewing areas and storage areas. For purposes of this paragraph (j), hospitality operator shall have the meaning ascribed to such term in Section 67-33-22.

(k) "Hospitality cart" means a mobile cart from which alcoholic beverages and light wine and beer are sold on a golf course and for which a hospitality cart permit has been issued under Section 67-1-51.

SECTION 113. Section 27-77-1, Mississippi Code of 1972, is amended as follows:

27-77-1. As used in this chapter:

(a) "Agency" means the commissioner acting directly or through his duly authorized officers, agents, representatives and employees, to perform duties and powers prescribed by the laws of this state to be performed by the * * * Commissioner of Revenue or the Department of Revenue * * *.

(b) "Board of review" means the board of review of the Department of Revenue as appointed by the commissioner under Section 27-77-3, and also means a panel of the board of review when an appeal is considered by a panel of the board of review instead of the board of review en banc.

(c) "Board of Tax Appeals" means the Board of Tax Appeals as created under Section 1 of this act * * *.

(d) "Chairman" means the Chairman of the Board of Tax Appeals.

(e) "Commissioner" means the Commissioner of the Department of Revenue.

(f) "Denial" means the final decision of the staff of the agency to deny the claim, request for waiver or application being considered. In this context, staff of the agency does not include the board of review or the Board of Tax Appeals. "Denial"

5949 does not mean the act of returning or refusing to consider a
5950 claim, request for waiver or application for permit, IFTA license,
5951 title or tag by the staff of the agency due to a lack of
5952 information and/or documentation unless the return or refusal is
5953 in response to a representation by the person who filed the claim,
5954 request for waiver or application in issue that information and/or
5955 documentation indicated by the staff of the agency to be lacking
5956 cannot or will not be provided.

5957 (g) "Designated representative" means an individual who
5958 represents a person in an administrative appeal before a hearing
5959 officer of the agency, before the board of review or before the
5960 Board of Tax Appeals.

5961 (h) "Executive director" means the Executive Director
5962 of the Board of Tax Appeals.

5963 (i) "IFTA license" means a permit, license or decal
5964 which the agency is authorized to issue or revoke under the
5965 Interstate Commercial Carriers Motor Fuel Tax Law (Section 27-61-1
5966 et seq.) or the International Fuel Tax Agreement.

5967 (j) "IFTA licensee" means a person holding the IFTA
5968 license, applying for an IFTA license or renewing an IFTA license.

5969 (k) "Last known address" when referring to the mailing
5970 of a notice of intent to suspend, revoke or to order the surrender
5971 and/or seizure of the permit, IFTA license, tag or title or to the
5972 mailing of a denial of permit, tag or title, means the last
5973 mailing address of the person being sent the notice as it appears
5974 on the record of the agency in regard to the permit, IFTA license,
5975 tag or title in issue. All other references to "last known
5976 address" in this chapter mean the official mailing address that
5977 the hearing officer, the board of review or the executive director
5978 has for the addressee in their file on the administrative appeal
5979 in which the document or item is being mailed to the addressee.
5980 The addressee is presumed to have received any document or item
5981 mailed to his official mailing address. The commissioner, by
5982 regulation, shall prescribe the procedure for establishing an
5983 official mailing address in the administrative appeal process for

5984 appeals before an administrative hearing officer or the Board of
5985 Review of the Department of Revenue and the procedure for changing
5986 that official mailing address. The Board of Tax Appeals, by
5987 regulation, shall prescribe the procedure for establishing an
5988 official mailing address in the administrative appeal process
5989 before that board and the procedure for changing that official
5990 mailing address. It is the responsibility of the addressee to
5991 make sure that his official mailing address is correct.

5992 (1) "Mail," "mailed" or "mailing" means placing the
5993 document or item referred to in first-class United States mail,
5994 postage prepaid, addressed to the person to whom the document or
5995 item is to be sent at the last known address of that person.
5996 Where a person is represented in an administrative appeal before a
5997 hearing officer, the board of review or the Board of Tax Appeals
5998 by a designated representative, the terms "mail," "mailed" or
5999 "mailing" when referring to sending a document or item to that
6000 person shall also mean placing the document or item referred to in
6001 first-class United States mail, postage prepaid, to the last known
6002 address of that person's designated representative. Mailing to
6003 the designated representative of a taxpayer, permittee, IFTA
6004 licensee, tag holder or title interest holder shall constitute
6005 mailing and notice to the taxpayer, permittee, IFTA licensee, tag
6006 holder or title interest holder.

6007 (m) "Permit" means a type of license or permit that the
6008 agency is authorized to issue, suspend or revoke, such as a sales
6009 tax permit, a beer permit, a tobacco permit, a dealer license, or
6010 designated agent status, but does not include:

6011 (i) Any type of permit issued under the Local
6012 Option Alcoholic Beverage Control Law, Section 67-1-1 et seq. or
6013 under the Mississippi Native Wine Law of 1976, Section 67-5-1 et
6014 seq.; or

6015 (ii) An IFTA license.

6016 (n) "Permittee" means a person holding a permit,
6017 applying for a permit or renewing a permit.

6018 (o) "Person" means a natural person, partnership,
6019 limited partnership, corporation, limited liability company,
6020 estate, trust, association, joint venture, other legal entity or
6021 other group or combination acting as a unit, and includes the
6022 plural as well as the singular in number. "Person" includes the
6023 state, county, municipal, other political subdivision and any
6024 agency, institution or instrumentality thereof, but only when used
6025 in the context of a taxpayer, permittee, IFTA license, tag holder
6026 or title interest holder.

6027 (p) "Refund claim" means a claim made in writing by a
6028 taxpayer and received by the agency wherein the taxpayer indicates
6029 that he overpaid taxes to the agency and requests a refund of the
6030 overpayment and/or a credit against current or future taxes for
6031 the overpayment.

6032 (q) "Resident," when used to describe a taxpayer or
6033 petitioner, means a natural person whose residence and place of
6034 abode is within the State of Mississippi.

6035 (r) "Tag" means a type of license tag or plate for a
6036 motor vehicle or trailer that the agency is authorized under the
6037 Mississippi Motor Vehicle Privilege Tax Law, Section 27-19-1 et
6038 seq., or under the Motor Vehicle Dealer Tag Permit Law, Section
6039 27-19-301 et seq., to issue or approve before issuance, but does
6040 not include other types of license tags or plates issued by the
6041 county tax collectors except for personalized license tags and
6042 only to the extent that the agency determines under Section
6043 27-19-48 that a personalized license tag applied for is considered
6044 obscene, slandering, insulting or vulgar in ordinary usage or
6045 demands the surrender or orders the seizure of the tag where
6046 issued in error.

6047 (s) "Tag holder" means the person in whose name a tag
6048 is registered or the person applying for a tag.

6049 (t) "Tag penalty" means the penalties imposed under
6050 Sections 27-19-63 and 27-51-43 for any delinquency in the payment
6051 of motor vehicle privilege tax and ad valorem tax on a motor
6052 vehicle which can be waived by the agency for good reason shown.

Pursuant to Section 27-51-103, imposition of this ad valorem tag penalty at the maximum rate of twenty-five percent (25%) also results in ineligibility for the credit against motor vehicle ad valorem taxes provided by that statute. Waiver of the twenty-five percent (25%) delinquency penalty by the agency under Section 27-51-43 shall reinstate credit eligibility.

(u) "Tax" means a tax, fee, penalty and/or interest which the agency is required by either general law or by local and private law to administer, assess and collect.

(v) "Taxpayer" means a person who is liable for or paid any tax to the agency.

(w) "Title" means a title to a motor vehicle or manufactured housing issued by the agency under the Mississippi Motor Vehicle Title Law, Section 63-21-1 et seq.

(x) "Title interest holder" shall mean the owner or lienholder in a motor vehicle or manufactured housing as indicated on a title issued by the agency or as indicated on an application to the agency for the issuance of a title.

SECTION 114. Section 27-77-5, Mississippi Code of 1972, is amended as follows:

27-77-5. (1) Any taxpayer aggrieved by an assessment of tax by the agency, by the agency's denial of a refund claim, or by the denial of a waiver of tag penalty, and who wishes to contest the action of the agency shall, within sixty (60) days from the date of the action, file an appeal in writing with the board of review requesting a hearing and correction of the contested action specifying in detail the relief requested and any other information that might be required by regulation. Even after an appeal is filed with the board of review, the agency retains the authority to change the assessment, the denial of refund claim or the denial of tag penalty being appealed.

(2) Upon receipt of a timely written appeal from a tax assessment, refund claim denial or denial of waiver of a tag penalty, a hearing shall be scheduled before the board of review unless it is determined that the relief requested in the written

6088 appeal should be granted without a hearing. A notice of the
6089 hearing shall be mailed to the taxpayer advising the taxpayer of
6090 the date, time and location of the hearing. The taxpayer or his
6091 designated representative shall attend the hearing unless a
6092 request is made to, and granted by, the board of review to allow
6093 the taxpayer to submit his position in writing or by electronic
6094 transmission in lieu of attendance. Failure of the taxpayer or
6095 his designated representative to attend a hearing or to submit his
6096 position in writing or by electronic transmission by the date
6097 specified by the board of review or by the hearing date, if no
6098 date was specified, shall constitute a withdrawal of the appeal.

6099 (3) At a hearing before the board of review on a tax
6100 assessment, denial of refund claim, or denial of waiver of a tag
6101 penalty, the board of review shall try the issues presented,
6102 according to law and the facts and within the guidelines
6103 established by regulation. The hearing before the board of review
6104 shall be informal and no official transcript will be made of the
6105 hearing. At the earliest practical date after the hearing, the
6106 members of the board of review that heard the appeal shall make a
6107 determination on the matter presented and notify the taxpayer of
6108 its findings by mailing a copy of its order to the taxpayer. If
6109 the order involves the appeal of a denial of a waiver of tag
6110 penalty, a copy of the order shall also be mailed to the tax
6111 collector that imposed the penalty. If in the order the board of
6112 review orders the taxpayer to pay a tax assessment, the taxpayer
6113 shall, within sixty (60) days from the date of the order, pay the
6114 amount ordered to be paid or appeal the order of the board of
6115 review to the Board of Tax Appeals. After the sixty-day period,
6116 if an appeal is not filed by the taxpayer with the Executive
6117 Director of the Board of Tax Appeals and the tax determined by the
6118 board of review * * * is not paid * * *, the agency shall proceed
6119 to collect the tax assessment as determined by the board of
6120 review.

6121 (4) Any taxpayer aggrieved by an order of the board of
6122 review affirming a tax assessment, the denial of a refund claim,

6123 or the denial of a waiver of tag penalty, and who wishes to
6124 contest the order shall, within sixty (60) days from the date of
6125 the order of the board of review being contested, file an appeal
6126 to the Board of Tax Appeals. The appeal shall be in writing and
6127 shall request a hearing and reversal or modification of the order
6128 of the board of review, specify in detail the relief requested and
6129 contain any other information that might be required by
6130 regulation, and be filed with the executive director. At the time
6131 of filing his appeal with the executive director, the taxpayer
6132 shall also file a copy of his written appeal with the board of
6133 review. Even after an appeal is filed with the Executive Director
6134 of the Board of Tax Appeals, the board of review retains the
6135 authority to amend and/or correct the order being appealed at any
6136 time prior to a decision by the Board of Tax Appeals on the
6137 appeal. Failure to timely file a written appeal with the
6138 executive director within the sixty-day period shall make the
6139 order of the board of review final and not subject to further
6140 review by the Board of Tax Appeals or a court, other than as to
6141 the issue of whether a written appeal from the order of the board
6142 of review was timely filed with the executive director.

6143 (5) Upon receipt of a written appeal from an order of the
6144 board of review affirming a tax assessment, refund claim denial or
6145 denial of waiver of a tag penalty, the executive director shall
6146 schedule a hearing before the Board of Tax Appeals on the appeal.
6147 A notice of this hearing shall be mailed to the taxpayer and the
6148 agency advising them of the date, time and location of hearing.
6149 The taxpayer or his designated representative shall attend the
6150 hearing unless a request is made to and granted by the Executive
6151 Director of the Board of Tax Appeals to allow the taxpayer to
6152 submit his position in writing or by electronic transmission in
6153 lieu of attendance. Failure of the taxpayer or his designated
6154 representative to attend a hearing or to submit his position in
6155 writing or by electronic transmission by the date specified by the
6156 executive director or by the hearing date, if no date was
6157 specified, shall constitute a withdrawal of the appeal.

6158 (6) At any hearing before the Board of Tax Appeals on an
6159 appeal of an order of the board of review affirming a tax
6160 assessment, refund claim denial or denial of waiver of a tag
6161 penalty, two (2) members of the Board of Tax Appeals shall
6162 constitute a quorum. At the hearing, the Board of Tax Appeals
6163 shall try the issues presented, according to the law and the facts
6164 and pursuant to any guidelines established by regulation. The
6165 rules of evidence shall be relaxed at the hearing. Any appeal to
6166 chancery court from an order of the Board of Tax Appeals resulting
6167 from this type of hearing shall include a full evidentiary
6168 judicial hearing on the issues presented. No official transcript
6169 shall be made of this hearing before the Board of Tax Appeals.
6170 After reaching a decision on the issues presented, the Board of
6171 Tax Appeals shall enter its order setting forth its findings and
6172 decision on the appeal. A copy of the order of the Board of Tax
6173 Appeals shall be mailed to the taxpayer and the agency. If the
6174 order involves an appeal of a denial of a waiver of tag penalty, a
6175 copy of the order shall also be mailed to the tax collector that
6176 imposed the penalty.

6177 (7) If in its order the Board of Tax Appeals orders a
6178 taxpayer to pay a tax assessment, the taxpayer shall, within sixty
6179 (60) days from the date of the order, pay the amount ordered to be
6180 paid or properly appeal the order of the Board of Tax Appeals to
6181 chancery court as provided in Section 27-77-7. After the
6182 sixty-day period, if the tax determined by the Board of Tax
6183 Appeals to be due is not paid and an appeal from the Board of Tax
6184 Appeals order has not been properly filed, the agency shall
6185 proceed to collect the tax assessment as affirmed by the Board of
6186 Tax Appeals. If in its order the Board of Tax Appeals determines
6187 that the taxpayer has overpaid his taxes and an appeal from the
6188 board of tax appeals order has not been properly filed in chancery
6189 court, the agency shall refund or credit to the taxpayer, as
6190 provided by law, the amount of overpayment as determined and set
6191 out in the order.

6192 (8) At any time after the filing of an appeal to the board
6193 of review or from the board of review to the Board of Tax Appeals
6194 under this section, an appeal can be withdrawn. Such a withdrawal
6195 of an appeal may be made voluntarily by the taxpayer or may occur
6196 involuntarily as a result of the taxpayer failing to appear at a
6197 scheduled hearing, failing to make a written submission or
6198 electronic transmission in lieu of attendance at a hearing by the
6199 date specified or by the hearing date, if no date was specified,
6200 or by any other act or failure that the board of review or the
6201 Board of Tax Appeals determines represents a failure on the part
6202 of the taxpayer to prosecute his appeal. Any voluntary withdrawal
6203 shall be in writing or by electronic transmission and sent by the
6204 taxpayer or his designated representative to the chairman of the
6205 board of review, if the appeal being withdrawn is to the board of
6206 review, or to the executive director, if the appeal being
6207 withdrawn is to the Board of Tax Appeals. If the withdrawal of
6208 appeal is involuntary, the administrative appeal body from whom
6209 the appeal is being withdrawn shall note on its minutes the
6210 involuntary withdrawal of the appeal and the basis for the
6211 withdrawal. Once an appeal is withdrawn, whether voluntary or
6212 involuntary, the action from which the appeal was taken, whether a
6213 tax assessment, a denial of refund claim, a denial of waiver of
6214 tax penalty, or an order of the board of review, shall become
6215 final and not subject to further review by the board of review,
6216 the Board of Tax Appeals or a court. The agency shall then
6217 proceed in accordance with law based on such final action.

6218 (9) Nothing in this section shall bar a taxpayer from timely
6219 applying to the commissioner as otherwise provided by law for a
6220 tax refund or for a revision in tax.

6221 **SECTION 115.** Section 27-77-7, Mississippi Code of 1972, is
6222 amended as follows:

6223 27-77-7. (1) The findings and order of the Board of Tax
6224 Appeals entered under Section 27-77-5 shall be final unless the
6225 agency or the taxpayer shall, within sixty (60) days from the date
6226 of the order, file a petition in the chancery court appealing the

6227 order * * *. If the petition under this subsection is filed by
6228 the taxpayer, the petition shall be filed against the Department
6229 of Revenue as respondent. If the petition under this subsection
6230 is filed by the agency, the petition shall be filed against the
6231 taxpayer as respondent. The petition * * * shall contain a
6232 concise statement of the facts as contended by the petitioner,
6233 identify the order from which the appeal is being taken and set
6234 out the type of relief sought. If in the action, the taxpayer is
6235 seeking a refund or credit for an alleged overpayment of tax or
6236 for taxes paid in protest under subsection (3) of this section,
6237 the taxpayer shall allege in the petition or in his answer, where
6238 the appeal is filed by the agency, that he alone bore the burden
6239 of the tax sought to be refunded or credited and did not directly
6240 or indirectly collect the tax from anyone else. The respondent to
6241 the petition has thirty (30) days from the date of service of the
6242 petition to file a cross-appeal.

6243 (2) A petition under subsection (1) of this section shall be
6244 filed in the chancery court of the county or judicial district in
6245 which the taxpayer has a place of business or in the Chancery
6246 Court of the First Judicial District of Hinds County, Mississippi;
6247 however, a resident taxpayer may file the petition in the chancery
6248 court of the county or judicial district in which he is a
6249 resident. If both the agency and the taxpayer file a petition
6250 under subsection (1) of this section, the appeals shall be
6251 consolidated and the chancery court where the taxpayer filed his
6252 petition shall have 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.
6260 Notwithstanding the above bond requirement, the chancellor retains
6261 jurisdiction, after motion, notice and hearing, to reduce the

amount of the bond provided herein or to forego the bond in its entirety if he finds that the interest of the state to obtain payment of the taxes, penalties and interest in issue in the appeal are otherwise protected. As an alternative to the posting of bond, a taxpayer appealing an order of the Board of Tax Appeals affirming a tax assessment may, prior to the filing of the petition, pay to the agency, under protest, the amount ordered by the Board of Tax Appeals to be paid and seek a refund of such taxes, plus interest thereon, in the appeal. The taxpayer shall pay to the agency any tax included in the assessment which he is not contesting. If the petition initiating the appeal is filed by the taxpayer, the payment of the uncontested tax shall be made prior to the expiration of the sixty-day time period for filing a petition under subsection (1) of this section. If the petition initiating the appeal is filed by the agency, the payment of the uncontested tax shall be made prior to the expiration of the sixty-day time period for the filing of the petition. Failure of the taxpayer to timely pay the uncontested tax shall bar the taxpayer from obtaining a reduction, abatement and/or refund of any contested tax in the appeal and shall result in the taxpayer's appeal or cross-appeal being dismissed with prejudice and with judgment being entered granting the agency the relief it requested.

(4) In an action under this section resulting from an order of the Board of Tax Appeals involving a refund claim denial, the agency shall refund or credit to the taxpayer, as provided by law, the amount of any overpayment included in the refund claim which the agency does not contest. If the petition initiating the appeal is filed by the agency, the uncontested overpayment shall be paid or credited to the taxpayer prior to the expiration of the sixty-day time period for filing a petition under subsection (1) of this section. If the petition initiating the appeal is filed by the taxpayer, such uncontested overpayment shall be paid or credited to the taxpayer prior to the expiration of the thirty-day time period for the filing of an answer or other response to the

6297 petition as provided in subsection (5) of this section. Failure
6298 of the agency to timely pay or credit the uncontested overpayment
6299 to the taxpayer shall bar the agency from obtaining an
6300 affirmation, in whole or in part, of the refund claim denial in
6301 issue and shall result in the agency's appeal or cross-appeal
6302 being dismissed with prejudice and judgment being entered granting
6303 the taxpayer the relief he requested, excluding however any
6304 request for the awarding of attorney fees.

6305 (5) Upon the filing of the petition under subsection (1) of
6306 this section, the clerk of the court shall issue a summons to the
6307 respondent requiring the respondent to answer or otherwise respond
6308 to the petition within thirty (30) days of service. Where the
6309 agency is the respondent, the summons shall be served on the
6310 agency by personal service on the commissioner as the chief
6311 executive officer of the agency. The chancery court in which a
6312 petition under subsection (1) of this section is properly filed
6313 shall have jurisdiction to hear and determine the cause or issues
6314 joined as in other cases. In any petition, cross-appeal or answer
6315 in which the taxpayer is seeking a refund or credit for an alleged
6316 overpayment of tax or for taxes paid under protest under
6317 subsection (3) of this section, the taxpayer shall prove by a
6318 preponderance of the evidence that he alone bore the burden of the
6319 tax sought to be refunded or credited and did not directly or
6320 indirectly collect the tax from anyone else. At trial of any
6321 action brought under this section, the chancery court shall give
6322 deference to the decision and interpretation of law and
6323 regulations by the Department of Revenue as it does with the
6324 decisions and interpretation of any administrative agency, but it
6325 shall try the case de novo and conduct a full evidentiary judicial
6326 hearing on the issues raised. Based on the evidence presented at
6327 trial, the chancery court shall determine whether the party
6328 bringing the appeal has proven by a preponderance of the evidence
6329 or a higher standard if required by the issues raised, that he is
6330 entitled to any or all of the relief he has requested. The
6331 chancery court shall decide all questions presented, including

those as to legality and the amount of tax or refund due, and if it finds that the tax assessment or denial of refund claim in issue is incorrect or invalid, in whole or in part, it shall determine the amount of tax or refund due, including interest and, if applicable, penalty to date, and enter such order or judgment as it deems proper. Interest and penalty included in this determination shall be computed by the court based on the methods for computing penalty and interest as specified by law for the type of tax in issue. When the chancery court determines that an overpayment exists, the determination as to whether such overpayment shall be refunded to the taxpayer or credited against the taxpayer's future taxes shall be made by the chancery court based on the method for handling overpayments as specified by the law for the type of tax in issue. Either the agency or the taxpayer, or both, shall have the right to appeal from the order of the chancery court to the Supreme Court as in other cases. If an appeal is taken from the order of the chancery court, the bond provided for in subsection (3) of this section shall continue to remain in place until a final decision is rendered in the case.

SECTION 116. Section 27-77-9, Mississippi Code of 1972, is amended as follows:

27-77-9. (1) If the agency determines that there is a basis for suspension, surrender, seizure or revocation of a permit, tag or title issued or approved by the agency, the agency shall give the permittee, tag holder, title interest holder in the permit, tag or title, written notice of its intent to suspend, revoke or to order the surrender and/or seizure of the permit, tag or title. The notice of intent shall be mailed or hand delivered to the permittee, tag holder or title interest holder involved, shall set forth the facts and conduct that provide the basis for the intended action and shall advise the permittee, tag holder or title interest holder involved * * * that he has thirty (30) days from the date of the notice to file with the board of review a written request for a hearing on the intended action. * * * If the permittee, tag holder or title interest holder involved fails

6367 to file a written request with the board of review for a hearing
6368 on the intended action within the thirty-day period, the intended
6369 action shall automatically go into effect on the thirty-first day
6370 after the date of the notice of intent without any further action
6371 by the agency. The agency retains jurisdiction to reinstate,
6372 reduce or remove a suspension and/or return the permit, tag or
6373 title suspended, revoked, surrendered or seized under this
6374 provision.

6375 (2) Upon receipt of a timely filed written request for a
6376 hearing on the intended suspension, surrender, seizure or
6377 revocation of the permit, tag or title in issue, the person filing
6378 the request shall be advised of the date, time and location of a
6379 show cause hearing that will be held a minimum of thirty (30) days
6380 from the date of the notice. In the case of a request for hearing
6381 involving an intended action regarding a title, the notice of
6382 hearing shall also be mailed to any other title interest holders
6383 in the motor vehicle or manufactured housing in issue. At the
6384 hearing, the person requesting the hearing shall show cause why
6385 the proposed action should not be taken. The show cause hearing
6386 shall be informal and the rules of evidence shall be relaxed. The
6387 hearing shall be conducted by the board of review or by a single
6388 hearing officer selected by the chairman of the board of review
6389 from a pool of qualified individuals designated by the
6390 commissioner to serve as administrative hearing officers. The
6391 person that requested the hearing or his designated representative
6392 shall attend the hearing unless a request is made to, and granted
6393 by, the board of review or the designated hearing officer to allow
6394 the person to submit his position in writing or by electronic
6395 transmission in lieu of attending the hearing. Failure of the
6396 person requesting the hearing or his designated representative to
6397 attend a hearing or submit his position in writing or by
6398 electronic transmission in lieu of attendance by the date
6399 specified by the board of review or designated hearing officer or
6400 by the hearing date, if no date is specified, shall constitute an
6401 involuntary withdrawal of the appeal. As soon as practical after

6402 the show cause hearing, the hearing officer or the members of the
6403 board of review that conducted the hearing shall make a
6404 determination as to whether the intended action or any other
6405 action should be taken in regard to the permit, tag or title in
6406 issue. The hearing officer or board of review shall enter an
6407 order based on this determination and a copy of this order shall
6408 be mailed to the permittee, tag holder or title interest holder
6409 involved notifying same of the decision and the action taken.

6410 (3) The order of the hearing officer or the board of review
6411 in regard to a show cause hearing shall be final unless, within
6412 thirty (30) days from the date of the order, the permittee, tag
6413 holder or title interest holder appeals the order to the Board of
6414 Tax Appeals. The appeal shall be in writing and request a hearing
6415 and reversal or modification of the order of the hearing officer
6416 or board of review, specify in detail the relief requested,
6417 contain any other information that might be required by regulation
6418 and be filed with the executive director. The person filing the
6419 appeal with the executive director shall also file a copy of his
6420 written appeal with the board of review. Even after an appeal is
6421 filed with the executive director, the board of review or hearing
6422 officer who entered the order appealed retains the authority to
6423 amend and/or correct this order at any time prior to a decision by
6424 the Board of Tax Appeals on the appeal. Failure to timely file a
6425 written appeal with the executive director within the thirty-day
6426 period shall make the order of the hearing officer or the board of
6427 review being appealed final and not subject to further review by
6428 the Board of Tax Appeals or a court other than as to the issue of
6429 whether a written appeal from the order of the hearing officer or
6430 board of review was timely filed with the executive director.

6431 (4) Upon receipt of a written appeal from an order of a
6432 hearing officer or the board of review regarding a show cause
6433 hearing on a permit, tag or title, the executive director shall
6434 schedule a hearing before the Board of Tax Appeals on this appeal.
6435 A notice of the hearing shall be mailed to the person who filed
6436 the appeal and the agency to advise them of the date, time and

6437 location of hearing. In the case of an appeal from a show cause
6438 hearing on a title, the notice of hearing shall also be mailed to
6439 any other title interest holders in the motor vehicle or
6440 manufactured housing in issue. The person who filed the appeal or
6441 his designated representative shall attend the hearing. Failure
6442 of this person or his designated representative to attend a
6443 hearing shall constitute an involuntary withdrawal of the appeal.

6444 (5) At any hearing before the Board of Tax Appeals on an
6445 appeal of an order regarding a show cause hearing on a permit, tag
6446 or title, two (2) members of the Board of Tax Appeals shall
6447 constitute a quorum. At the hearing the Board of Tax Appeals
6448 shall try the issues presented according to law and the facts and
6449 pursuant to any guidelines established by regulation. The rules
6450 of evidence shall be relaxed at the hearing and the hearing shall
6451 be taken down by a court reporter. After reaching a decision on
6452 the issues presented, the Board of Tax Appeals shall enter an
6453 order setting forth its findings and decision on the appeal. A
6454 copy of the order of the Board of Tax Appeals shall be mailed to
6455 the person who filed the appeal and the agency to notify them of
6456 the findings and decision of the Board of Tax Appeals. In the
6457 case of an appeal involving a title, a copy of the order of the
6458 Board of Tax Appeals shall also be mailed to any other title
6459 interest holder in the motor vehicle or manufactured housing in
6460 issue.

6461 (6) At any time after the filing of an appeal with the board
6462 of review under this section, an appeal may be withdrawn. A
6463 withdrawal of an appeal can be made voluntarily by the person
6464 appealing or may occur involuntarily as the result of his failure
6465 to appear at a scheduled hearing, or by any other act or failure
6466 that the hearing officer or the board of review determines
6467 represents a failure on the part of that person to prosecute his
6468 appeal. A voluntary withdrawal shall be in writing or by
6469 electronic transmission and sent from the person appealing or his
6470 designated representative to the chairman of the board of review
6471 or to the hearing officer designated to hear the matter. If the

6472 withdrawal of appeal is involuntary, the board of review or the
6473 hearing officer designated to hear the matter shall note on its
6474 minutes or by order the involuntary withdrawal of the appeal and
6475 the basis for the withdrawal. Once an appeal to the board of
6476 review under subsection (1) above is withdrawn, whether voluntary
6477 or involuntary, the intended suspension, surrender, seizure or
6478 revocation from which the appeal was taken shall become final and
6479 not subject to further review by the Board of Tax Appeals or a
6480 court. The agency shall then proceed in accordance with law based
6481 on such final action.

6482 (7) At any time after the filing of an appeal with the Board
6483 of Tax Appeals under this section, the appeal may be withdrawn. A
6484 withdrawal of an appeal can be made voluntarily by the person
6485 appealing or may occur involuntarily as the result of the failure
6486 to appear at a scheduled hearing, or by any other act or failure
6487 that the Board of Tax Appeals determines to represent a failure on
6488 the part of that person to prosecute his appeal. A voluntary
6489 withdrawal shall be in writing or by electronic transmission and
6490 sent from the person appealing or his designated representative to
6491 the executive director. If the withdrawal of the appeal is
6492 involuntary, the Board of Tax Appeals shall note on its minutes
6493 the involuntary withdrawal of the appeal and the basis for the
6494 withdrawal. Once an appeal is withdrawn under this section,
6495 whether voluntary or involuntary, the order from the show cause
6496 hearing from which the appeal was taken shall become final and not
6497 subject to further review by the Board of Tax Appeals or a court.
6498 The agency shall then proceed in accordance with law based on the
6499 final order.

6500 **SECTION 117.** Section 27-77-11, Mississippi Code of 1972, is
6501 amended as follows:

6502 27-77-11. (1) If the agency determines that an application
6503 or request for a permit, IFTA license, tag or title issued or
6504 approved by the agency should be denied, the agency shall give the
6505 applicant for the permit, IFTA license, tag or title written
6506 notice of the denial by mailing or hand delivering the notice to

the applicant. In regard to the denial of an application for title, the designated agent who took the application and any other alleged title interest holders as appearing on the application shall also be mailed or hand delivered a copy of the agency's denial of the title application. If the applicant, or in the case of the denial of a title application, any title interest holder appearing on the title application, is aggrieved by the denial and wishes to contest the denial, he shall, within thirty (30) days from the date of the written notice of the denial, file an appeal in writing with the board of review requesting a hearing on the denial that specified in detail the relief requested and contains any other information required by regulation. Failure to timely file a written appeal with the board of review within this thirty-day period shall make final the agency's denial of the permit, IFTA license, tag or title in issue and not subject to further review by the board of review, the Board of Tax Appeals or a court except as to the issue of whether a written appeal to the board of review was timely filed. Even if an appeal to the board of review is filed under this section, the agency retains jurisdiction to reverse its denial and issue or approve the permit, IFTA license, tax or title involved in the appeal.

(2) Upon receipt of a written appeal by the board of review from a denial of a permit, IFTA license, tag or title, a hearing shall be scheduled before the board of review unless it is determined that the relief requested in the written appeal should be granted without a hearing. A notice of the hearing shall be mailed to the person appealing advising him of the date, time and location of hearing. If the appeal involves the denial of a title, the notice of hearing shall also be mailed to all other title interest holders in the motor vehicle or manufactured housing in issue, including both those that appear on a current title and those that appear on the application that was denied. The notice may contain a statement as to the basis for the denial of the permit, IFTA license, tag or title. The person appealing or his designated representative shall attend the hearing unless a

6542 request is made to and granted by the board of review to allow him
6543 to submit his position in writing or by electronic transmission in
6544 lieu of attendance. Failure of the person appealing, or his
6545 designated representative, to attend a hearing or to submit his
6546 position in writing or by electronic transmission in lieu of
6547 attendance by the date specified by the board of review or by the
6548 hearing date, if no date is specified, shall constitute a
6549 withdrawal of the appeal.

6550 (3) At a hearing before the board of review on a denial of a
6551 permit, IFTA license, tag or title, the board of review shall try
6552 the issues presented, according to law and the facts and within
6553 the guidelines established by regulation. The hearing before the
6554 board of review shall be informal and no official transcript shall
6555 be made of the hearing. At the earliest practical date after the
6556 hearing, the members of the board of review that heard the appeal
6557 shall make a determination of the matter presented and notify the
6558 person appealing of its findings by mailing a copy of its order to
6559 that person. In the case of a hearing involving the denial of a
6560 title, the order shall also be mailed to all other title interest
6561 holders in the motor vehicle or manufactured housing in issue,
6562 including those that appear on a current title and those that
6563 appear on the application that was denied.

6564 (4) The order of the board of review involving the denial of
6565 a permit, IFTA license, tag or title shall be final unless within
6566 thirty (30) days from the date of the order, the applicant appeals
6567 the order to the Board of Tax Appeals. In the case of an order of
6568 the board of review involving a review of the denial of a title,
6569 any title interest holder in the motor vehicle or manufactured
6570 housing in issue may appeal the order to the Board of Tax Appeals.
6571 The appeal shall be in writing, request a hearing and reversal or
6572 modification of the order of the board of review, specify in
6573 detail the relief requested, contain any other information that is
6574 required by regulation and be filed with the executive director
6575 with a copy sent to the board of review. Failure to timely file a
6576 written appeal with the executive director within the thirty-day

6577 period will make the order of the board of review being appealed
6578 final and not subject to further review by the Board of Tax
6579 Appeals or a court other than as to the issue of whether a written
6580 appeal from the order of the board of review was timely filed with
6581 the executive director. Even if an appeal to the Board of Tax
6582 Appeals is filed under this section, the board of review retains
6583 the authority to amend and/or correct its order being appealed
6584 prior to a decision by the Board of Tax Appeals on the appeal.

6585 (5) Upon receipt of a written appeal from an order of the
6586 board of review involving the denial of a permit, IFTA license,
6587 tag or title, the executive director shall schedule a hearing
6588 before the Board of Tax Appeals on the appeal. A notice of the
6589 hearing shall be mailed to the person who filed the appeal and the
6590 agency to advise them of the date, time and location of hearing.
6591 In the case of an appeal from an order of the board of review
6592 involving the denial of a title, the notice of hearing shall also
6593 be mailed to all title interest holders in the motor vehicle or
6594 manufactured housing in issue. The person who filed the appeal or
6595 his designated representative shall attend the hearing. Failure
6596 of this person or his designated representative to attend a
6597 hearing shall constitute an involuntary withdrawal of the appeal.

6598 (6) At any hearing before the Board of Tax Appeals on an
6599 appeal of an order from the board of review involving the denial
6600 of a permit, IFTA license, tag or title, two (2) members of the
6601 Board of Tax Appeals shall constitute a quorum. At the hearing,
6602 the commission shall try the issues presented according to law and
6603 the facts and pursuant to any guidelines established by
6604 regulation. The rules of evidence shall be relaxed at the hearing
6605 and the hearing shall be taken down by a court reporter. After
6606 reaching a decision on the issues presented, the Board of Tax
6607 Appeals shall enter its order setting forth its findings and
6608 decision on the appeal. A copy of the order of the Board of Tax
6609 Appeals shall be mailed to the person who filed the appeal and the
6610 agency with the Board of Tax Appeals to notify them of the
6611 findings and decision of the Board of Tax Appeals. In the case of

an appeal involving a title, a copy of the order of the Board of Tax Appeals shall also be mailed to all title interest holders in the motor vehicle or manufactured housing in issue.

(7) At any time after the filing of an appeal with the board of review, or from the board of review to the Board of Tax Appeals under this chapter, an appeal can be withdrawn. A withdrawal of an appeal may be made voluntarily by the person who filed the appeal or may occur involuntarily by the person failing to appear at a scheduled hearing, by failing to make a written submission or electronic transmission to the board of review in lieu of attendance by the date specified by the board or by the hearing date, if no date was specified, or by any other act or failure that the board of review or the Board of Tax Appeals determines represents a failure on the part of this person to prosecute his appeal. Any voluntary withdrawal shall be in writing or by electronic transmission and sent by the person appealing or his designated representative to the chairman of the board of review, if the appeal being withdrawn is to the board of review, or to the executive director, if the appeal being withdrawn is to the Board of Tax Appeals. If the withdrawal of appeal is involuntary, the administrative appeal body from whom the appeal is being withdrawn shall note on its minutes the involuntary withdrawal of the appeal and the basis for the withdrawal. Once an appeal is withdrawn, whether voluntary or involuntary, the action from which the appeal was taken, whether the original denial or the order of the board of review, shall become final and not subject to further review by the board of review, the Board of Tax Appeals or a court. The agency shall then proceed in accordance with law based on such final action.

SECTION 118. Section 27-77-12, Mississippi Code of 1972, is amended as follows:

27-77-12. (1) If the agency determines that there is a basis for revocation of an IFTA license, the agency shall give the IFTA licensee holding the IFTA license written notice of its intent to revoke his IFTA license. The notice of intent shall be

6647 mailed or hand delivered to the IFTA licensee and shall set forth
6648 the facts and conduct that provide the basis for the intended
6649 revocation and shall advise the IFTA licensee that he has thirty
6650 (30) days from the date of the notice to file with the board of
6651 review a written request for a hearing on the intended revocation.
6652 If the IFTA licensee fails to file a written request with the
6653 board of review for a hearing on the intended revocation within
6654 the thirty-day period, the IFTA license shall be automatically
6655 revoked on the thirty-first day after the date of the notice
6656 without any further action by the agency. The agency retains
6657 jurisdiction to reinstate an IFTA license after revocation.
6658 Failure of the IFTA licensee to timely file a written request for
6659 a hearing on the intended revocation will bar further review of
6660 the revocation by any court.

6661 (2) Upon receipt by the board of review of a timely filed
6662 written request for a hearing on the intended revocation of the
6663 IFTA license, the IFTA licensee filing the request shall be
6664 advised of the date, time and location of a show cause hearing
6665 that will be held a minimum of thirty (30) days from the date of
6666 the notice. At the hearing, the IFTA licensee shall show cause
6667 why his IFTA license should not be revoked. The show cause
6668 hearing shall be informal and the rules of evidence shall be
6669 relaxed. The hearing shall be conducted by the board of review or
6670 by a single hearing officer selected by the chairman of the board
6671 of review from a pool of qualified individuals designated by the
6672 commissioner to serve as administrative hearing officers. The
6673 IFTA licensee or his designated representative shall attend the
6674 hearing unless a request is made to, and granted by, the board of
6675 review or the designated hearing officer to allow the IFTA
6676 licensee to submit his position in writing or by electronic
6677 transmission in lieu of attending the hearing. Failure of the
6678 IFTA licensee or his designated representative to attend a hearing
6679 or submit his position in writing or by electronic transmission in
6680 lieu of attendance by the date specified by the board of review or
6681 designated hearing officer or by the hearing date, if no date is

6682 specified, shall constitute an involuntary withdrawal of the
6683 appeal. As soon as practical after the show cause hearing, the
6684 hearing officer or the board of review * * * shall make a
6685 determination as to whether the IFTA license * * * should be
6686 revoked. The hearing officer or board of review shall enter an
6687 order based on this determination and a copy of this order shall
6688 be mailed to the IFTA licensee notifying him of the decision and
6689 the action taken.

6690 (3) The order of the hearing officer or the board of review
6691 in regard to a show cause hearing shall be final unless, within
6692 thirty (30) days from the date of the order, the IFTA licensee
6693 appeals the order to the Board of Tax Appeals. The appeal shall
6694 be in writing and request a hearing and reversal or modification
6695 of the order of the hearing officer or board of review, specify in
6696 detail the relief requested, contain any other information that
6697 might be required by regulation and be filed with the executive
6698 director with a copy sent to the board of review. Even after an
6699 appeal is filed with the executive director, the board of review
6700 or hearing officer who entered the order appealed retains the
6701 authority to amend and/or correct this order at any time prior to
6702 a decision by the Board of Tax Appeals on the appeal.

6703 (4) Upon receipt of a written appeal from an order of a
6704 hearing officer or the board of review regarding a show cause
6705 hearing on an IFTA license, the executive director shall schedule
6706 a hearing before the Board of Tax Appeals on the appeal. A notice
6707 of the hearing shall be mailed to the IFTA licensee or his
6708 designated representative and the agency to advise them of the
6709 date, time and location of the hearing. The IFTA licensee or his
6710 designated representative shall attend the hearing. Failure of
6711 the IFTA licensee or his designated representative to attend a
6712 hearing shall constitute an involuntary withdrawal of the appeal.

6713 (5) At any hearing before the Board of Tax Appeals on an
6714 appeal of an order regarding a show cause hearing on an IFTA
6715 license, two (2) members of the Board of Tax Appeals shall
6716 constitute a quorum. At the hearing the Board of Tax Appeals

shall try the issues presented according to law and the facts and pursuant to any guidelines established by regulation. The rules of evidence shall be relaxed at the hearing and the hearing shall be recorded by a court reporter. After reaching a decision on the issues presented, the Board of Tax Appeals shall enter an order setting forth its findings and decision on the appeal. A copy of the order of the Board of Tax Appeals shall be mailed to the person who filed the appeal and the agency to notify them of the findings and decision of the Board of Tax Appeals.

(6) At any time after the filing of a timely written request with the board of review for a hearing on the intended revocation of an IFTA license under this section, the request may be withdrawn. A withdrawal of a request for a hearing on the intended revocation may be made voluntarily by the person requesting the hearing or may occur involuntarily as a result of a failure to appear at a scheduled hearing, or by any other act or failure that the board of review or designated hearing officer determines represents a failure on the part of that person to pursue his request for a hearing on the intended revocation. A voluntary withdrawal shall be in writing or by electronic transmission and sent from the person requesting the hearing or his designated representative to the chairman of the board of review or the hearing officer designated to hear the matter. If the withdrawal of the request for a hearing is involuntary, the board of review or the hearing officer designated to hear the matter shall note on its minutes or by order the involuntary withdrawal of the request and the basis for the withdrawal. Once a request for hearing on the intended revocation is withdrawn, whether voluntary or involuntary, the IFTA license shall be automatically revoked.

(7) At any time after the filing of an appeal with the Board of Tax Appeals under this section, the appeal may be withdrawn. A withdrawal of an appeal can be made voluntarily by the person appealing or may occur involuntarily as the result of the failure to appear at a scheduled hearing, or by any other act or failure

6752 that the Board of Tax Appeals determines to represent a failure on
6753 the part of that person to prosecute his appeal. A voluntary
6754 withdrawal shall be in writing or by electronic transmission and
6755 sent from the person appealing or his designated representative to
6756 the executive director. If the withdrawal of the appeal is
6757 involuntary, the Board of Tax Appeals shall note on its minutes
6758 the involuntary withdrawal of the appeal and the basis for the
6759 withdrawal. Once an appeal is withdrawn under this section,
6760 whether voluntary or involuntary, the order from the show cause
6761 hearing from which the appeal was taken shall become final and not
6762 subject to further review by the Board of Tax Appeals or a court.
6763 The agency shall then proceed in accordance with law based on the
6764 final order.

6765 **SECTION 119.** Section 27-77-13, Mississippi Code of 1972, is
6766 amended as follows:

6767 27-77-13. (1) The findings and order of the Board of Tax
6768 Appeals entered in accordance with Section 27-77-9, 27-77-11 or
6769 Section 27-77-12, shall be final unless the agency or the
6770 permittee, IFTA licensee, tag holder, or title interest holder of
6771 the permit, IFTA license, tag or title in regard to which action
6772 was taken in the order shall, within thirty (30) days from the
6773 date of the order, file a petition in * * * chancery court seeking
6774 a review of the order. If a petition under this subsection is
6775 filed by the permittee, IFTA licensee, tag holder or title
6776 interest holder, the petition shall be filed against the agency as
6777 respondent. If a petition under this subsection is filed by the
6778 agency, the petition shall be filed against the permittee, IFTA
6779 licensee, tag holder or title interest holder of the permit, IFTA
6780 license, tag or title which is the subject of the order sought to
6781 be reviewed as respondent. The respondent to a petition has
6782 thirty (30) days from the date of service of the petition to file
6783 a cross-appeal. The petition shall contain a concise statement of
6784 the facts as contended by the petitioner, identify the order from
6785 which the appeal is being taken and the type of relief sought.
6786 Where the petition is being filed by a permittee, IFTA licensee,

6787 tag holder or title interest holder, the petition shall also
6788 contain a certificate that the petitioner has paid to the
6789 executive director the estimated cost of the preparation of the
6790 entire record of the Board of Tax Appeals on the matter for which
6791 a review is sought.

6792 (2) A petition under subsection (1) of this section shall be
6793 filed in the chancery court of the county or judicial district in
6794 which the permittee, IFTA licensee, tag holder or title interest
6795 holder of the permit, IFTA license, tag or title which is the
6796 subject of the order of the Board of Tax Appeals sought to be
6797 reviewed has a place of business or in the First Judicial District
6798 of Hinds County, Mississippi; however, a resident permittee, IFTA
6799 licensee, tag holder or title interest holder may file a petition
6800 in the chancery court of the county or judicial district in which
6801 he is a resident. If both the agency and the permittee, IFTA
6802 licensee, tag holder or title interest holder file a petition
6803 under subsection (1) of this section, the appeals shall be
6804 consolidated and the chancery court where the first petition was
6805 filed shall have jurisdiction over the consolidated appeal. If it
6806 cannot be determined which petition was filed first, the chancery
6807 court where the permittee, IFTA licensee, tag holder or title
6808 interest holder filed his petition shall have jurisdiction over
6809 the consolidated appeal.

6810 (3) The review by the chancery court of the order of the
6811 Board of Tax Appeals on a petition filed under subsection (1) of
6812 this section shall be based on the record made before the Board of
6813 Tax Appeals. Before filing a petition under subsection (1) of
6814 this section, a petitioner, who is a permittee, IFTA licensee, tag
6815 holder or title interest holder, shall obtain from the executive
6816 director an estimate of the cost to prepare the entire record of
6817 the Board of Tax Appeals and shall pay to the executive director
6818 the amount of the estimate. If, upon the preparation of the
6819 record, it is determined that the estimate paid was insufficient
6820 to pay the actual cost of the preparation of the record, the
6821 executive director shall mail to the petitioner a written notice

6822 of the deficiency. The petitioner shall pay the deficiency to the
6823 executive director within thirty (30) days from the date of this
6824 written notice. If upon the preparation of the record, it is
6825 determined that the estimate paid by the petitioner exceeds the
6826 actual cost of the preparation of the record, the executive
6827 director shall remit to the petitioner the amount by which the
6828 estimate paid exceeds the actual cost. The chancery court shall
6829 dismiss with prejudice any petition filed by a permittee, IFTA
6830 licensee, tag holder or title interest holder where it is shown
6831 that the petitioner failed to pay prior to filing the petition the
6832 estimated cost for preparation of the record of the Board of Tax
6833 Appeals or failed to pay any deficiency in the estimate within
6834 thirty (30) days of a notice of deficiency. Where the agency
6835 files a petition under subsection (1) of this section, the agency
6836 shall pay the cost of the preparation of the entire record of the
6837 Board of Tax Appeals on the matter for which a review is sought.
6838 Where both the agency and the permittee, IFTA licensee, tag holder
6839 or title interest holder file a petition under subsection (1) of
6840 this section from the same Board of Tax Appeals order, the
6841 executive director shall remit to the permittee, IFTA licensee,
6842 tag holder or title interest holder that filed the petition the
6843 amount by which, if any, the payment received from this permittee,
6844 IFTA licensee, tag holder or title interest holder for preparation
6845 of the record exceeds one half (1/2) of the actual cost of
6846 preparation of the record. The other half of the actual cost of
6847 preparation of the record in this situation shall be paid by the
6848 agency.

6849 (4) Upon the filing of the petition under subsection (1) of
6850 this section, the clerk of the court in which the petition is
6851 filed shall issue a summons to the respondent requiring the
6852 respondent to answer or otherwise respond to the petition within
6853 thirty (30) days of service. Where the agency is the respondent,
6854 the summons shall be served on the agency by personal service on
6855 the commissioner as the chief executive officer of the agency.

6856 (5) Upon the filing of an answer and/or response * * * to
6857 the petition filed under subsection (1) of this section, and upon
6858 the filing of the record made before the Board of Tax Appeals with
6859 the clerk of the court, the chancery court shall, upon the motion
6860 of either party, establish a schedule for the filing of briefs in
6861 the action. The scope of review of the chancery court in an
6862 action filed under subsection (1) of this section shall be limited
6863 to a review of the record made before the Board of Tax Appeals to
6864 determine if the action of the Board of Tax Appeals is unlawful
6865 for the reason that it was:

- 6866 (a) Not supported by substantial evidence;
6867 (b) Arbitrary or capricious;
6868 (c) Beyond the power of the Board of Tax Appeals to
6869 make; or
6870 (d) In violation of some statutory or constitutional
6871 right of the petitioner.

6872 (6) No relief shall be granted based upon the chancery
6873 court's finding of harmless error by the Board of Tax Appeals in
6874 complying with any procedural requirement; however, in the event
6875 that there is a finding of prejudicial error in the proceedings,
6876 the cause shall be remanded to the Board of Tax Appeals for a
6877 rehearing consistent with the findings of the court.

6878 (7) The respondent, the petitioner, or both, shall have the
6879 right to appeal from the order of the chancery court to the
6880 Supreme Court as in other cases.

6881 **SECTION 120.** Section 27-77-15, Mississippi Code of 1972, is
6882 amended as follows:

6883 27-77-15. (1) Except as otherwise provided in this section,
6884 it shall be unlawful for the executive director, the Board of
6885 Appeals, the commissioner, * * * the agency, or an officer, agent
6886 or employee of the agency or the Board of Tax Appeals, to divulge
6887 or make known in any manner the information contained in the
6888 files, records and orders of the agency, a hearing officer of the
6889 agency, the board of review or the Board of Tax Appeals in regard

to an appeal to a hearing officer, the board of review or the
Board of Tax Appeals under this chapter.

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

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

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

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

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

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

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

(f) Where the information is being provided to the Internal Revenue Service or a taxing authority of another state under an information exchange agreement where similar information

6924 can be obtained by the agency from the Internal Revenue Service or
6925 state taxing authority receiving the information.

6926 (g) Where the information is being provided pursuant to
6927 the International Registration Plan (IRP) or the International
6928 Fuel Tax Agreement (IFTA) or any regulations, rules or procedures
6929 adopted under such plan or agreement.

6930 (h) Where the disclosure of information is authorized
6931 under Section 27-55-49, 27-55-557, 27-57-39, 27-59-53 or 27-61-20.

6932 (i) Where the information is being provided to the
6933 State Auditor or his employees in the course of his audit of the
6934 agency; however, the prohibitions against disclosure which apply
6935 to the agency shall also apply to the State Auditor and his
6936 employees or former employees.

6937 (j) Where the information is being provided to the
6938 Attorney General or any other attorney representing the state or
6939 the agency in an action brought by the appellant to set aside the
6940 tax, in an action brought by the state or agency to recover the
6941 tax imposed, or in an action where the appellant is being
6942 prosecuted for a crime under the tax laws of this state.

6943 (k) Where the information is being provided by the
6944 commissioner to a contractor of collection services pursuant to
6945 the authority granted the commissioner in Section 27-75-16.

6946 (l) Where the information is being provided in
6947 accordance with a proper judicial order. The term "proper
6948 judicial order" as used in this paragraph shall not include
6949 subpoenas or subpoenas duces tecum, but shall include only those
6950 orders entered by a court of record in this state after furnishing
6951 notice and a hearing to the appellant and the Department of
6952 Revenue. The court shall not authorize the furnishing of such
6953 information unless it is satisfied that the information is needed
6954 to pursue pending litigation in which the information itself is in
6955 issue, or the judge is satisfied that the need for furnishing the
6956 information outweighs the rights of the appellant to have such
6957 information secreted.

6958 (4) Nothing in subsection (1) of this section shall prohibit
6959 the inspection or disclosure of the minutes of the Board of Tax
6960 Appeals except to the extent that such minutes reflect the
6961 specific amount of a tax assessment or refund claim or the
6962 specific amount of tax or refund claim determined by the Board of
6963 Tax Appeals to be due.

6964 (5) Information that is prohibited from being disclosed in
6965 subsection (1) of this section shall be exempt from the provisions
6966 of the Mississippi Public Records Act of 1983.

6967 (6) Due to the need to discuss confidential tax information,
6968 the hearings before a hearing officer, the board of review and the
6969 Board of Tax Appeals under this chapter, and the meetings in which
6970 the board of review and the Board of Tax Appeals deliberate and
6971 vote on the issues raised at such hearings shall be exempt from
6972 the provisions of Section 25-41-1 et seq.

6973 **SECTION 121.** Section 27-77-17, Mississippi Code of 1972, is
6974 amended as follows:

6975 27-77-17. Except as to the determination of whether a tag
6976 penalty should be waived under Section 27-51-43, the provisions of
6977 this chapter shall not apply to any action taken by the agency,
6978 commissioner or the Department of Revenue in regard to ad valorem
6979 taxes, including, but not limited to, the determination under
6980 Section 27-31-107 as to whether property is entitled to a new or
6981 expanded enterprise exemption, the duties and actions performed
6982 under the Homestead Exemption Law of 1946, being Section 27-33-1
6983 et seq., the actions taken as the result of the examination of the
6984 recapitulation of the assessment rolls of the counties under
6985 Section 27-35-113, the actions relating to the examination of the
6986 assessment rolls under Section 27-35-127, and the ad valorem
6987 assessment of railroads, public service corporations, nuclear
6988 generating plants, railcar companies, airline companies, motor
6989 vehicles, manufactured homes and mobile homes. The provisions of
6990 this chapter shall not apply to any action of the agency,
6991 commissioner or Department of Revenue under the Local Option
6992 Alcoholic Beverage Control Law, being Section 67-1-1 et seq. or

any action under the Mississippi Native Wine Law of 1976, being
Section 67-5-1 et seq.

SECTION 122. Section 27-77-19, Mississippi Code of 1972, is
amended as follows:

27-77-19. (1) The commissioner may from time to time make
such rules and regulations, not inconsistent with this chapter, as
he may deem necessary to enforce its provisions as it relates to
matters, proceedings and/or appeals before the agency, a hearing
officer of the agency and the board of review.

(2) The Board of Tax Appeals may from time to time make such
rules and regulations, not inconsistent with this chapter, as it
may deem necessary to enforce its provisions as it relates to
matters, proceedings and/or appeals before the Board of Tax
Appeals.

(3) By issuance of a subpoena under his signature and seal,
the commissioner may require any person to attend a hearing before
a hearing officer or the board of review * * * and to give
testimony and/or produce documents or other things at that
hearing. If any person subpoenaed by the commissioner fails to
attend the hearing, refuses to testify or answer any material
question at the hearing or refuses to produce at the hearing any
document or thing subpoenaed, the commissioner or the person who
requested issuance of the subpoena is authorized to institute
proceedings in the circuit court of the county where such person
resides or is found to compel compliance with the subpoena.

(4) By issuance of a subpoena under his signature and seal,
the executive director may require any person to attend a hearing
before the Board of Tax Appeals and to give testimony and/or
produce documents or other things at that hearing. If any person
subpoenaed by the executive director fails to attend the hearing,
refuses to testify or answer any material question at the hearing
or refuses to produce at the hearing any document or thing
subpoenaed, the executive director or the person who requested
issuance of the subpoena is authorized to institute proceedings in

7027 the circuit court of the county where such person resides or is
7028 found to compel compliance with the subpoena.

7029 **SECTION 123.** Section 63-21-3, Mississippi Code of 1972, is
7030 amended as follows:

7031 63-21-3. The terms and provisions of this chapter shall be
7032 administered by the Department of Revenue. The Department of
7033 Revenue shall have charge of all the affairs of administering the
7034 laws of the state relative to vehicle registration and titling and
7035 manufactured housing titling as hereinafter provided and may
7036 employ such administrative and clerical assistance, material and
7037 equipment as may be necessary to enable it to speedily, completely
7038 and efficiently perform the duties as outlined in this chapter.

7039 **SECTION 124.** Section 63-21-5, Mississippi Code of 1972, is
7040 amended as follows:

7041 63-21-5. The following words and phrases when used in this
7042 chapter shall, for the purpose of this chapter, have the meanings
7043 respectively ascribed to them in this section except where the
7044 context clearly indicates a different meaning:

7045 (a) "State Tax Commission" or "department" means the
7046 Department of Revenue of the State of Mississippi.

7047 (b) "Dealer" means every person engaged regularly in
7048 the business of buying, selling or exchanging motor vehicles,
7049 trailers, semitrailers, trucks, tractors or other character of
7050 commercial or industrial motor vehicles in this state, and having
7051 in this state an established place of business as defined in
7052 Section 27-19-303, Mississippi Code of 1972. The term "dealer"
7053 shall also mean every person engaged regularly in the business of
7054 buying, selling or exchanging manufactured housing in this state,
7055 and licensed as a dealer of manufactured housing by the
7056 Mississippi Department of Insurance.

7057 (c) "Designated agent" means each county tax collector
7058 in this state who may perform his duties under this chapter either
7059 personally or through any of his deputies, or such other persons
7060 as the Department of Revenue may designate. The term shall also
7061 mean those "dealers" as herein defined and/or their officers and

employees and other persons who are appointed by the Department of Revenue in the manner provided in Section 63-21-13, Mississippi Code of 1972, to perform the duties of "designated agent" for the purposes of this chapter.

(d) "Implement of husbandry" means every vehicle designed and adapted exclusively for agricultural, horticultural or livestock raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highways.

(e) "Vehicle identification number" means the numbers and letters on a vehicle, manufactured home or mobile home designated by the manufacturer or assigned by the Department of Revenue for the purpose of identifying the vehicle, manufactured home or mobile home.

(f) "Lien" means every kind of written lease which is substantially equivalent to an installment sale or which provides for a right of purchase; conditional sale; reservation of title; deed of trust; chattel mortgage; trust receipt; and every other written agreement or instrument of whatever kind or character whereby an interest other than absolute title is sought to be held or given on a motor vehicle, manufactured home or mobile home.

(g) "Lienholder" means any natural person, firm, copartnership, association or corporation holding a lien as herein defined on a motor vehicle, manufactured home or mobile home.

(h) "Manufactured housing" or "manufactured home" means any structure, transportable in one or more sections, which in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, is three hundred twenty (320) or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; except that such terms shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to

7097 which the manufacturer voluntarily files a certification required
7098 by the Secretary of Housing and Urban Development and complies
7099 with the standards established under the National Manufactured
7100 Housing Construction and Safety Standards Act of 1974, 42 USCS,
7101 Section 5401.

7102 (i) "Manufacturer" means any person regularly engaged
7103 in the business of manufacturing, constructing or assembling motor
7104 vehicles, manufactured homes or mobile homes, either within or
7105 without this state.

7106 (j) "Mobile home" means any structure, transportable in
7107 one or more sections, which in the traveling mode, is eight (8)
7108 body feet or more in width or forty (40) body feet or more in
7109 length or, when erected on site, is three hundred twenty (320) or
7110 more square feet and which is built on a permanent chassis and
7111 designed to be used as a dwelling with or without a permanent
7112 foundation when connected to the required utilities, and includes
7113 the plumbing, heating, air-conditioning and electrical systems
7114 contained therein and manufactured prior to June 15, 1976. Any
7115 mobile home designated as realty on or before July 1, 1999, shall
7116 continue to be designated as realty so that a security interest
7117 will be made by incorporating such mobile home in a deed of trust.

7118 (k) "Motorcycle" means every motor vehicle having a
7119 seat or saddle for the use of the rider and designed to travel on
7120 not more than three (3) wheels in contact with the ground, but
7121 excluding a farm tractor.

7122 (l) "Motor vehicle" means every automobile, motorcycle,
7123 mobile trailer, semitrailer, truck, truck tractor, trailer and
7124 every other device in, upon, or by which any person or property is
7125 or may be transported or drawn upon a public highway which is
7126 required to have a road or bridge privilege license, except such
7127 as is moved by animal power or used exclusively upon stationary
7128 rails or tracks.

7129 (m) "New vehicle" means a motor vehicle, manufactured
7130 home or mobile home which has never been the subject of a first
7131 sale for use.

7132 (n) "Used vehicle" means a motor vehicle, manufactured
7133 home or mobile home that has been the subject of a first sale for
7134 use, whether within this state or elsewhere.

7135 (o) "Owner" means a person or persons holding the legal
7136 title of a vehicle, manufactured home or mobile home; in the event
7137 a vehicle, manufactured home or mobile home is the subject of a
7138 deed of trust or a chattel mortgage or an agreement for the
7139 conditional sale or lease thereof or other like agreement, with
7140 the right of purchase upon performance of the conditions stated in
7141 the agreement and with the immediate right of possession vested in
7142 the grantor in the deed of trust, mortgagor, conditional vendee or
7143 lessee, the grantor, mortgagor, conditional vendee or lessee shall
7144 be deemed the owner for the purpose of this chapter.

7145 (p) "Person" includes every natural person, firm,
7146 copartnership, association or corporation.

7147 (q) "Pole trailer" means every vehicle without motive
7148 power designed to be drawn by another vehicle and attached to the
7149 towing vehicle by means of a reach or pole, or by being boomed or
7150 otherwise secured to the towing vehicle, and ordinarily used for
7151 transporting long or irregularly shaped loads such as poles,
7152 pipes, boats or structural members capable generally of sustaining
7153 themselves as beams between the supporting connections.

7154 (r) "Security agreement" means a written agreement
7155 which reserves or creates a security interest.

7156 (s) "Security interest" means an interest in a vehicle,
7157 manufactured home or mobile home reserved or created by agreement
7158 and which secures payment or performance of an obligation. The
7159 term includes the interest of a lessor under a lease intended as
7160 security. A security interest is "perfected" when it is valid
7161 against third parties generally, subject only to specific
7162 statutory exceptions.

7163 (t) "Special mobile equipment" means every vehicle not
7164 designed or used primarily for the transportation of persons or
7165 property and only incidentally operated or moved over a highway,
7166 including, but not limited to: ditch-digging apparatus,

7167 well-boring apparatus and road construction and maintenance
7168 machinery such as asphalt spreaders, bituminous mixers, bucket
7169 loaders, tractors other than truck tractors, ditchers, leveling
7170 graders, finishing machines, motor graders, road rollers,
7171 scarifiers, earth-moving carryalls and scrapers, power shovels and
7172 draglines, and self-propelled cranes, vehicles so constructed that
7173 they exceed eight (8) feet in width and/or thirteen (13) feet six
7174 (6) inches in height, and earth-moving equipment. The term does
7175 not include house trailers, dump trucks, truck-mounted transit
7176 mixers, cranes or shovels, or other vehicles designed for the
7177 transportation of persons or property to which machinery has been
7178 attached.

7179 (u) "Nonresident" means every person who is not a
7180 resident of this state.

7181 (v) "Current address" means a new address different
7182 from the address shown on the application or on the certificate of
7183 title. The owner shall within thirty (30) days after his address
7184 is changed from that shown on the application or on the
7185 certificate of title notify the department of the change of
7186 address in the manner prescribed by the department.

7187 (w) "Odometer" means an instrument for measuring and
7188 recording the actual distance a motor vehicle travels while in
7189 operation; but shall not include any auxiliary instrument designed
7190 to be reset by the operator of the motor vehicle for the purpose
7191 of recording the distance traveled on trips.

7192 (x) "Odometer reading" means the actual cumulative
7193 distance traveled disclosed on the odometer.

7194 (y) "Odometer disclosure statement" means a statement
7195 certified by the owner of the motor vehicle to the transferee or
7196 to the department as to the odometer reading.

7197 (z) "Mileage" means actual distance that a vehicle has
7198 traveled.

7199 (aa) "Trailer" means every vehicle other than a "pole
7200 trailer" as defined in this chapter without motive power designed
7201 to be drawn by another vehicle and attached to the towing vehicle

7202 for the purpose of hauling goods or products. The term "trailer"
7203 shall not refer to any structure, transportable in one or more
7204 sections regardless of size, when erected on site, and which is
7205 built on a permanent chassis and designed to be used as a dwelling
7206 with or without a permanent foundation when connected to the
7207 required utilities, and includes the plumbing, heating,
7208 air-conditioning and electrical systems contained therein
7209 regardless of the date of manufacture.

7210 (bb) "Salvage mobile home" or "salvage manufactured
7211 home" means a mobile home or manufactured home for which a
7212 certificate of title has been issued that an insurance company
7213 obtains from the owner as a result of paying a total loss claim
7214 resulting from collision, fire, flood, wind or other occurrence.
7215 The term "salvage mobile home" or "salvage manufactured home" does
7216 not mean or include and is not applicable to a mobile home or
7217 manufactured home that is twenty (20) years old or older.

7218 (cc) "Salvage certificate of title" means a document
7219 issued by the department for a salvage mobile home or salvage
7220 manufactured home as defined in this chapter.

7221 (dd) "All-terrain vehicle" means a motor vehicle that
7222 is designed for off-road use and is not required to have a motor
7223 vehicle privilege license.

7224 **SECTION 125.** Section 63-21-75, Mississippi Code of 1972, is
7225 amended as follows:

7226 63-21-75. The Department of Revenue is charged with the
7227 enforcement of the provisions of this chapter and the department
7228 is hereby authorized and empowered to call upon any and all law
7229 enforcement agencies and officers of this state for such
7230 assistance as it may deem necessary in order to assure such
7231 enforcement. It shall be the duty of such law enforcement
7232 agencies and officers to render such assistance to the Department
7233 of Revenue when called upon by the department to so do.

7234 **SECTION 126.** Section 67-1-5, Mississippi Code of 1972, is
7235 amended as follows:

67-1-5. For the purposes of this chapter and unless otherwise required by the context:

(a) "Alcoholic beverage" means any alcoholic liquid, including wines of more than five percent (5%) of alcohol by weight, capable of being consumed as a beverage by a human being, but shall not include wine containing five percent (5%) or less of alcohol by weight and shall not include beer containing not more than five percent (5%) of alcohol by weight, as provided for in Section 67-3-5, Mississippi Code of 1972, but shall include native wines. The words "alcoholic beverage" shall not include ethyl alcohol manufactured or distilled solely for fuel purposes.

(b) "Alcohol" means the product of distillation of any fermented liquid, whatever the origin thereof, and includes synthetic ethyl alcohol, but does not include denatured alcohol or wood alcohol.

(c) "Distilled spirits" means any beverage containing more than four percent (4%) of alcohol by weight produced by distillation of fermented grain, starch, molasses or sugar, including dilutions and mixtures of these beverages.

(d) "Wine" or "vinous liquor" means any product obtained from the alcoholic fermentation of the juice of sound, ripe grapes, fruits or berries and made in accordance with the revenue laws of the United States.

(e) "Person" means and includes any individual, partnership, corporation, association or other legal entity whatsoever.

(f) "Manufacturer" means any person engaged in manufacturing, distilling, rectifying, blending or bottling any alcoholic beverage.

(g) "Wholesaler" means any person, other than a manufacturer, engaged in distributing or selling any alcoholic beverage at wholesale for delivery within or without this state when such sale is for the purpose of resale by the purchaser.

7269 (h) "Retailer" means any person who sells, distributes,
7270 or offers for sale or distribution, any alcoholic beverage for use
7271 or consumption by the purchaser and not for resale.

7272 (i) "State Tax Commission," "Commission" or
7273 "department" means the Department of Revenue of the State of
7274 Mississippi, which shall create a division in its organization to
7275 be known as the Alcoholic Beverage Control Division. Any
7276 reference to the commission or the department hereafter means the
7277 powers and duties of the Department of Revenue with reference to
7278 supervision of the Alcoholic Beverage Control Division.

7279 (j) "Division" means the Alcoholic Beverage Control
7280 Division of the Department of Revenue.

7281 (k) "Municipality" means any incorporated city or town
7282 of this state.

7283 (l) "Hotel" means an establishment within a
7284 municipality, or within a qualified resort area approved as such
7285 by the department, where, in consideration of payment, food and
7286 lodging are habitually furnished to travelers and wherein are
7287 located at least twenty (20) adequately furnished and completely
7288 separate sleeping rooms with adequate facilities that persons
7289 usually apply for and receive as overnight accommodations. Hotels
7290 in towns or cities of more than twenty-five thousand (25,000)
7291 population are similarly defined except that they must have fifty
7292 (50) or more sleeping rooms. Any such establishment described in
7293 this paragraph with less than fifty (50) beds shall operate one or
7294 more regular dining rooms designed to be constantly frequented by
7295 customers each day. When used in this chapter, the word "hotel"
7296 shall also be construed to include any establishment that meets
7297 the definition of "bed and breakfast inn" as provided in this
7298 section.

7299 (m) "Restaurant" means a place which is regularly and
7300 in a bona fide manner used and kept open for the serving of meals
7301 to guests for compensation, which has suitable seating facilities
7302 for guests, and which has suitable kitchen facilities connected
7303 therewith for cooking an assortment of foods and meals commonly

ordered at various hours of the day; the service of such food as sandwiches and salads only shall not be deemed in compliance with this requirement. No place shall qualify as a restaurant under this chapter unless twenty-five percent (25%) or more of the revenue derived from such place shall be from the preparation, cooking and serving of meals and not from the sale of beverages, or unless the value of food given to and consumed by customers is equal to twenty-five percent (25%) or more of total revenue.

(n) "Club" means an association or a corporation:

(i) Organized or created under the laws of this state for a period of five (5) years prior to July 1, 1966;

(ii) Organized not primarily for pecuniary profit but for the promotion of some common object other than the sale or consumption of alcoholic beverages;

(iii) Maintained by its members through the payment of annual dues;

(iv) Owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests;

(v) The affairs and management of which are conducted by a board of directors, board of Governors, executive committee, or similar governing body chosen by the members at a regular meeting held at some periodic interval; and

(vi) No member, officer, agent or employee of which is paid, or directly or indirectly receives, in the form of a salary or other compensation any profit from the distribution or sale of alcoholic beverages to the club or to members or guests of the club beyond such salary or compensation as may be fixed and voted at a proper meeting by the board of directors or other governing body out of the general revenues of the club.

The department may, in its discretion, waive the five-year provision of this paragraph. In order to qualify under this paragraph, a club must file with the department, at the time of its application for a license under this chapter, two (2) copies

of a list of the names and residences of its members and similarly file, within ten (10) days after the election of any additional member, his name and address. Each club applying for a license shall also file with the department at the time of the application a copy of its articles of association, charter of incorporation, bylaws or other instruments governing the business and affairs thereof.

(o) "Qualified resort area" means any area or locality outside of the limits of incorporated municipalities in this state commonly known and accepted as a place which regularly and customarily attracts tourists, vacationists and other transients because of its historical, scenic or recreational facilities or attractions, or because of other attributes which regularly and customarily appeal to and attract tourists, vacationists and other transients in substantial numbers; however, no area or locality shall so qualify as a resort area until it has been duly and properly approved as such by the department.

(i) The department may approve an area or locality outside of the limits of an incorporated municipality that is in the process of being developed as a qualified resort area if such area or locality, when developed, can reasonably be expected to meet the requisites of the definition of the term "qualified resort area." In such a case, the status of qualified resort area shall not take effect until completion of the development.

(ii) The term includes any state park which is declared a resort area by the department; however, such declaration may only be initiated in a written request for resort area status made to the department by the Executive Director of the Department of Wildlife, Fisheries and Parks, and no permit for the sale of any alcoholic beverage, as defined in this chapter, except an on-premises retailer's permit, shall be issued for a hotel, restaurant or bed and breakfast inn in such park.

(iii) The term includes:

1. The clubhouses associated with the state park golf courses at the Lefleur's Bluff State Park, the John Kyle

7374 State Park, the Percy Quin State Park and the Hugh White State
7375 Park;

7376 2. The clubhouse and associated golf course
7377 where the golf course is adjacent to one or more planned
7378 residential developments and the golf course and all such
7379 developments collectively include at least seven hundred fifty
7380 (750) acres and at least four hundred (400) residential units; and

7381 3. Any facility located on property that is a
7382 game reserve with restricted access that consists of at least
7383 three thousand (3,000) contiguous acres with no public roads and
7384 that offers as a service hunts for a fee to overnight guests of
7385 the facility.

7386 The status of these clubhouses, facilities and golf courses
7387 as qualified resort areas does not require any declaration of same
7388 by the department.

7389 (p) "Native wine" means any product, produced in
7390 Mississippi for sale, having an alcohol content not to exceed
7391 twenty-one percent (21%) by weight and made in accordance with
7392 revenue laws of the United States, which shall be obtained
7393 primarily from the alcoholic fermentation of the juice of ripe
7394 grapes, fruits, berries or vegetables grown and produced in
7395 Mississippi; provided that bulk, concentrated or fortified wines
7396 used for blending may be produced without this state and used in
7397 producing native wines. The department shall adopt and promulgate
7398 rules and regulations to permit a producer to import such bulk
7399 and/or fortified wines into this state for use in blending with
7400 native wines without payment of any excise tax that would
7401 otherwise accrue thereon.

7402 (q) "Native winery" means any place or establishment
7403 within the State of Mississippi where native wine is produced in
7404 whole or in part for sale.

7405 (r) "Bed and breakfast inn" means an establishment
7406 within a municipality where in consideration of payment, breakfast
7407 and lodging are habitually furnished to travelers and wherein are
7408 located not less than eight (8) and not more than nineteen (19)

adequately furnished and completely separate sleeping rooms with adequate facilities, that persons usually apply for and receive as overnight accommodations; however, such restriction on the minimum number of sleeping rooms shall not apply to establishments on the National Register of Historic Places. No place shall qualify as a bed and breakfast inn under this chapter unless on the date of the initial application for a license under this chapter more than fifty percent (50%) of the sleeping rooms are located in a structure formerly used as a residence.

(s) "Board" shall refer to Board of Tax Appeals of the State of Mississippi.

SECTION 127. Section 67-1-19, Mississippi Code of 1972, is amended as follows:

67-1-19. The administration and enforcement of this chapter shall be vested in the Department of Revenue * * *. There is hereby created the Alcoholic Beverage Control Division within and as a part of the Department of Revenue.

SECTION 128. Section 67-1-23, Mississippi Code of 1972, is amended as follows:

67-1-23. The Commissioner of Revenue of the Department of Revenue shall appoint a director of the division, and may appoint or employ such agents, inspectors, clerks and other employees for such division as may be necessary to carry out the provisions of this chapter or to perform the duties and exercise the powers conferred by this chapter upon the department. The Commissioner of Revenue shall have the authority to employ, compensate, terminate, suspend with or without pay, promote, demote, transfer or reprimand the director, agents, inspectors, clerks and other employees of the division. * * * The director and all permanent employees of the division shall devote their full time to the duties of their respective offices.

SECTION 129. Section 67-1-33, Mississippi Code of 1972, is amended as follows:

67-1-33. (1) No member of the Board of Tax Appeals, Commissioner of Revenue of the Department of Revenue, or person

7444 appointed or employed by the department under this chapter shall
7445 solicit, accept or receive any gift, gratuity, emolument or
7446 employment from any person subject to the provisions of this
7447 chapter, or from any officer, agent or employee thereof.

7448 (2) No * * * member of the Board of Tax Appeals, the
7449 Commissioner of Revenue of the Department of Revenue, or person
7450 appointed or employed by the department under this chapter shall
7451 solicit, request from or recommend, directly or indirectly, to
7452 any * * * person subject to the provisions of this chapter, or to
7453 any officer, agent or employee thereof, the appointment of any
7454 person to any place or position.

7455 (3) Every * * * person subject to the provisions of this
7456 chapter, and every officer, agent or employee thereof, is hereby
7457 forbidden to offer to any member of the Board of Tax Appeals, to
7458 the Commissioner of Revenue or to any person appointed or employed
7459 by the department under this chapter any gift, gratuity, emolument
7460 or employment.

7461 (4) If any member of the Board of Tax Appeals, the
7462 Commissioner of Revenue or any person appointed or employed by the
7463 department under this chapter shall violate any of the provisions
7464 of this section, he shall be removed from the office or employment
7465 held by him.

7466 (5) Every person violating the provisions of this section
7467 shall be guilty of a misdemeanor.

7468 (6) For purposes of this provision, the terms "gift,"
7469 "gratuity," "emolument" and "employment" do not include the
7470 payment of expenses associated with social occasions afforded
7471 public servants or any other benefit that does not come within the
7472 definition of "pecuniary benefit" as defined in Section 25-4-103.

7473 **SECTION 130.** Section 67-1-35, Mississippi Code of 1972, is
7474 amended as follows:

7475 67-1-35. * * * The department may, for authentication of
7476 records, process and proceedings, adopt, keep and use a seal for
7477 the Alcoholic Beverage Control Division of the Department of
7478 Revenue, of which seal judicial notice shall be taken in all

courts of this state. Any process, notice or other paper which the department may be authorized by law to issue under this chapter shall be deemed sufficient if signed by the director and authenticated by such seal. All acts, orders, proceedings, rules, regulations, entries, minutes, and other records of the department in connection with this chapter, and all reports and documents filed with it under this chapter, may be proved in any court of this state by a copy thereof certified to by the director with the seal of the division affixed.

SECTION 131. Section 67-1-37, Mississippi Code of 1972, is amended as follows:

[Until July 1, 2011, this section will read as follows:]

67-1-37. (1) The Department of Revenue, under its duties and powers with respect to the Alcoholic Beverage Control Division therein, shall have the following powers, functions and duties:

(a) To issue or refuse to issue any permit provided for by this chapter, or to extend the permit or remit in whole or any part of the permit monies when the permit cannot be used due to a natural disaster or Act of God.

(b) To revoke, suspend or cancel, for violation of or noncompliance with the provisions of this chapter, or the law governing the production and sale of native wines, or any lawful rules and regulations of the department issued hereunder, or for other sufficient cause, any permit issued by it under the provisions of this chapter * * *. The department shall also be authorized to suspend the permit of any permit holder for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a permit for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a permit suspended for that purpose, shall be governed by Section 93-11-157 or Section 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or Section 93-11-163 and any provision of this chapter,

7514 the provisions of Section 93-11-157 or Section 93-11-163, as the
7515 case may be, shall control.

7516 (c) To prescribe forms of permits and applications for
7517 permits and of all reports which it deems necessary in
7518 administering this chapter.

7519 (d) To fix standards, not in conflict with those
7520 prescribed by any law of this state or of the United States, to
7521 secure the use of proper ingredients and methods of manufacture of
7522 alcoholic beverages.

7523 (e) To issue rules regulating the advertising of
7524 alcoholic beverages in the state in any class of media and
7525 permitting advertising of the retail price of alcoholic beverages.

7526 (f) To issue reasonable rules and regulations, not
7527 inconsistent with the federal laws or regulations, requiring
7528 informative labeling of all alcoholic beverages offered for sale
7529 within this state and providing for the standards of fill and
7530 shapes of retail containers of alcoholic beverages; however, such
7531 containers shall not contain less than fifty (50) milliliters by
7532 liquid measure.

7533 (g) Subject to the provisions of subsection (3) of
7534 Section 67-1-51, to issue rules and regulations governing the
7535 issuance of retail permits for premises located near or around
7536 schools, colleges, universities, churches and other public
7537 institutions, and specifying the distances therefrom within which
7538 no such permit shall be issued. The Alcoholic Beverage Control
7539 Division shall not issue a package retailer's or on-premises
7540 retailer's permit for the sale or consumption of alcoholic
7541 beverages in or on the campus of any public school, community or
7542 junior college, college or university.

7543 (h) To adopt and promulgate, repeal and amend, such
7544 rules, regulations, standards, requirements and orders, not
7545 inconsistent with this chapter or any law of this state or of the
7546 United States, as it deems necessary to control the manufacture,
7547 importation, transportation, distribution and sale of alcoholic
7548 liquor, whether intended for beverage or nonbeverage use in a

7549 manner not inconsistent with the provisions of this chapter or any
7550 other statute, including the native wine laws.

7551 (i) To call upon other administrative departments of
7552 the state, county and municipal governments, county and city
7553 police departments and upon prosecuting officers for such
7554 information and assistance as it may deem necessary in the
7555 performance of its duties.

7556 (j) To prepare and submit to the Governor during the
7557 month of January of each year a detailed report of its official
7558 acts during the preceding fiscal year ending June 30, including
7559 such recommendations as it may see fit to make, and to transmit a
7560 like report to each member of the Legislature of this state upon
7561 the convening thereof at its next regular session.

7562 (k) To inspect, or cause to be inspected, any premises
7563 where alcoholic liquors intended for sale are manufactured,
7564 stored, distributed or sold, and to examine or cause to be
7565 examined all books and records pertaining to the business
7566 conducted therein.

7567 * * *

7568 (l) To investigate the administration of laws in
7569 relation to alcoholic liquors in this and other states and any
7570 foreign countries, and to recommend from time to time to the
7571 Governor and through him to the Legislature of this state such
7572 amendments to this chapter, if any, as it may think desirable.

7573 (m) To designate hours and days when alcoholic
7574 beverages may be sold in different localities in the state which
7575 permit such sale.

7576 (n) To assign employees to posts of duty at locations
7577 where they will be most beneficial for the control of alcoholic
7578 beverages and to take any other action concerning persons employed
7579 under this chapter as authorized by law and taken in accordance
7580 with the rules, regulations and procedures of the State Personnel
7581 Board. * * *

7582 * * *

(o) To enforce the provisions made unlawful by Sections 67-3-13, 67-3-15, 67-3-53, 67-3-57 and 67-3-70.

(p) To delegate its authority under this chapter to the Alcoholic Beverage Control Division, its director or any other officer or employee of the department that it deems appropriate.

(2) No alcoholic beverage shall be sold or consumed at any public athletic event at any public school, community or junior college, college or university.

[From and after July 1, 2011, this section will read as follows:]

67-1-37. (1) The Department of Revenue, under its duties and powers with respect to the Alcoholic Beverage Control Division therein, shall have the following powers, functions and duties:

(a) To issue or refuse to issue any permit provided for by this chapter, or to extend the permit or remit in whole or any part of the permit monies when the permit cannot be used due to a natural disaster or Act of God.

(b) To revoke, suspend or cancel, for violation of or noncompliance with the provisions of this chapter, or the law governing the production and sale of native wines, or any lawful rules and regulations of the department issued hereunder, or for other sufficient cause, any permit issued by it under the provisions of this chapter * * *. The department shall also be authorized to suspend the permit of any permit holder for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a permit for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a permit suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

7618 (c) To prescribe forms of permits and applications for
7619 permits and of all reports which it deems necessary in
7620 administering this chapter.

7621 (d) To fix standards, not in conflict with those
7622 prescribed by any law of this state or of the United States, to
7623 secure the use of proper ingredients and methods of manufacture of
7624 alcoholic beverages.

7625 (e) To issue rules regulating the advertising of
7626 alcoholic beverages in the state in any class of media and
7627 permitting advertising of the retail price of alcoholic beverages.

7628 (f) To issue reasonable rules and regulations, not
7629 inconsistent with the federal laws or regulations, requiring
7630 informative labeling of all alcoholic beverages offered for sale
7631 within this state and providing for the standards of fill and
7632 shapes of retail containers of alcoholic beverages; however, such
7633 containers shall not contain less than fifty (50) milliliters by
7634 liquid measure.

7635 (g) Subject to the provisions of subsection (3) of
7636 Section 67-1-51, to issue rules and regulations governing the
7637 issuance of retail permits for premises located near or around
7638 schools, colleges, universities, churches and other public
7639 institutions, and specifying the distances therefrom within which
7640 no such permit shall be issued. The Alcoholic Beverage Control
7641 Division shall not issue a package retailer's or on-premises
7642 retailer's permit for the sale or consumption of alcoholic
7643 beverages in or on the campus of any public school, community or
7644 junior college, college or university.

7645 (h) To adopt and promulgate, repeal and amend, such
7646 rules, regulations, standards, requirements and orders, not
7647 inconsistent with this chapter or any law of this state or of the
7648 United States, as it deems necessary to control the manufacture,
7649 importation, transportation, distribution and sale of alcoholic
7650 liquor, whether intended for beverage or nonbeverage use in a
7651 manner not inconsistent with the provisions of this chapter or any
7652 other statute, including the native wine laws.

7653 (i) To call upon other administrative departments of
7654 the state, county and municipal governments, county and city
7655 police departments and upon prosecuting officers for such
7656 information and assistance as it may deem necessary in the
7657 performance of its duties.

7658 (j) To prepare and submit to the Governor during the
7659 month of January of each year a detailed report of its official
7660 acts during the preceding fiscal year ending June 30, including
7661 such recommendations as it may see fit to make, and to transmit a
7662 like report to each member of the Legislature of this state upon
7663 the convening thereof at its next regular session.

7664 (k) To inspect, or cause to be inspected, any premises
7665 where alcoholic liquors intended for sale are manufactured,
7666 stored, distributed or sold, and to examine or cause to be
7667 examined all books and records pertaining to the business
7668 conducted therein.

7669 * * *

7670 (l) To investigate the administration of laws in
7671 relation to alcoholic liquors in this and other states and any
7672 foreign countries, and to recommend from time to time to the
7673 Governor and through him to the Legislature of this state such
7674 amendments to this chapter, if any, as it may think desirable.

7675 (m) To designate hours and days when alcoholic
7676 beverages may be sold in different localities in the state which
7677 permit such sale.

7678 (n) To assign employees to posts of duty at locations
7679 where they will be most beneficial for the control of alcoholic
7680 beverages and to take any other action concerning persons employed
7681 under this chapter as authorized by law and taken in accordance
7682 with the rules, regulations and procedures of the State Personnel
7683 Board. * * *

7684 * * *

7685 (o) To delegate its authority under this chapter to the
7686 Alcoholic Beverage Control Division, its director or any other
7687 officer or employee of the department that it deems appropriate.

(2) No alcoholic beverage shall be sold or consumed at any public athletic event at any public school, community or junior college, college or university.

SECTION 132. Section 67-1-39, Mississippi Code of 1972, is amended as follows:

67-1-39. Any appeal from an order of the Board of Tax Appeals regarding an action taken under this chapter shall be filed without supersedeas to the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the appellant is the department, or to the county of the domicile of any other appellant. * * * Any such appeal shall be based on the record made before the Board of Tax Appeals and shall be filed within thirty (30) days from the date of the order being appealed. There may be an appeal therefrom to the Supreme Court as in other cases provided, but it shall be without supersedeas on the order of the Board of Tax Appeals to them made and finally determined either by the chancery court or the Supreme Court. Actions taken by the department in suspending a permit when required by Section 93-11-157 or 93-11-163 are not actions resulting in an order from which an appeal may be taken under this section. Any appeal of a permit suspension that is required by Section 93-11-157 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section.

SECTION 133. Section 67-1-63, Mississippi Code of 1972, is amended as follows:

67-1-63. (1) Any permittee may renew his permit at the expiration thereof for an additional term of one (1) year, provided he is then qualified to receive a permit and the premises for which the renewal is sought are suitable for such purposes. The renewal privilege herein provided for shall not be construed as a vested right. No "on-premises" retailer's permit shall be renewed at the expiration thereof for any "hotel" or "restaurant" under this chapter unless the commission is satisfied that the

holder thereof is continuing to meet the requirements of a hotel or restaurant, as defined in Section 67-1-5.

(2) When an application for the renewal of a permit has been denied by the department for a reason other than for being incomplete, for failure to pay any applicable license privilege taxes or fees required for renewal or for failure to post a bond, cash or securities as required by Section 27-71-21, the permittee shall be allowed to continue to operate under the permit for which renewal was denied until the last of the following dates:

(a) The date on which the permit expires;

(b) The date on which the time period for filing an appeal of the denial of the renewal to the Board of Tax Appeals expires;

(c) If the denial is timely appealed to the Board of Tax Appeals and this appeal is later withdrawn, the date on which the withdrawal of appeal occurs; or

(d) If the denial is timely appealed to the Board of Tax Appeals and an order is entered by the Board of Tax Appeals affirming the denial of the renewal, the date on which the permittee receives notice of the decision of the Board of Tax Appeals affirming the denial. Refusal to accept delivery of such notice or the posting of the final decision of the Board of Tax Appeals at the permitted place of business shall constitute receipt of notice by the permittee of this decision.

(3) If the denial of an application for renewal of a permit is appealed to the Board of Tax Appeals and the board reverses the denial of the application for renewal, the department shall renew and issue the permit from its last expiration date.

(4) The issuance and/or renewal of a permit based on the decision of the Board of Tax Appeals shall not bar or estop the department from appealing this decision of the Board of Tax Appeals to chancery court under Section 67-1-39. Any subsequent renewal of this permit while an appeal by the department from the decision of the Board of Tax Appeals is pending shall be subject to the final decision of the court on this appeal. If in such an

appeal by the department, a court enters a final decision and/or
order reversing the decision of the board and affirming the denial
of the application for a permit or the application for renewal of
a permit, the permit, even if subsequently renewed, shall be
deemed denied and not authorize the permittee to sell alcoholic
beverages under that permit after the date on which the decision
and/or order of the court affirming the denial of the permit
becomes final and not subject to any further appeal.

SECTION 134. Section 67-1-71, Mississippi Code of 1972, is amended as follows:

67-1-71. The department may revoke or suspend any permit issued by it for a violation by the permittee of any of the provisions of this chapter or of the regulations promulgated under it by the department.

Permits must be revoked or suspended for the following causes:

(a) Conviction of the permittee for the violation of any of the provisions of this chapter;

(b) Willful failure or refusal by any permittee to comply with any of the provisions of this chapter or of any rule or regulation adopted pursuant thereto;

(c) The making of any materially false statement in any application for a permit;

(d) Conviction of one or more of the clerks, agents or employees of the permittee, of any violation of this chapter upon the premises covered by such permit within a period of time as designated by the rules or regulations of the department;

(e) The possession on the premises of any retail permittee of any alcoholic beverages upon which the tax has not been paid;

(f) The willful failure of any permittee to keep the records or make the reports required by this chapter, or to allow an inspection of such records by any duly authorized person;

7790 (g) The suspension or revocation of a permit issued to
7791 the permittee by the federal government, or conviction of
7792 violating any federal law relating to alcoholic beverages;

7793 (h) The failure to furnish any bond required by Section
7794 27-71-21 within fifteen (15) days after notice from the
7795 department; and

7796 (i) The conducting of any form of illegal gambling on
7797 the premises of any permittee or on any premises connected
7798 therewith or the presence on any such premises of any gambling
7799 device with the knowledge of the permittee.

7800 The provisions of paragraph (i) of this section shall not
7801 apply to gambling or the presence of any gambling devices, with
7802 knowledge of the permittee, on board a cruise vessel in the waters
7803 within the State of Mississippi, which lie adjacent to the State
7804 of Mississippi south of the three (3) most southern counties in
7805 the State of Mississippi, or on any vessel as defined in Section
7806 27-109-1 whenever such vessel is on the Mississippi River or
7807 navigable waters within any county bordering on the Mississippi
7808 River. The department may, in its discretion, issue on-premises
7809 retailer's permits to a common carrier of the nature described in
7810 this paragraph.

7811 No permit shall be suspended or revoked until after the
7812 permittee has been provided reasonable notice of the charges
7813 against him for which suspension or revocation is sought and the
7814 opportunity to a hearing before the Board of Tax Appeals to
7815 contest such charges and the suspension or revocation proposed.
7816 Opportunity to a hearing is provided without an actual hearing if
7817 the permittee, after receiving reasonable notice, including notice
7818 of his right to a hearing, fails to timely request a hearing. The
7819 permittee may also at any time waive his rights to reasonable
7820 notice and/or to the opportunity to a hearing by agreeing to a
7821 suspension or revocation offered by the department.
7822 Notwithstanding the requirement above that a permit may not be
7823 suspended without notice and opportunity to a hearing, sales of
7824 alcoholic beverages by a permittee under a permit for which the

bond shall be suspended under Section 27-71-21 has been cancelled
from and after issuance of this notice provided in subsection (h)
above and shall continue to be suspended until the bond is
reinstated, a new bond is posted or sufficient cash or securities
as provided under Section 27-71-21 are deposited with the State
Treasurer for this permit.

In addition to the causes specified in this section and other provisions of this chapter, the department shall be authorized to suspend the permit of any permit holder for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a permit for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a permit suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

SECTION 135. The following shall be codified as Section 67-1-72, Mississippi Code of 1972:

67-1-72. (1) Except as otherwise provided in this chapter, any applicant or holder of a permit issued under this chapter which is aggrieved by an action of the Department of Revenue to deny his application for a permit, to deny the renewal of his permit or to revoke or suspend his permit shall be allowed to appeal to the Board of Tax Appeals from this action. This appeal is to be filed by the aggrieved person with the Executive Director of the Board of Tax Appeals, with a copy being sent to the Department of Revenue, within fifteen (15) days of the date to that person received notice of the action of the department being aggrieved. If the person aggrieved fails to appeal within this fifteen-day period, the action of the Department of Revenue shall take effect as set out in the notice. The Department of Revenue

retains the authority to change at any time the action aggrieved to in an appeal under this subsection. The applicant or holder of any permit issued under this chapter may waive his right to notice and opportunity to a hearing as provided by this subsection and agree to the action being taken by the department. The inability of the Department of Revenue to issue or renew a permit due to an incomplete application or due to the failure of the applicant to pay the annual privilege taxes and fees provided by Section 27-71-5 and/or the failure of the applicant to post or deposit the bond, cash or securities as required by Section 27-71-21 shall not constitute a denial for purposes of this subsection.

(2) Any applicant for approval as a manager of an establishment operating under a permit issued under this chapter or who holds the designation of an approved manager of an establishment operating under a permit issued under this chapter and who is aggrieved by an action of the Department of Revenue to deny his application for approval as a manager or to revoke or suspend his designation as an approved manager shall be allowed to appeal to the Board of Tax Appeals from this action. This appeal is to be filed by the aggrieved person with the Executive Director of the Board of Tax Appeals, with a copy being sent to the Department of Revenue, within fifteen (15) days from the date that person received notice of the action of the department being aggrieved. If the person aggrieved fails to appeal within this fifteen-day period, the action of the Department of Revenue shall take effect as set out in the notice. The Department of Revenue retains the authority to change at any time the action aggrieved to in an appeal under this subsection. The applicant or holder of an approved manager designation may waive his right to notice and opportunity to a hearing as provided by this subsection and agree to the action being taken by the department. The inability of the Department of Revenue to consider an application for approval of an applicant as a manager due to an incomplete application shall not constitute a denial of the application for purposes of this subsection.

(3) Any applicant for approval of an area or locality as a qualified resort area under this chapter who is aggrieved by the decision of the Department of Revenue to deny the qualified resort area as requested and any county or municipality wherein the proposed qualified resort area is located may appeal to the Board of Tax Appeals from such decision. This appeal is to be filed by the aggrieved applicant or by the affected county or municipality with the Executive Director of the Board of Tax Appeals, with a copy being sent to the Department of Revenue, within fifteen (15) days from the date that the person or entity filing the appeal received notice of the decision of the Department of Revenue to deny the qualified resort area. If an appeal is not filed within this fifteen-day period, the decision of the Department of Revenue shall become final. The Department of Revenue retains the authority to change at any time the decision aggrieved to in an appeal under this subsection. The inability of the Department of Revenue to consider an application for the approval of an area or locality as a qualified resort area due to an incomplete application shall not constitute a denial of that application for purposes of this subsection.

(4) Any person, including any county or municipality in which the qualified resort area is located, who is aggrieved by the decision of the Department of Revenue to revoke the approval of an area or locality as a qualified resort area may appeal to the Board of Tax Appeals from such decision. This appeal is to be filed by the aggrieved person with the Executive Director of the Board of Tax Appeals, with a copy being sent to the Department of Revenue, within fifteen (15) days from the date that the person or entity filing the appeal received notice of the decision of the department to revoke approval of the qualified resort area. At the discretion of the Department of Revenue, in addition to any other notice to be provided under this subsection, the department may provide notice of its decision to revoke approval of the qualified resort area by publication in the same manner as provided by regulation when approval of a qualified resort area is

sought. In regard to such publication, the fifteen (15) day period provide herein will begin on the date that notice is first published. If an appeal is not filed within this fifteen-day period, the decision of the Department of Revenue shall become final. The Department of Revenue retains the authority to change at any time the decision aggrieved to in an appeal under this subsection.

(5) Any person objecting to an application for the issuance or transfer of a permit, other than a temporary retailer's permit, issued under this chapter and who timely requests in writing a hearing on his objection shall be given a hearing before the Board of Tax Appeals unless the permit is denied by the Department of Revenue and an appeal is not taken by the applicant to the Board of Tax Appeals from that denial or the applicant withdraws his application. Any written request for a hearing on an objection must be filed with the Department of Revenue within fifteen (15) days from the first date of publication of the notice of such application under Section 67-1-53. If the department determines that the permit should be denied, notice will be provided to the applicant as set out in subsection (1) above, and if the applicant timely requests a hearing on the denial as provided by this subsection (1), the department will advise the Executive Director of the Board of Tax Appeals and the applicant of the written request for a hearing on an objection to the permit. The hearing on the objection to the permit and the hearing on the appeal by the applicant from the denial of the department of the application shall be consolidated and heard by the Board of Tax Appeals at the same time. If the department determines that the permit should be issued, the department will advise the applicant and the Executive Director of the Board of Tax Appeals of the timely written request for a hearing on an objection to the application and a hearing will be set before the Board of Tax Appeals on this objection. If prior to the hearing, either the person requesting the hearing withdraws his request or the applicant withdraws his application, the hearing will be cancelled and the objection proceedings before

7965 the Board of Tax Appeals on the application will be dismissed as
7966 moot. In the case of such withdrawals, the Board of Tax Appeals
7967 is authorized to assess to either or both parties any costs
7968 incurred by it prior to such withdrawal. The Department of
7969 Revenue retains authority to issue the permit to the applicant
7970 where the person objecting to the application withdraws his
7971 request for a hearing.

7972 (6) Any person objecting to an application for approval by
7973 the Department of Revenue of a area or locality as a qualified
7974 resort area under this chapter and who timely requests in writing
7975 a hearing on his objection shall be given a hearing before the
7976 Board of Tax Appeals unless approval of the application is denied
7977 by the Department of Revenue and an appeal is not taken by the
7978 applicant or the county or municipality in which the proposed
7979 qualified resort area is located to the Board of Tax Appeals from
7980 that denial or the applicant withdraws his application. Any
7981 written request for a hearing on an objection must be filed with
7982 the Department of Revenue within fifteen (15) days from the first
7983 date of publication on the notice of such application as provided
7984 by regulation. If the department determines that the application
7985 for approval of the proposed area or locality as a qualified
7986 resort area should be denied, the department will proceed with
7987 denial of such application as set out in subsection (3) above, and
7988 if the applicant or the county or municipality in which the
7989 proposed qualified resort area is located timely requests a
7990 hearing on the denial as provided by this subsection (3), the
7991 department will advise the Executive Director of the Board of Tax
7992 Appeals and the applicant of the written request for a hearing on
7993 an objection to the application. The hearing on the objection to
7994 approval of the proposed qualified resort area and the hearing on
7995 the appeal from the denial of the department of the application
7996 for such approval shall be consolidated and heard by the Board of
7997 Tax Appeals at the same time. If the department determines that
7998 the proposed qualified resort area should be approved, the
7999 department will advise the applicant and the Executive Director of

8000 the Board of Tax Appeals of the timely written request for a
8001 hearing on an objection to the application and a hearing will be
8002 set before the Board of Tax Appeals on this objection. If prior
8003 to the hearing, either the person requesting the hearing withdraws
8004 his request or the applicant withdraws his application, the
8005 hearing will be cancelled and the objection proceedings before the
8006 Board of Tax Appeals on the application will be dismissed as moot.
8007 In the case of such withdrawals, the Board of Tax Appeals is
8008 authorized to assess to either or both parties any costs incurred
8009 by it prior to such withdrawal. The Department of Revenue retains
8010 authority to approve the proposed area or locality as a qualified
8011 resort area where the person objecting to the application
8012 withdraws his request for a hearing.

8013 (7) Any person having an interest in any alcoholic beverages
8014 or raw materials which the Department of Revenue intends to
8015 dispose of under Section 67-1-18 shall be given reasonable notice
8016 of this proposed disposal, and upon such notice, this person may
8017 request a hearing before the Board of Tax Appeals to establish his
8018 right or claim to this property. This request for a hearing shall
8019 be filed with the Board of Tax Appeals, with a copy sent to the
8020 Department of Revenue, within fifteen (15) days from the date of
8021 receipt of the notice provide above by the person filing the
8022 request. If a request is not received by the Board of Tax Appeals
8023 within this fifteen-day period, the department may order the
8024 property disposed of in accordance with Section 67-1-18.

8025 (8) Upon receipt of a written request for hearing or appeal
8026 as set out above, the executive director shall schedule a hearing
8027 before the Board of Tax Appeals on this request or appeal. A
8028 notice of the hearing shall be mailed to all persons or entities
8029 having an interest in the matter being heard which shall always
8030 include the person or entity filing the request or appeal for
8031 which the hearing is being set, the applicant or holder of any
8032 permit, approved manager status or qualified resort area status in
8033 issue, any person who filed a written request for a hearing on an
8034 objection to any application in issue and the Department of

8035 Revenue. This notice shall provide the date, time and location of
8036 the hearing. Mailing to the attorney representing a person or
8037 entity in the matter being heard shall be the same as mailing to
8038 the person or entity the attorney represents. Failure of the
8039 person or entity on whose request or appeal the matter was set for
8040 hearing to appear personally or through his designated
8041 representative at the hearing shall constitute an involuntary
8042 withdrawal of his request or appeal. Upon such withdrawal, the
8043 Board of Tax Appeals shall note on the record the failure of the
8044 person or entity to appear at the hearing and shall dismiss the
8045 request or appeal and remand the matter back to the Department of
8046 Revenue for appropriate action.

8047 (9) At any hearing before the Board of Tax Appeals on an
8048 appeal or hearing request as set out above, two (2) members of the
8049 Board of Tax Appeals shall constitute a quorum. At the hearing,
8050 the Board of Tax Appeals shall try the issues presented according
8051 to law and the facts and pursuant to any guidelines established by
8052 regulation. The rules of evidence shall be relaxed at the hearing
8053 and the hearing shall be recorded by a court reporter. After
8054 reaching a decision on the issues presented, the Board of Tax
8055 Appeals shall enter an order setting forth its findings and
8056 decision in the matter. A copy of the order of the Board of Tax
8057 Appeals shall be mailed to the person or entity filing the request
8058 or appeal which was heard, the applicant or holder of any permit,
8059 approved manager status or qualified resort area status in issue,
8060 any person who filed a written request for a hearing on an
8061 objection to any application in issue and the Department of
8062 Revenue to notify them of the findings and decision of the Board
8063 of Tax Appeals.

8064 **SECTION 136.** Section 67-3-3, Mississippi Code of 1972, is
8065 amended as follows:

8066 67-3-3. When used in this chapter, unless the context
8067 indicates otherwise:

8068 (a) "Commissioner" means the Commissioner of Revenue of
8069 the Department of Revenue of the State of Mississippi, and his
8070 authorized agents and employees;

8071 (b) "Person" means one or more persons, a company, a
8072 corporation, a partnership, a syndicate or an association;

8073 (c) "Manufacturer" and "retailer" include brewpubs
8074 licensed pursuant to Article 3, Chapter 71, Title 27, Mississippi
8075 Code of 1972, unless otherwise clearly provided; and

8076 (d) "Beer" means a malt beverage as defined in the
8077 Federal Alcohol Administration Act and any rules and regulations
8078 adopted pursuant to such act.

8079 **SECTION 137.** Section 67-7-5, Mississippi Code of 1972, is
8080 amended as follows:

8081 67-7-5. As used in this chapter, the following words or
8082 phrases, or the plural thereof, whenever they appear in this
8083 chapter, unless the context clearly requires otherwise, shall have
8084 the meaning ascribed to them in this section.

8085 (a) "Agreement" means any agreement between a
8086 wholesaler and a supplier, whether oral or written, whereby a
8087 wholesaler is granted the right to purchase and sell a brand or
8088 brands of light wine or beer sold by a supplier.

8089 (b) "Ancillary business" means a business owned by the
8090 wholesaler, by a substantial stockholder of a wholesaler, or by a
8091 substantial partner of a wholesaler, the primary business of which
8092 is directly related to the transporting, storing or marketing of
8093 the brand or brands of light wine or beer of a supplier with whom
8094 the wholesaler has an agreement; or a business owned by a
8095 wholesaler, a substantial stockholder of a wholesaler.

8096 (c) "Commission" or "department" means the Department
8097 of Revenue of the State of Mississippi.

8098 (d) "Commissioner" means the Commissioner of Revenue of
8099 the Department of Revenue.

8100 (e) "Designated member" means the spouse, child,
8101 grandchild, parent, brother or sister of a deceased individual who
8102 owned an interest, including a controlling interest, in a

8103 wholesaler, or any person who inherits under the deceased
8104 individual's will, or under the laws of intestate succession of
8105 this state; or any person who or entity which has otherwise,
8106 through a valid testamentary device by the deceased individual,
8107 succeeded the deceased individual in the wholesaler's business, or
8108 has succeeded to the deceased individual's ownership interest in
8109 the wholesaler pursuant to a written contract or instrument which
8110 has been previously approved by supplier; "designated member"
8111 includes the appointed and qualified personal representative and
8112 the testamentary trustee of a deceased individual owning an
8113 ownership interest in a wholesaler, and it includes the person
8114 appointed by a court as the guardian or conservator of the
8115 property of an incapacitated individual owning an ownership
8116 interest in a wholesaler.

8117 (f) "Establish" means to adjust or regulate, to provide
8118 for and uphold.

8119 (g) "Good faith" means honesty in fact and observance
8120 of reasonable commercial standards of fair dealing in the trade,
8121 as defined in and interpreted under the Uniform Commercial Code.

8122 (h) "Reasonable qualifications" means the standard of
8123 the reasonable criteria established and consistently used by the
8124 respective supplier for similarly situated wholesalers that
8125 entered into, continued or renewed an agreement with the supplier
8126 during a period of twenty-four (24) months before the proposed
8127 transfer of the wholesaler's business, or for similarly situated
8128 wholesalers who have changed managers or designated managers,
8129 under the agreement, during a period of twenty-four (24) months
8130 before the proposed change in the manager or successor manager of
8131 the wholesaler's business.

8132 (i) "Retaliatory action" means the refusal to continue
8133 an agreement, or a material reduction in the quality of service or
8134 quantity of products available to a wholesaler under an agreement,
8135 which refusal or reduction is not made in good faith.

8136 (j) "Sales territory" means a primary area of sales
8137 responsibility for the brand or brands of light wine or beer sold
8138 by a supplier as designated by an agreement.

8139 (k) "Substantial stockholder or substantial partner"
8140 means a stockholder or partner in the wholesaler who owns an
8141 interest of ten percent (10%) or more of the partnership or of the
8142 capital stock of a corporate wholesaler.

8143 (l) "Supplier" means a manufacturer or importer of
8144 light wine or beer as regulated by the department under Sections
8145 67-3-1 through 67-3-73.

8146 (m) "Transfer of wholesaler's business" means the
8147 voluntary sale, assignment or other transfer of ten percent (10%)
8148 or more of control of the business or all or substantially all of
8149 the assets of the wholesaler, or ten percent (10%) or more of
8150 control of the capital stocks of the wholesaler, including without
8151 limitation the sale or other transfer of capital stock or assets
8152 by merger, consolidation or dissolution, or of the capital stock
8153 of the parent corporation, or of the capital stock or beneficial
8154 ownership of any other entity owning or controlling the
8155 wholesaler.

8156 (n) "Wholesaler" means a wholesaler of light wine or
8157 beer as regulated by the department under Sections 67-3-1 through
8158 67-3-73.

8159 (o) "Similarly situated wholesalers" means wholesalers
8160 of a supplier that are of a generally comparable size and operate
8161 in markets in Mississippi and adjoining states with similar
8162 demographic characteristics, including population size, density,
8163 distribution and vital statistics, as well as reasonably similar
8164 economic and geographic conditions.

8165 (p) "Light wine and/or beer" has the meaning ascribed
8166 to such terms in Section 67-3-5.

8167 **SECTION 138.** Section 71-5-389, Mississippi Code of 1972, is
8168 amended as follows:

8169 71-5-389. (1) For the purposes of this section, the
8170 following terms shall have the respective meanings ascribed by
8171 this section:

8172 (a) "Claimant agency" means the Mississippi Department
8173 of Employment Security.

8174 (b) "Debtor" means any individual owing money or having
8175 a delinquent account with any claimant agency, which obligation
8176 has not been adjudicated satisfied by court order, set aside by
8177 court order, or discharged in bankruptcy.

8178 (c) "Debt" means any sum due and owing any claimant
8179 agency, including costs, court costs, fines, penalties and
8180 interest which have accrued through contract, subrogation, tort,
8181 operation of law, or any other legal theory regardless of whether
8182 there is an outstanding judgment for that sum which is legally
8183 collectible and for which a collection effort has been or is being
8184 made.

8185 (d) "Department" or "Department of Revenue" means the
8186 Department of Revenue of the State of Mississippi.

8187 (e) "Refund" means the Mississippi income tax refund
8188 which the department determines to be due any individual taxpayer.

8189 (2) The collection remedy authorized by this section is in
8190 addition to and is not substitution for any other remedy available
8191 by law.

8192 (3) (a) A claimant agency may submit debts in excess of
8193 Twenty-five Dollars (\$25.00) owed to it to the department for
8194 collection through setoff, under the procedure established by this
8195 section, except in cases where the validity of the debt is
8196 legitimately in dispute, an alternate means of collection is
8197 pending and believed to be adequate, or such collection would
8198 result in a loss of federal funds or federal assistance.

8199 (b) Upon the request of a claimant agency, the
8200 department shall set off any refund, as defined herein, against
8201 the sum certified by the claimant agency as provided in this
8202 section.

8203 (4) (a) Within the time frame specified by the department,
8204 a claimant agency seeking to collect a debt through setoff shall
8205 supply the information necessary to identify each debtor whose
8206 refund is sought to be set off and certify the amount of debt or
8207 debts owed by each such debtor.

8208 (b) If a debtor identified by a claimant agency is
8209 determined by the department to be entitled to a refund of at
8210 least Twenty-five Dollars (\$25.00), the department shall transfer
8211 an amount equal to the refund owed, not to exceed the amount of
8212 the claimed debt certified, to the claimant agency. The
8213 Department of Revenue shall send the excess amount to the debtor
8214 within a reasonable time after such excess is determined. At the
8215 time of the transfer of funds to a claimant agency pursuant to
8216 this paragraph (b), the Department of Revenue shall notify the
8217 taxpayer or taxpayers whose refund is sought to be set off that
8218 the transfer has been made. Such notice shall clearly set forth
8219 the name of the debtor, the manner in which the debt arose, the
8220 amount of the claimed debt, the transfer of funds to the claimant
8221 agency pursuant to this paragraph (b) and the intention to set off
8222 the refund against the debt, the amount of the refund in excess of
8223 the claimed debt, the taxpayer's opportunity to give written
8224 notice to contest the setoff within thirty (30) days of the date
8225 of mailing of the notice, the name and mailing address of the
8226 claimant agency to which the application for such a hearing must
8227 be sent, and the fact that the failure to apply for such a
8228 hearing, in writing, within the thirty-day period will be deemed a
8229 waiver of the opportunity to contest the setoff. In the case of a
8230 joint return or a joint refund, the notice shall also state the
8231 name of the taxpayer named in the return, if any, against whom no
8232 debt is claimed, the fact that a debt is not claimed against such
8233 taxpayer, the fact that such taxpayer is entitled to receive a
8234 refund if it is due him regardless of the debt asserted against
8235 his spouse, and that in order to obtain a refund due him such
8236 taxpayer must apply in writing for a hearing with the claimant
8237 agency named in the notice within thirty (30) days of the date of

8238 the mailing of the notice. If a taxpayer fails to apply in
8239 writing for such a hearing within thirty (30) days of the mailing
8240 of such notice, he will have waived his opportunity to contest the
8241 setoff.

8242 (c) Upon receipt of funds transferred from the
8243 Department of Revenue pursuant to paragraph (b) of this
8244 subsection, the claimant agency shall deposit and hold such funds
8245 in an escrow account until a final determination of the validity
8246 of the debt.

8247 (d) The claimant agency shall pay the Department of
8248 Revenue a fee, not to exceed Seventeen Dollars (\$17.00) in each
8249 case in which a tax refund is identified as being available for
8250 offset. Such fees shall be deposited by the Department of Revenue
8251 into a special fund hereby created in the State Treasury, out of
8252 which the Legislature shall appropriate monies to defray expenses
8253 of the Department of Revenue in employing personnel to administer
8254 the provisions of this section.

8255 (5) (a) When the claimant agency receives a protest or an
8256 application in writing from a taxpayer within thirty (30) days of
8257 the notice issued by the Department of Revenue, the claimant
8258 agency shall set a date to hear the protest and give notice to the
8259 taxpayer by registered or certified mail of the date so set. The
8260 time and place of such hearing shall be designated in such notice
8261 and the date set shall not be less than fifteen (15) days from the
8262 date of such notice. If, at the hearing, the sum asserted as due
8263 and owing is found not to be correct, an adjustment to the claim
8264 may be made. The claimant agency shall give notice to the debtor
8265 of its final determination as provided in paragraph (c) of this
8266 subsection.

8267 (b) No issues shall be reconsidered at the hearing
8268 which have been previously litigated.

8269 (c) If any debtor is dissatisfied with the final
8270 determination made at the hearing by the claimant agency, he may
8271 appeal the final determination to the circuit court of the county
8272 in which the main office of the claimant agency is located by

filing notice of appeal with the administrative head of the claimant agency and with the clerk of the circuit court of the county in which the appeal shall be taken within thirty (30) days from the date the notice of final determination was given by the claimant agency.

(6) (a) Upon final determination of the amount of the debt due and owing by means of hearing or by the taxpayer's default through failure to comply with timely request for review, the claimant agency shall remove the amount of the debt due and owing from the escrow account and credit such amount to the debtor's obligation.

(b) Upon transfer of the debt due and owing from the escrow account to the credit of the debtor's account, the claimant agency shall notify the debtor in writing of the finalization of the setoff. Such notice shall include a final accounting if the refund which was set off, including the amount of the refund to which the debtor was entitled prior to the setoff, the amount of the debt due and owing, the amount of the * * * collection fee paid to the Department of Revenue, the amount of the refund in excess of the debt which was returned to the debtor by the Department of Revenue, and the amount of the funds transferred to the claimant agency in excess of the debt determined to be due and owing at a hearing, if such a hearing was held. At such time, the claimant agency shall refund to the debtor the amount of the claimed debt originally certified and transferred to it by the Department of Revenue in excess of the amount of debt finally found to be due and owing.

(7) (a) Notwithstanding the provision that prohibits disclosure by the Department of Revenue of the contents of taxpayer records or information and notwithstanding any other confidentiality statute, the Department of Revenue may provide to a claimant agency all information necessary to accomplish and effectuate the intent of the section.

(b) The information obtained by claimant agency from the Department of Revenue in accordance with the provisions of

this section shall retain its confidentiality and shall only be used by a claimant agency in the pursuit of its debt collection duties and practices; and any employee or prior employee of any claimant agency who unlawfully discloses any such information for any other purpose, except as specifically authorized by law, shall be subject to the same penalties specified by law for unauthorized confidential information by an agent or employee of the Department of Revenue.

SECTION 139. Section 75-23-5, Mississippi Code of 1972, is amended as follows:

75-23-5. The following words, terms and phrases, when used in the Unfair Cigarette Sales Law, shall have the meaning ascribed to them in this section except where the context clearly indicates a different meaning:

(a) "Person" shall mean and include any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, the State of Mississippi, county, municipal corporation or other political subdivision of this state, receiver, trustee, fiduciary, or trade association.

(b) "Commission" or "department" shall mean the Department of Revenue of the State of Mississippi.

(c) "Cigarettes" shall mean and include any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(d) "Wholesaler" shall mean and include any person qualified as a wholesaler with the Department of Revenue of Mississippi and shall also mean and include any person other than a buying pool as defined herein, wherever resident or located, who brings or causes to be brought into this state unstamped cigarettes purchased directly from the manufacturer thereof and who maintains an established place of business where substantially all of the business is the sale of cigarettes and related

8343 merchandise at wholesale to cigarette licensees and where at all
8344 times a substantial stock of cigarettes and related merchandise is
8345 available for resale; provided, that seventy-five percent (75%)
8346 thereof are sold to retailers or other wholesalers not connected
8347 with the wholesaler by reason of any business connection or
8348 otherwise; and also any person retailing cigarettes to consumers,
8349 provided, at least seventy-five percent (75%) of his purchases are
8350 made directly from the manufacturers thereof; and also any person
8351 in this state other than a buying pool as defined herein, who
8352 purchases cigarettes, from any other person who purchases from a
8353 manufacturer at least seventy-five percent (75%) of which are for
8354 purposes of resale to retailers in this state not connected with
8355 said wholesaler by reason of any business connection or otherwise
8356 and who maintains an established place of business where
8357 cigarettes and related merchandise are sold at wholesale to
8358 persons licensed under this law, and where at all times a
8359 substantial stock of cigarettes and related merchandise is
8360 available to all retailers for resale; and also any person in this
8361 state who acquires cigarettes solely for the purpose of resale in
8362 cigarette vending machines; provided, such person operated thirty
8363 (30) or more machines.

8364 (e) "Retailer" shall mean and include any person who is
8365 engaged in this state in the business of selling cigarettes at
8366 retail and includes any group of persons, cooperative
8367 organizations, buying pools, and any other person or group of
8368 retailers purchasing cigarettes on a cooperative basis from
8369 licensed distributors or wholesalers. Any person placing a
8370 cigarette vending machine at, on or in any premises shall be
8371 deemed to be a retailer from each such vending machine.

8372 (f) "Buying pool" means and includes any combination,
8373 corporation, association, affiliation or group of retail dealers
8374 operating jointly in the purchase, sale, exchange, or barter of
8375 cigarettes, the profits of which accrue directly or indirectly to
8376 such retail dealers.

8377 (g) "Sale" or "sell" shall mean any transfer for a
8378 consideration, exchange, barter, gift, offer for sale, advertising
8379 for sale, soliciting an order for cigarettes and distribution in
8380 any manner or by any means whatsoever.

8381 (h) "Sell at wholesale," "sale at wholesale" and
8382 "wholesale sales" shall mean and include any sale made in the
8383 ordinary course of trade or usual conduct of the wholesaler's
8384 business to a retailer for the purpose of resale.

8385 (i) "Sell at retail," "sale at retail" or "retail
8386 sales" shall mean and include any sale for consumption or use made
8387 in the ordinary course of trade or usual conduct of the seller's
8388 business.

8389 (j) "Basic cost of cigarettes" shall mean whichever of
8390 the two (2) following amounts is lower, namely, (i) the invoice
8391 cost of cigarettes to the wholesaler or retailer, as the case may
8392 be, or (ii) the lowest replacement cost of cigarettes to the
8393 wholesaler or retailer, as the case may be, within thirty (30)
8394 days prior to the date of sale, in the quantity last purchased
8395 (whether within or before the * * * thirty-day period), less, in
8396 either of the two (2) cases, all trade discounts except customary
8397 discounts for cash, plus the full face value of any stamps or any
8398 tax which may be required by any cigarette tax act of this state
8399 or political subdivision thereof, now in effect or hereafter
8400 enacted, if not already included in the invoice cost of the
8401 cigarettes to the wholesaler or retailer, as the case may be.

8402 (k) (i) "Cost to wholesaler" shall mean the basic cost
8403 of the cigarettes involved to the wholesaler plus the cost of
8404 doing business by the wholesaler as evidenced by the standards and
8405 methods of accounting regularly employed by him, and must include,
8406 without limitation, labor costs (including salaries of executives
8407 and officers), rent, depreciation, selling costs, maintenance of
8408 equipment, delivery costs, all types of licenses, taxes, insurance
8409 and advertising.

8410 (ii) In the absence of proof of a lesser or higher
8411 cost of doing business by the wholesale dealer making the sale,

8412 the cost of doing business by the wholesale dealer shall be
8413 presumed to be two percent (2%) of the basic cost of * * *
8414 cigarettes to the wholesale dealer, any fraction of a cent thus
8415 computed shall be rounded off to the next highest cent, plus
8416 cartage to the retail outlet, if performed or paid for by the
8417 wholesale dealer, which cartage cost, in the absence of proof of a
8418 lesser or higher cost, shall be presumed to be one-half of one
8419 percent (1/2 of 1%) of the basic cost of the * * * cigarettes to
8420 the wholesale dealer, any fraction of a cent in computing the
8421 amount of the cartage shall be rounded off to the next highest
8422 cent.

8423 (1) (i) "Cost to the retailer" shall mean the basic
8424 cost of the cigarettes involved to the retailer plus the cost of
8425 doing business by the retailer as evidenced by the standards and
8426 methods of accounting regularly employed by him and must include,
8427 without limitation, labor (including salaries of executives and
8428 officers), rent, depreciation, selling costs, maintenance of
8429 equipment, delivery costs, all types of licenses, taxes, insurance
8430 and advertising.

8431 (ii) In the absence of proof of a lesser or higher
8432 cost of doing business by the retailer making the sale, the cost
8433 of doing business by the * * * retailer shall be presumed to be
8434 six percent (6%) of the basic cost of cigarettes to the * * *
8435 retailer. Any fraction of a cent thus computed shall be rounded
8436 off to the next highest cent.

8437 (iii) In the case of any retail dealer who in
8438 connection with the * * * retail dealer's purchase of any
8439 cigarettes shall receive not only the discounts ordinarily allowed
8440 upon purchases by a retail dealer but also in whole or in part the
8441 discounts ordinarily allowed upon purchases by a wholesale dealer,
8442 the cost of doing business by the * * * retail dealer with respect
8443 to the * * * cigarettes shall be, in the absence of proof of a
8444 lesser or higher cost of doing business by the * * * retail
8445 dealer, the sum of the cost of doing business by the retail dealer
8446 and, to the extent that he shall have received the full discounts

ordinarily allowed to a wholesale dealer, the cost of doing business by a wholesale dealer as hereinabove defined in paragraph (j)(ii) of this section.

SECTION 140. Section 75-23-31, Mississippi Code of 1972, is amended as follows:

75-23-31. As used in this article:

(a) "Commission" or "department" means the Mississippi Department of Revenue.

(b) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

(c) "Person" means any individual, firm, association, agency, syndicate, the State of Mississippi, county, municipal corporation or other political subdivision of this state, receiver, trustee, fiduciary or trade association.

SECTION 141. Section 75-76-5, Mississippi Code of 1972, is amended as follows:

75-76-5. As used in this chapter, unless the context requires otherwise:

(a) "Applicant" means any person who has applied for or is about to apply for a state gaming license, registration or finding of suitability under the provisions of this chapter or approval of any act or transaction for which approval is required or permitted under the provisions of this chapter.

(b) "Application" means a request for the issuance of a state gaming license, registration or finding of suitability under the provisions of this chapter or for approval of any act or transaction for which approval is required or permitted under the provisions of this chapter but does not include any supplemental forms or information that may be required with the application.

(c) "Associated equipment" means any equipment or mechanical, electromechanical or electronic contrivance, component or machine used remotely or directly in connection with gaming or

with any game, race book or sports pool that would not otherwise be classified as a gaming device, including dice, playing cards, links which connect to progressive slot machines, equipment which affects the proper reporting of gross revenue, computerized systems of betting at a race book or sports pool, computerized systems for monitoring slot machines, and devices for weighing or counting money.

(d) "Chairman" * * * means * * * the Chairman of the Mississippi Gaming Commission except when used in the term "Chairman of the State Tax Commission." "Chairman of the State Tax Commission" or "commissioner" means the Commissioner of Revenue of the Department of Revenue.

(e) "Commission" or "Mississippi Gaming Commission" * * * means the Mississippi Gaming Commission.

(f) "Commission member" * * * means a member of the Mississippi Gaming Commission.

(g) "Credit instrument" means a writing which evidences a gaming debt owed to a person who holds a license at the time the debt is created, and includes any writing taken in consolidation, redemption or payment of a prior credit instrument.

(h) "Enforcement division" means a particular division supervised by the executive director that provides enforcement functions.

(i) "Establishment" means any premises wherein or whereon any gaming is done.

(j) "Executive director" * * * means the Executive Director of the Mississippi Gaming Commission.

(k) Except as otherwise provided by law, "game," or "gambling game" means any banking or percentage game played with cards, with dice or with any mechanical, electromechanical or electronic device or machine for money, property, checks, credit or any representative of value, including, without limiting, the generality of the foregoing, faro, monte, roulette, keno, fan-tan, twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, poker, chuck-a-luck (dai shu), wheel of fortune, chemin de

8517 fer, baccarat, pai gow, beat the banker, panguingui, slot machine,
8518 or any other game or device approved by the commission. However,
8519 "game" or "gambling game" shall not include bingo games or raffles
8520 which are held pursuant to the provisions of Section 97-33-51.

8521 The commission shall not be required to recognize any game
8522 hereunder with respect to which the commission determines it does
8523 not have sufficient experience or expertise.

8524 (l) "Gaming" or "gambling" means to deal, operate,
8525 carry on, conduct, maintain or expose for play any game as defined
8526 in this chapter.

8527 (m) "Gaming device" means any mechanical,
8528 electromechanical or electronic contrivance, component or machine
8529 used in connection with gaming or any game which affects the
8530 result of a wager by determining win or loss. The term includes a
8531 system for processing information which can alter the normal
8532 criteria of random selection, which affects the operation of any
8533 game, or which determines the outcome of a game. The term does
8534 not include a system or device which affects a game solely by
8535 stopping its operation so that the outcome remains undetermined,
8536 and does not include any antique coin machine as defined in
8537 Section 27-27-12.

8538 (n) "Gaming employee" means any person connected
8539 directly with the operation of a gaming establishment licensed to
8540 conduct any game, including:

- 8541 (i) Boxmen;
- 8542 (ii) Cashiers;
- 8543 (iii) Change personnel;
- 8544 (iv) Counting room personnel;
- 8545 (v) Dealers;
- 8546 (vi) Floormen;
- 8547 (vii) Hosts or other persons empowered to extend
8548 credit or complimentary services;
- 8549 (viii) Keno runners;
- 8550 (ix) Keno writers;
- 8551 (x) Machine mechanics;

- 8552 (xi) Security personnel;
- 8553 (xii) Shift or pit bosses;
- 8554 (xiii) Shills;
- 8555 (xiv) Supervisors or managers; and
- 8556 (xv) Ticket writers.

8557 The term "gaming employee" also includes employees of
8558 manufacturers or distributors of gaming equipment within this
8559 state whose duties are directly involved with the manufacture,
8560 repair or distribution of gaming equipment.

8561 "Gaming employee" does not include bartenders, cocktail
8562 waitresses or other persons engaged in preparing or serving food
8563 or beverages unless acting in some other capacity.

8564 (o) "Gaming license" means any license issued by the
8565 state which authorizes the person named therein to engage in
8566 gaming.

8567 (p) "Gross revenue" means the total of all of the
8568 following, less the total of all cash paid out as losses to
8569 patrons and those amounts paid to purchase annuities to fund
8570 losses paid to patrons over several years by independent financial
8571 institutions:

- 8572 (i) Cash received as winnings;
- 8573 (ii) Cash received in payment for credit extended
8574 by a licensee to a patron for purposes of gaming; and
- 8575 (iii) Compensation received for conducting any
8576 game in which the licensee is not party to a wager.

8577 For the purposes of this definition, cash or the value of
8578 noncash prizes awarded to patrons in a contest or tournament are
8579 not losses.

8580 The term does not include:

- 8581 (i) Counterfeit money or tokens;
- 8582 (ii) Coins of other countries which are received
8583 in gaming devices;
- 8584 (iii) Cash taken in fraudulent acts perpetrated
8585 against a licensee for which the licensee is not reimbursed; or

8586 (iv) Cash received as entry fees for contests or
8587 tournaments in which the patrons compete for prizes.

8588 (q) "Hearing examiner" means a member of the
8589 Mississippi Gaming Commission or other person authorized by the
8590 commission to conduct hearings.

8591 (r) "Investigation division" means a particular
8592 division supervised by the executive director that provides
8593 investigative functions.

8594 (s) "License" means a gaming license or a
8595 manufacturer's, seller's or distributor's license.

8596 (t) "Licensee" means any person to whom a valid license
8597 has been issued.

8598 (u) "License fees" means monies required by law to be
8599 paid to obtain or continue a gaming license or a manufacturer's,
8600 seller's or distributor's license.

8601 (v) "Licensed gaming establishment" means any premises
8602 licensed pursuant to the provisions of this chapter wherein or
8603 whereon gaming is done.

8604 (w) "Manufacturer's," "seller's" or "distributor's"
8605 license means a license issued pursuant to Section 75-76-79.

8606 (x) "Navigable waters" shall have the meaning ascribed
8607 to such term under Section 27-109-1.

8608 (y) "Operation" means the conduct of gaming.

8609 (z) "Party" means the Mississippi Gaming Commission and
8610 any licensee or other person appearing of record in any proceeding
8611 before the commission; or the Mississippi Gaming Commission and
8612 any licensee or other person appearing of record in any proceeding
8613 for judicial review of any action, decision or order of the
8614 commission.

8615 (aa) "Person" includes any association, corporation,
8616 firm, partnership, trust or other form of business association as
8617 well as a natural person.

8618 (bb) "Premises" means land, together with all
8619 buildings, improvements and personal property located thereon, and
8620 includes all parts of any vessel or cruise vessel.

8621 (cc) "Race book" means the business of accepting wagers
8622 upon the outcome of any event held at a track which uses the
8623 pari-mutuel system of wagering.

8624 (dd) "Regulation" means a rule, standard, directive or
8625 statement of general applicability which effectuates law or policy
8626 or which describes the procedure or requirements for practicing
8627 before the commission. The term includes a proposed regulation
8628 and the amendment or repeal of a prior regulation but does not
8629 include:

8630 (i) A statement concerning only the internal
8631 management of the commission and not affecting the rights or
8632 procedures available to any licensee or other person;

8633 (ii) A declaratory ruling;

8634 (iii) An interagency memorandum;

8635 (iv) The commission's decision in a contested case
8636 or relating to an application for a license; or

8637 (v) Any notice concerning the fees to be charged
8638 which are necessary for the administration of this chapter.

8639 (ee) "Respondent" means any licensee or other person
8640 against whom a complaint has been filed with the commission.

8641 (ff) "Slot machine" means any mechanical, electrical or
8642 other device, contrivance or machine which, upon insertion of a
8643 coin, token or similar object, or upon payment of any
8644 consideration, is available to play or operate, the play or
8645 operation of which, whether by reason of the skill of the operator
8646 or application of the element of chance, or both, may deliver or
8647 entitle the person playing or operating the machine to receive
8648 cash, premiums, merchandise, tokens or anything of value, whether
8649 the payoff is made automatically from the machine or in any other
8650 manner. The term does not include any antique coin machine as
8651 defined in Section 27-27-12.

8652 (gg) "Sports pool" means the business of accepting
8653 wagers on sporting events, except for athletic events, by any
8654 system or method of wagering other than the system known as the
8655 "pari-mutuel method of wagering."

(hh) "State Tax Commission" or "department" means the Department of Revenue of the State of Mississippi.

(ii) "Temporary work permit" means a work permit which is valid only for a period not to exceed ninety (90) days from its date of issue and which is not renewable.

(jj) "Vessel" or "cruise vessel" shall have the meanings ascribed to such terms under Section 27-109-1.

(kk) "Work permit" means any card, certificate or permit issued by the commission, whether denominated as a work permit, registration card or otherwise, authorizing the employment of the holder as a gaming employee. A document issued by any governmental authority for any employment other than gaming is not a valid work permit for the purposes of this chapter.

(ll) "School or training institution" means any school or training institution which is licensed by the commission to teach or train gaming employees pursuant to Section 75-76-34.

(mm) "Cheat" means to alter the selection of criteria that determine:

(i) The rules of a game; or

(ii) The amount or frequency of payment in a game.

SECTION 142. Section 75-76-83, Mississippi Code of 1972, is amended as follows:

75-76-83. Any person aggrieved by the final order of the Board of Tax Appeals regarding any action taken by the Commissioner of Revenue and/or the Department of Revenue under the provisions of this chapter, including any person charged with any tax, fee, interest, penalties and damages imposed by this chapter and required to pay same, may appeal from such order as provided in Section 27-77-7. * * *

SECTION 143. Sections 27-3-11, 27-3-21, 27-3-25, 27-3-27, 27-3-32, 27-3-55, 27-3-75 and 67-1-21, Mississippi Code of 1972, are repealed.

SECTION 144. Nothing in this act shall affect or defeat any assessment, refund claim, request for waiver of a tax penalty, the suspension, revocation, surrender, seizure or denial of permit,

tag or title, the suspension, revocation or denial of a permit, approved manager status, qualified resort area or forfeiture under the Local Option Alcoholic Beverage Control Law, Section 67-1-1 et seq., the administrative appeal or judicial appeal of any of the foregoing acts or any other action taken by the Mississippi State Tax Commission or by the Chairman of the Mississippi State Tax Commission prior to the effective date of this act. The provisions of the laws relating to the administrative appeal or judicial review of such actions which were in effect prior to the effective date of this act are expressly continued in full force, effect and operation for the purpose of providing an administrative appeal and/or judicial review, where previously provided, of such actions, except to the extent that any matter is pending on an administrative appeal before the three (3) member Mississippi State Tax Commission on the effective date will after the effective date of this act be heard and decided by the Board of Tax Appeals as the successor of the Mississippi State Tax Commission in regard to administrative appeals.

SECTION 145. (1) There is created a study committee on the matter of ad valorem taxation in Mississippi. The study committee shall make and file a report of its findings and recommendations, including any recommended legislation, with the Clerk of the House of Representatives and the Secretary of the Senate not later than December 1, 2010.

(2) The study committee shall be composed of the following fourteen (14) members:

- (a) The Chairman of the House Ways and Means Committee;
- (b) The Chairman of the Senate Finance Committee;
- (c) The Chairman of the House County Affairs Committee;
- (d) The Chairman of the Senate County Affairs Committee;
- (e) The Chairman of the House Municipalities Committee;
- (f) The Chairman of the Senate Municipalities Committee;
- (g) The Chairman of the House Education Committee;

8726 (h) The Chairman of the Senate Education Committee;
8727 (i) A licensed real estate appraiser as defined in
8728 Section 73-34-3 appointed by the Speaker of the House of
8729 Representatives;
8730 (j) A county tax assessor appointed by the Lieutenant
8731 Governor;
8732 (k) A county tax assessor appointed by the Governor;
8733 (l) The Chairman of the State Tax Commission, or his
8734 designee;
8735 (m) The Executive Director of the Mississippi
8736 Association of Supervisors, or his designee; and
8737 (n) The Executive Director of the Mississippi Municipal
8738 League, or his designee.

8739 (3) Appointments shall be made within thirty (30) days after
8740 the effective date of this act, and, within fifteen (15) days
8741 thereafter on a day to be designated jointly by the Chairman of
8742 the House Ways and Means Committee and the Chairman of the Senate
8743 Finance Committee, the study committee shall meet and organize by
8744 selecting from its membership a chairman and a vice chairman. The
8745 vice chairman shall also serve as secretary and shall be
8746 responsible for keeping all records of the study committee. A
8747 majority of the members of the study committee shall constitute a
8748 quorum. In the selection of its officers and the adoption of
8749 rules, resolutions and reports, an affirmative vote of a majority
8750 of the study committee shall be required. All members shall be
8751 notified in writing of all meetings, such notices to be mailed at
8752 least fifteen (15) days before the date on which a meeting is to
8753 be held.

8754 (4) The study committee shall study and make recommendations
8755 regarding the matter of ad valorem taxation concerning issues
8756 including, but not limited to, the valuation of property for ad
8757 valorem tax purposes, the updating of property valuations for ad
8758 valorem tax purposes, procedures regarding the appeal of ad
8759 valorem tax assessments and ad valorem tax exemptions.

8760 (5) Members of the study committee who are not legislators,
8761 state officials or state employees shall be compensated at the per
8762 diem rate authorized by Section 25-3-69 and shall be reimbursed in
8763 accordance with Section 25-3-41 for mileage and actual expenses
8764 incurred in the performance of their duties. Legislative members
8765 of the study committee shall be paid from the contingent expense
8766 funds of their respective houses in the same manner as provided
8767 for committee meetings when the Legislature is not in session.
8768 However, no per diem or expense for attending meetings of the
8769 study committee will be paid to members of the study committee
8770 while the Legislature is in session. No study committee member
8771 may incur per diem, travel or other expenses unless previously
8772 authorized by vote, at a meeting of the study committee, which
8773 action shall be recorded in the official minutes of the meeting.

8774 (6) The study committee shall use clerical and legal staff
8775 already employed by the Legislature and any other staff assistance
8776 made available to it. To effectuate the purposes of this section,
8777 any department, division, board, bureau, commission or agency of
8778 the state or of any political subdivision thereof shall, at the
8779 request of the chairman of the study committee, provide to the
8780 study committee such facilities, assistance and data as will
8781 enable the study committee to properly carry out its task.

8782 **SECTION 146.** Section 145 of this act shall take effect and
8783 be in force from and after July 1, 2009, and the remainder of this
8784 act shall take effect and be in force from and after July 1, 2010.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO REORGANIZE THE STATE TAX COMMISSION BY PLACING ITS
2 ADMINISTRATIVE FUNCTIONS IN A DEPARTMENT OF REVENUE AND ITS
3 AUTHORITY OVER ADMINISTRATIVE APPEALS IN AN INDEPENDENT BOARD OF
4 TAX APPEALS; TO ESTABLISH THE BOARD OF TAX APPEALS AS AN
5 INDEPENDENT AGENCY AND PROVIDE FOR ITS MEMBERSHIP; TO PROVIDE THAT
6 THE INITIAL MEMBERS OF THE BOARD SHALL BE THE ASSOCIATE TAX
7 COMMISSIONERS PRESENTLY SERVING ON THE STATE TAX COMMISSION AND A
8 CHAIRMAN APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF
9 THE SENATE; TO PROVIDE THAT THE GOVERNOR SHALL APPOINT THE
10 ASSOCIATE MEMBERS WITH THE ADVICE AND CONSENT OF THE SENATE WHEN
11 THE TERMS OF THE INITIAL ASSOCIATE MEMBERS EXPIRE; TO PROVIDE THAT
12 MEMBERS OF THE BOARD OF TAX APPEALS MAY NOT BE REMOVED FROM OFFICE
13 EXCEPT BY IMPEACHMENT OR AS PROVIDED UNDER SECTION 25-5-1,
14 MISSISSIPPI CODE OF 1972, EXCEPT THAT MEMBERS MAY ALSO BE REMOVED

FOR A CRIMINAL CONVICTION UNDER THE INTERNAL REVENUE CODE; TO PROVIDE THAT THE SALARIES OF THE BOARD OF TAX APPEALS SHALL BE FIXED BY THE STATE PERSONNEL BOARD; TO PROVIDE FOR THE POWERS AND DUTIES OF THE BOARD OF TAX APPEALS; TO PROVIDE THAT THE CHAIRMAN OF THE BOARD OF TAX APPEALS SHALL APPOINT AN EXECUTIVE DIRECTOR WHO SHALL SERVE AT THE WILL AND PLEASURE OF THE CHAIRMAN AND MAY BE REMOVED UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE THAT THE EXECUTIVE DIRECTOR SHALL BE LICENSED TO PRACTICE LAW IN THIS STATE AND HAVE A FAMILIARITY WITH THE TAX APPEALS PROCESS; TO PROVIDE THAT THE SALARY OF THE EXECUTIVE DIRECTOR SHALL BE SET BY THE STATE PERSONNEL BOARD; TO PROVIDE THE POWERS AND DUTIES OF THE EXECUTIVE DIRECTOR; TO PROVIDE FOR THE MEETINGS OF THE BOARD OF TAX APPEALS; TO PROVIDE THAT, EXCEPT FOR THE DUTIES AND POWERS EXERCISED BY THE BOARD OF TAX APPEALS, THE COMMISSIONER OF REVENUE ACTING THROUGH THE DEPARTMENT OF REVENUE SHALL EXERCISE THOSE POWERS, DUTIES AND FUNCTIONS HERETOFORE VESTED IN THE MISSISSIPPI STATE TAX COMMISSION AND THE CHAIRMAN OF THE STATE TAX COMMISSION; TO PROVIDE THE TRANSITIONAL RULES FOR THIS CHANGE; TO AMEND SECTION 27-3-1, MISSISSIPPI CODE OF 1972, TO ESTABLISH THE DEPARTMENT OF REVENUE AND PROVIDE THAT THE HEAD OF THE DEPARTMENT SHALL BE THE COMMISSIONER OF REVENUE; TO PROVIDE THAT THE COMMISSIONER OF REVENUE SHALL BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE FOR A SIX-YEAR TERM; TO PROVIDE THAT THE COMMISSIONER OF REVENUE MAY NOT BE REMOVED FROM OFFICE EXCEPT BY IMPEACHMENT OR AS PROVIDED UNDER SECTION 25-5-1, MISSISSIPPI CODE OF 1972, EXCEPT THAT THE COMMISSIONER MAY ALSO BE REMOVED FOR A CRIMINAL CONVICTION UNDER THE INTERNAL REVENUE CODE; TO AMEND SECTION 27-3-2, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE CHAIRMAN OF THE STATE TAX COMMISSION WHOSE TERM EXPIRES ON JULY 1, 2010, SHALL BE DEEMED TO BE THE INCUMBENT FOR THE OFFICE OF COMMISSIONER OF REVENUE AND SHALL SERVE AS THE COMMISSIONER OF REVENUE UNTIL THE PERSON APPOINTED BY THE GOVERNOR TO FILL THE POSITION HAS BEEN APPOINTED AND QUALIFIED; TO AMEND SECTION 27-3-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE ANNUAL SALARY OF THE COMMISSIONER OF REVENUE SHALL BE FIXED BY THE STATE PERSONNEL BOARD; TO AMEND SECTION 27-3-31, MISSISSIPPI CODE OF 1972, TO CLARIFY THE DUTIES OF THE COMMISSIONER OF REVENUE NECESSITATED BY THIS ACT; TO AMEND SECTION 27-3-61, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE RECORDS AND DOCUMENTS REQUIRED TO BE FILED AND PRESERVED BY THE DEPARTMENT OF REVENUE TO BE PRESERVED DIGITALLY AND/OR ELECTRONICALLY AND TO ALLOW THE DESTRUCTION OF PAPER COPIES OF RECORDS AND DOCUMENTS AFTER THEY HAVE BEEN PRESERVED DIGITALLY OR ELECTRONICALLY; TO AMEND SECTIONS 27-7-51 AND 27-7-53, MISSISSIPPI CODE OF 1972, TO INCREASE TO 60 DAYS FROM THE DATE OF NOTICE THE TIME WITHIN WHICH A TAXPAYER MAY PAY AN ASSESSMENT OF ADDITIONAL INCOME TAXES OR APPEAL THE ASSESSMENT; TO AMEND SECTIONS 27-9-43 AND 27-9-45, MISSISSIPPI CODE OF 1972, TO INCREASE TO 60 DAYS FROM THE DATE OF NOTICE THE TIME WITHIN WHICH A TAXPAYER MUST PAY A DEFICIENCY IN THE ESTATE TAX; TO AMEND SECTIONS 27-13-23 AND 27-13-25, MISSISSIPPI CODE OF 1972, TO INCREASE TO 60 DAYS FROM THE DATE OF NOTICE THE TIME WITHIN WHICH A TAXPAYER MAY PAY AN ASSESSMENT OF ADDITIONAL CORPORATION FRANCHISE TAXES OR APPEAL THE ASSESSMENT; TO AMEND SECTION 27-15-205, MISSISSIPPI CODE OF 1972, TO EXTEND TO 60 DAYS AFTER THE DETERMINATION THAT ADDITIONAL PRIVILEGE TAX IS DUE, THE PERIOD OF TIME DURING WHICH THE ADDITIONAL TAX MAY BE PAID WITHOUT PENALTY; TO AMEND SECTIONS 27-35-163, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DEPARTMENT OF REVENUE TO APPEAL ORDERS OF THE BOARD OF TAX APPEALS REGARDING ASSESSMENTS BY THE DEPARTMENT FOR AD VALOREM TAX PURPOSES; TO AMEND SECTIONS 27-35-309, 27-35-501 AND 27-35-703, MISSISSIPPI CODE OF 1972, TO INCREASE TO 30 DAYS THE PERIOD OF TIME THAT ASSESSMENTS OF CERTAIN RAILROAD, AIRLINE AND OTHER PUBLIC SERVICE CORPORATIONS PROPERTY REMAIN OPEN IN THE OFFICE OF THE DEPARTMENT OF REVENUE AND TO PROVIDE THAT ANY OBJECTIONS SHALL BE IN WRITING AND FILED WITH THE BOARD OF TAX APPEALS WITHIN SUCH PERIOD; TO PROVIDE THAT A COPY OF THE WRITTEN OBJECTIONS MUST BE FILED WITH THE DEPARTMENT OF REVENUE; TO AMEND SECTIONS 27-55-23 AND 27-55-27, MISSISSIPPI CODE OF 1972, TO INCREASE TO 60 DAYS THE PERIOD OF TIME DURING WHICH CERTAIN DECISIONS OF THE DEPARTMENT OF REVENUE UNDER THE GASOLINE TAX LAW

MAY BE APPEALED TO THE BOARD OF REVIEW OF THE DEPARTMENT OF REVENUE; TO AMEND SECTION 27-57-19, MISSISSIPPI CODE OF 1972, TO INCREASE TO 60 DAYS THE PERIOD OF TIME DURING WHICH CERTAIN DECISIONS OF THE DEPARTMENT OF REVENUE UNDER THE LUBRICATING OIL TAX LAW MAY BE APPEALED TO THE BOARD OF REVIEW OF THE DEPARTMENT OF REVENUE; TO AMEND SECTIONS 27-65-35 AND 27-65-37, MISSISSIPPI CODE OF 1972, TO INCREASE TO 60 DAYS THE PERIOD OF TIME WITHIN WHICH A TAXPAYER MUST PAY CERTAIN ASSESSMENTS AND DAMAGES UNDER THE SALES TAX LAW; TO AMEND SECTIONS 27-77-1, 27-77-5, 27-77-7, 27-77-9, 27-77-11, 27-77-12, 27-77-13, 27-77-15, 27-77-17 AND 27-77-19, MISSISSIPPI CODE OF 1972, TO REVISE THE TIME WITHIN WHICH AN ORDER OF THE BOARD OF REVIEW OF THE DEPARTMENT OF REVENUE MAY BE APPEALED BY AN AGGRIEVED PARTY TO THE BOARD OF TAX APPEALS; TO PROVIDE THAT THE BOARD OF REVIEW RETAINS AUTHORITY TO CORRECT AN ORDER THAT IS BEING APPEALED AT ANY TIME PRIOR TO A DECISION BY THE BOARD OF TAX APPEALS; TO AUTHORIZE THE DEPARTMENT OF REVENUE TO APPEAL THE DECISIONS OF THE BOARD OF TAX APPEALS; TO PROVIDE THAT THE TIME WITHIN WHICH SUCH APPEALS MUST BE FILED IN THE CHANCERY COURT; TO PROVIDE THE TIME WITHIN WHICH THE RESPONDENT MAY FILE A CROSS-APPEAL; TO PROVIDE THAT IF BOTH PARTIES FILE A PETITION, THE APPEALS SHALL BE CONSOLIDATED IN THE CHANCERY COURT WHERE THE TAXPAYER FILED HIS PETITION; TO PROVIDE THAT A PETITION FILED BY A TAXPAYER THAT APPEALS AN ORDER OF THE BOARD OF TAX APPEALS AFFIRMING A TAX ASSESSMENT SHALL BE ACCOMPANIED BY A SURETY BOND IN A SUM HALF THE AMOUNT IN CONTROVERSY; TO REQUIRE THE TAXPAYER TO PAY ANY TAX INCLUDED IN AN ASSESSMENT THAT HE IS NOT CONTESTING; TO PROVIDE THAT IN AN ACTION RESULTING FROM AN ORDER OF THE BOARD OF TAX APPEALS INVOLVING A REFUND CLAIM DENIAL, THE DEPARTMENT OF REVENUE SHALL REFUND THE AMOUNT OF THE CLAIM THAT IS NOT CONTESTED; TO CLARIFY THE CONDUCT OF HEARINGS REGARDING THE SUSPENSION, SEIZURE OR REVOCATION OF CERTAIN PERMITS, LICENSE TAGS OR TITLES; TO PROVIDE FOR THE PAYMENT OF THE COST OF APPEALS; TO GRANT THE BOARD OF TAX APPEALS CERTAIN AUTHORITY TO ISSUE SUBPOENAS AND THE AUTHORITY TO INSTITUTE CERTAIN PROCEEDINGS TO ENFORCE SUCH SUBPOENAS; TO AMEND SECTION 67-1-33, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERMS "GRATUITY," "EMOLUMENT," "EMPLOYMENT" AND "PECUNIARY BENEFIT" WITH REGARD TO CERTAIN PROHIBITIONS IN THE LOCAL OPTION LAW REGARDING OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF REVENUE; TO AMEND SECTION 67-1-63, MISSISSIPPI CODE OF 1972, TO PROVIDE THE PERIOD OF TIME THAT A PERMITTEE UNDER THE LOCAL OPTION ALCOHOLIC BEVERAGE CONTROL LAW MAY CONTINUE TO OPERATE WHEN HIS APPLICATION FOR RENEWAL OF A PERMIT HAS BEEN DENIED FOR CERTAIN REASONS; TO PROVIDE THAT THE ISSUANCE OR RENEWAL OF A PERMIT BASED ON A DECISION OF THE BOARD OF TAX APPEALS DOES NOT BAR THE DEPARTMENT OF REVENUE FROM APPEALING THE DECISION; TO CREATE NEW CODE SECTION 67-1-72, MISSISSIPPI CODE OF 1972, TO PROVIDE THE MANNER OF APPEALING THE DECISIONS OF THE DEPARTMENT OF REVENUE MADE UNDER THE LOCAL OPTION ALCOHOLIC BEVERAGE CONTROL LAW TO THE BOARD OF TAX APPEALS; TO AMEND SECTIONS 1-1-11, 25-41-3, 27-3-3, 27-3-13, 27-3-15, 27-3-17, 27-3-19, 27-3-23, 27-3-33, 27-3-35, 27-3-39, 27-3-41, 27-3-43, 27-3-45, 27-3-47, 27-3-49, 27-3-51, 27-3-52, 27-3-53, 27-3-57, 27-3-58, 27-3-59, 27-3-63, 27-3-65, 27-3-73, 27-3-79, 27-3-80, 27-3-81, 27-3-83, 27-7-3, 27-7-45, 27-7-303, 27-7-503, 27-7-601, 27-7-701, 27-9-3, 27-13-1, 27-15-3, 27-19-1, 27-19-3, 27-19-303, 27-21-1, 27-25-3, 27-25-303, 27-25-501, 27-25-701, 27-33-11, 27-33-37, 27-33-41, 27-35-81, 27-35-113, 27-35-115, 27-35-117, 27-35-129, 27-35-311, 27-35-313, 27-35-325, 27-35-517, 27-35-701, 27-41-69, 27-51-19, 27-51-45, 27-51-101, 27-55-1, 27-55-5, 27-55-501, 27-55-505, 27-55-535, 27-57-1, 27-57-5, 27-59-1, 27-59-3, 27-59-301, 27-59-303, 27-61-1, 27-61-3, 27-65-3, 27-65-87, 27-65-89, 27-67-3, 27-68-3, 27-67-503, 27-69-3, 27-71-1, 27-71-301, 63-21-3, 63-21-5, 63-21-75, 67-1-5, 67-1-19, 67-1-23, 67-1-35, 67-1-37, 67-1-39, 67-1-71, 67-3-3, 67-7-5, 71-5-389, 75-23-5, 75-23-31, 75-76-5 AND 75-76-83, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; TO CREATE A STUDY COMMITTEE TO STUDY THE MATTER OF AD VALOREM TAXATION IN THIS STATE AND TO MAKE RECOMMENDATIONS THEREON TO THE LEGISLATURE; AND FOR RELATED PURPOSES.

HR03\SB2712A.J

Don Richardson
Clerk of the House of Representatives