

## 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

317 (b) To make, execute and effectuate any and all  
318 agreements or contracts, including contracts for the purchase of  
319 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,

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

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

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

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

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

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

410 (3) In regard to any action taken by the Chairman of the  
411 State Tax Commission and/or by the State Tax Commission prior to  
412 the effective date of this act, the creation of the Department of  
413 Revenue and the transfer of powers, duties and functions to the  
414 Commissioner of Revenue of the Department of Revenue from the  
415 Chairman of the State Tax Commission and from the State Tax  
416 Commission as set out in subsection (1) of this section shall be  
417 treated as only a change in the name of the entity taking such  
418 action from the Chairman of the State Tax Commission to the  
419 Commissioner of Revenue of the Department of Revenue or from the  
420 State Tax Commission to the Department of Revenue, and the  
421 Commissioner of Revenue acting through the Department of Revenue  
422 shall succeed to any right, duty or obligation as the result of  
423 such action and shall be treated as the same entity that took such  
424 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

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

464 (5) The terms "Mississippi State Tax Commission," "State Tax  
465 Commission," "Tax Commission," and "commission" appearing in the  
466 laws of this state in connection with the performance of the  
467 duties and functions by the Mississippi State Tax Commission, the  
468 State Tax Commission or Tax Commission shall mean the Department  
469 of Revenue, and, more particularly, such words or terms shall mean  
470 the Department of Revenue whenever they appear in Sections 7-5-25,  
471 7-7-49, 9-21-51, 11-51-77, 13-3-157, 13-3-169, 17-17-53,  
472 17-17-219, 17-17-327, 17-17-415, 17-17-423, 19-2-11, 19-5-357,  
473 19-9-151, 21-29-229, 21-29-233, 21-33-3, 21-33-5, 21-33-9,  
474 21-33-13, 21-33-43, 21-33-45, 21-33-47, 21-33-205, 21-33-207,  
475 21-33-209, 21-45-21, 25-1-73, 25-1-87, 25-3-1, 25-3-3, 25-3-15,  
476 25-15-9, 25-17-9, 25-53-151, 25-55-15, 25-58-21, 25-60-1, 25-65-5,  
477 25-65-7, 27-5-101, 27-5-103, 27-5-155, 27-5-159, 27-7-901,  
478 27-7-903, 27-8-19, 27-17-423, 27-19-11, 27-19-27, 27-19-31,  
479 27-19-39, 27-19-40, 27-19-41, 27-21-7, 27-21-19, 27-31-1,  
480 27-31-31, 27-31-37, 27-31-38, 27-31-87, 27-31-101, 27-31-107,  
481 27-31-109, 27-31-113, 27-35-15, 27-35-17, 27-35-19, 27-35-23,  
482 27-35-25, 27-35-35, 27-35-50, 27-35-55, 27-35-75, 27-35-77,  
483 27-35-81, 27-35-97, 27-35-111, 27-35-119, 27-35-123, 27-35-127,  
484 27-35-131, 27-35-133, 27-35-135, 27-35-141, 27-35-143, 27-35-145,  
485 27-35-147, 27-35-165, 27-35-167, 27-35-301, 27-35-303, 27-35-305,  
486 27-35-307, 27-35-310, 27-35-313, 27-35-321, 27-35-327, 27-35-337,  
487 27-35-509, 27-35-511, 27-35-513, 27-35-515, 27-35-519, 27-35-525,  
488 27-35-527, 27-35-531, 27-37-19, 27-37-21, 27-37-23, 27-37-27,  
489 27-37-29, 27-37-31, 27-37-301, 27-37-303, 27-38-5, 27-38-7,  
490 27-39-317, 27-39-319, 27-39-325, 27-39-329, 27-41-21, 27-41-37,  
491 27-41-101, 27-45-21, 27-51-13, 27-51-15, 27-51-17, 27-51-21,  
492 27-71-501, 27-71-503, 27-71-507, 27-73-9, 27-75-16, 27-103-209,  
493 27-103-211, 27-104-13, 27-104-17, 27-107-75, 27-107-95,  
494 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;

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

583 One (1) set to each state junior or community college; three  
584 (3) sets to the Department of Wildlife, Fisheries and Parks; two  
585 (2) sets to the Department of Environmental Quality; two (2) sets  
586 to the Department of Marine Resources; two (2) sets to the  
587 Mississippi Ethics Commission; six (6) sets to the Mississippi  
588 Workers' Compensation Commission; four (4) sets to the State  
589 Department of Rehabilitation Services; and seven (7) sets to the  
590 Department of Human Services. One (1) set to each of the  
591 following: State Textbook Procurement Commission; University  
592 Medical Center; State Library Commission; Department of  
593 Agriculture and Commerce; Forestry Commission; and seventeen (17)  
594 sets to the Department of Public Safety. Also, one (1) set to  
595 each of the following: Adjutant General, Mississippi Development  
596 Authority, Department of Banking and Consumer Finance, Bureau of  
597 Building, Grounds and Real Property Management, the State  
598 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

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

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

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

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

728 \* \* \*

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

731 27-3-2. (1) No person appointed by the Governor as  
732 Commissioner of Revenue under the terms of Section 27-3-1 shall be  
733 eligible to take office unless his name shall have been submitted  
734 to the Mississippi Senate for its advice and consent at least  
735 thirty (30) days prior to the scheduled adjournment of the regular  
736 session of the Legislature being held in the calendar year in  
737 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

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

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

778 27-3-13. The Commissioner of Revenue is \* \* \* empowered to  
779 employ \* \* \* such accountants, appraisers, information systems  
780 programmers, information systems technicians, information systems  
781 managers, clerical help, stenographers, and such other assistants  
782 and/or attorneys as he may deem necessary to the proper discharge  
783 of the duties of the Department of Revenue, to prescribe their  
784 duties and to fix the compensation of each employee within the  
785 rules, regulations and guidelines of the State Personnel Board.

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

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

800 27-3-15. The Commissioner of Revenue may require such of his  
801 employees as authorized by this chapter to execute bonds in some  
802 surety company authorized to do business in the State of  
803 Mississippi in such sum as it may order not to exceed for any one  
804 (1) employee the sum of Twenty-five Thousand Dollars (\$25,000.00),  
805 and the premium on the bond shall be paid out of any money  
806 appropriated for the general expenses of the Department of  
807 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

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

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

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

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

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

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

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

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

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

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

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

875 (i) To appeal any decision of the Board of Tax Appeals  
876 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

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

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

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

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

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

923 \* \* \*

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

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

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

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

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

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

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

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

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

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

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

995 27-3-35. In all cases of valuation or ownership of property  
996 which has escaped taxation, the Commissioner of Revenue may have  
997 subpoenaed witnesses to testify before any board of supervisors,  
998 board of mayor and aldermen, or other municipal governing  
999 authority, or before the commissioner himself, his designee or any  
1000 other lawful taxing authority.

1001 **SECTION 21.** Section 27-3-39, Mississippi Code of 1972, is  
1002 amended as follows:

1003 27-3-39. The Commissioner of Revenue shall investigate and  
1004 ascertain what property, if any, is escaping taxation or  
1005 assessment. After the first day of February should the  
1006 Commissioner of Revenue discover that any person, corporation,  
1007 property, business, occupation or calling has escaped taxation for  
1008 the previous calendar year or years by reason of not being  
1009 assessed by either a county or municipality, it shall be his duty  
1010 to give notice to the county or municipal tax assessor in writing,  
1011 and the assessor shall, within ten (10) days thereafter, make the  
1012 proper assessment by way of an additional assessment and file the  
1013 assessment with the clerk of the board of supervisors or the clerk  
1014 of the municipality, as the case may be, who shall enter the

1015 assessment on the last approved roll or rolls in his hands, and  
1016 the clerk shall give ten-days' notice in writing to the person or  
1017 corporation whose property is thus assessed, and all objections to  
1018 the assessment shall be heard at the next meeting of the board of  
1019 supervisors of the county or the governing authorities of the  
1020 municipality. The board of supervisors or governing authorities  
1021 of the municipality shall also be notified in writing by the  
1022 assessor of the assessment, and the Commissioner of Revenue or his  
1023 designee may appear at the meeting, and an appeal to the circuit  
1024 court may be taken from the order of the board approving or  
1025 disapproving the assessment by either party. If the assessment is  
1026 approved and no appeal is taken, the clerk shall certify this to  
1027 the Commissioner of Revenue and if the taxes are not \* \* \* paid  
1028 within thirty (30) days thereafter, the property, if it is real  
1029 estate, shall be ordered sold as provided for by law, and if it is  
1030 personal the Commissioner of Revenue shall proceed to collect by  
1031 distress or otherwise. If the tax assessor \* \* \* fails or refuses  
1032 to make an assessment and report the assessment as \* \* \* required  
1033 by this section, he shall be liable on his bond for the amount of  
1034 taxes properly collectible and ten percent (10%) damages thereon.

1035 **SECTION 22.** Section 27-3-41, Mississippi Code of 1972, is  
1036 amended as follows:

1037 27-3-41. The power of the Commissioner of Revenue to  
1038 institute proceedings for the assessment of property which has  
1039 escaped taxation by reason of not being assessed shall expire at  
1040 the end of seven (7) years from the date when his right so to do  
1041 first accrued, and it shall bring all suits he is authorized to  
1042 bring within six (6) years after the cause of action accrues and  
1043 not thereafter.

1044 **SECTION 23.** Section 27-3-43, Mississippi Code of 1972, is  
1045 amended as follows:

1046 27-3-43. When land is purchased by the Commissioner of  
1047 Revenue as the successful bidder in accordance with Section  
1048 27-7-63, 27-13-37 or 27-65-65, the Commissioner of Revenue may  
1049 then sell the state's interest in the land at a public or private

1050 sale to the best interest of the state. If after such purchase,  
1051 the Commissioner of Revenue determines that it is not in the best  
1052 interest of the state for him to sell the state's interest in the  
1053 land, he shall, after the expiration of any applicable redemption  
1054 period, render a full description of the land to the land  
1055 commissioner, and after such rendering, the land shall be  
1056 registered at the land office and sold as other state lands. \* \* \*

1057 **SECTION 24.** Section 27-3-45, Mississippi Code of 1972, is  
1058 amended as follows:

1059 27-3-45. The Department of Revenue shall settle with the  
1060 State Treasurer, and pay over daily to the State Treasurer all  
1061 monies collected by it each day; and it shall make a report to the  
1062 State Auditor at the end of the fiscal year, giving a full account  
1063 of all collections by it under the provisions of Sections 27-3-33,  
1064 27-3-37, 27-3-39, 27-3-43, 27-3-47 and 27-3-71 during the  
1065 preceding fiscal year and of whom and on whose account collected.  
1066 For a failure to render such account and settle and pay over all  
1067 collections made by it, as required by law, the Commissioner of  
1068 Revenue shall be suspended from office by the Governor in the same  
1069 manner as in the case of a defaulting State Treasurer.

1070 **SECTION 25.** Section 27-3-47, Mississippi Code of 1972, is  
1071 amended as follows:

1072 27-3-47. No county, municipality, drainage district, levee  
1073 board, or other administrative body, shall be chargeable with any  
1074 fees or expenses on account of any investigation, demand or suit  
1075 made or instituted by the Commissioner of Revenue; nor shall any  
1076 fees or commissions be deducted or retained from any funds  
1077 collected for or belonging to the state, any county, municipality,  
1078 drainage district, levee district or other political subdivision,  
1079 from any state or any other subdivision or department thereof.  
1080 Nothing in this section shall be construed, however, to prohibit  
1081 the Commissioner of Revenue from expending funds appropriated for  
1082 the support of the Department of Revenue in administering the  
1083 provisions hereof, and in making investigations and demands and  
1084 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

1155 avails of the one (1) mill levy as provided for in Section  
1156 27-39-329(2) (b) shall not be expended until the county complies  
1157 with such request.

1158         **SECTION 28.** Section 27-3-52, Mississippi Code of 1972, is  
1159 amended as follows:

1160             27-3-52. (1) The Department of Revenue shall promulgate  
1161 rules and regulations setting forth the minimum requirements for  
1162 which tax assessors and/or their deputy assessors or assistants,  
1163 appropriate state employees, employees of planning and development  
1164 districts or other persons may attain certification as an  
1165 appraiser. The Department of Revenue shall establish and conduct  
1166 such educational and training programs as may be appropriate to  
1167 assist such persons in attaining such certification.

1168             (2) Counties having not more than five thousand (5,000)  
1169 applicants for homestead exemption shall have at least one (1)  
1170 certified appraiser, and counties having more than five thousand  
1171 (5,000) applicants for homestead exemption shall have at least two  
1172 (2) certified appraisers; however, any county may employ any  
1173 certified appraiser on a part-time basis.

1174             (3) When any tax assessor and/or his deputies or assistants  
1175 travel outside of their county to attend an appraisal school,  
1176 seminar or workshop approved by the Department of Revenue, such  
1177 persons shall receive as reimbursement of expenses of such travel  
1178 the same mileage and actual and necessary expenses for food,  
1179 lodging and travel by public carrier or private motor vehicles as  
1180 is allowed under Section 25-3-41. However, mileage shall not be  
1181 authorized when such travel is done by a motor vehicle owned by  
1182 the county.

1183             (4) The county board of supervisors shall reimburse the  
1184 assessors, tax collectors and deputies for reasonable and  
1185 necessary expenses sustained in attending annual conferences,  
1186 regional conferences, schools and seminars. The Department of  
1187 Revenue shall have the authority to prescribe forms and to  
1188 promulgate rules and regulations necessary to implement the  
1189 provisions of this section. No expenses authorized herein shall

1190 be reimbursed unless the expenses have been authorized or approved  
1191 by an order of the board duly made and spread upon the minutes of  
1192 such board.

1193       (5) When any tax assessor and/or his deputies or assistants  
1194 attend and successfully complete all qualifications pursuant to  
1195 the Mississippi Education and Certification Program and receive  
1196 the certification level of Track II, Evaluator I, they shall  
1197 receive an additional One Thousand Dollars (\$1,000.00) annually  
1198 beginning the next fiscal year after completion.

1199       (6) When any tax assessor and/or his deputies or assistants  
1200 attend and successfully complete all qualifications pursuant to  
1201 the Mississippi Education and Certification Program and receive  
1202 the certification level of Track II, Evaluator II, they shall  
1203 receive an additional One Thousand Dollars (\$1,000.00) annually  
1204 beginning the next fiscal year after completion.

1205       (7) When any tax assessor and/or his deputies or assistants  
1206 attend and successfully complete all qualifications pursuant to  
1207 the Mississippi Education and Certification Program and receive  
1208 the certification level of Mississippi Assessment Evaluator (MAE),  
1209 they shall receive an additional One Thousand Five Hundred Dollars  
1210 (\$1,500.00) annually beginning the next fiscal year after  
1211 completion.

1212       (8) When any deputy tax assessor successfully completes all  
1213 qualifications to become a licensed certified residential real  
1214 estate appraiser under Sections 73-34-1 through 73-34-63, on the  
1215 recommendation of the tax assessor, the county board of  
1216 supervisors may pay, in its discretion, an additional amount not  
1217 to exceed Three Thousand Dollars (\$3,000.00) annually to the  
1218 deputy beginning the next fiscal year after the completion of such  
1219 qualifications.

1220       (9) When any deputy tax assessor successfully completes all  
1221 qualifications to become a licensed certified general real estate  
1222 appraiser under Sections 73-34-1 through 73-34-63, on the  
1223 recommendation of the tax assessor, the county board of  
1224 supervisors may pay, in its discretion, an additional amount not

1225 to exceed Five Thousand Dollars (\$5,000.00) annually to the deputy  
1226 beginning the next fiscal year after the completion of such  
1227 qualifications.

1228 (10) The accumulative total of all educational increases  
1229 authorized under \* \* \* subsections (5), (6), (7), (8) and (9) of  
1230 this section shall not exceed Eight Thousand Five Hundred Dollars  
1231 (\$8,500.00) and shall be paid out of the common county fund from  
1232 proceeds of the one (1) mill ad valorem tax as provided in Section  
1233 27-39-329.

1234 (11) In order to receive the additional annual payment or  
1235 payments provided for in \* \* \* subsections (5), (6), (7), (8) and  
1236 (9) of this section, the tax assessor or deputies or assistants  
1237 who completed the Mississippi Education and Certification Program  
1238 and were certified as provided herein shall be personally involved  
1239 in the conduct, administration and/or supervision of the appraisal  
1240 of the property of the county and in the maintenance of such  
1241 appraisal.

1242 **SECTION 29.** Section 27-3-53, Mississippi Code of 1972, is  
1243 amended as follows:

1244 27-3-53. The Department of Revenue shall prepare and furnish  
1245 forms for obtaining the information hereinafter provided for,  
1246 whenever they may deem it necessary.

1247 (a) Amount of fire insurance carried on all buildings  
1248 and on personal property of every description.

1249 (b) All individuals, firms, partnerships and  
1250 corporations engaged wholly or in part in mercantile,  
1251 manufacturing or any other business, (except banks and insurance  
1252 companies) occupation or calling, shall, on demand by the  
1253 Department of Revenue in writing, furnish a sworn statement of  
1254 their taxable property, as of January first of each year; and of  
1255 their assets and liabilities on that date. Any person or concern  
1256 failing or refusing to furnish the information required within  
1257 thirty (30) days after written notice so to do from the Department  
1258 of Revenue shall be guilty of a misdemeanor, and on conviction  
1259 shall be punished as for a misdemeanor. The information herein

1260 provided for shall be confidential, and shall not be given anyone  
1261 by the Department of Revenue, except to county and municipal tax  
1262 assessors. And for the illegal disclosure of any information  
1263 provided for under this section, the injured party shall have a  
1264 right of action against the Commissioner of Revenue or the  
1265 assessor, on their or his official bond, for any actual damages  
1266 sustained.

1267 **SECTION 30.** Section 27-3-57, Mississippi Code of 1972, is  
1268 amended as follows:

1269 27-3-57. All funds collected by the Commissioner of Revenue  
1270 and by the Department of Revenue under the provisions of any law  
1271 are designated as public funds of the State of Mississippi. All  
1272 such funds shall be deposited in the State Treasury on the same  
1273 day in which the funds are collected, in accordance with Section  
1274 7-9-21. The State Treasurer shall transfer such monies to  
1275 municipalities, counties and other special accounts, as provided  
1276 by law.

1277 The Commissioner of Revenue shall determine amounts due all  
1278 municipalities, counties and such special funds as provided by law  
1279 and shall certify to the State Treasurer at the end of each month  
1280 the amount due each municipality, county or special fund. All tax  
1281 collections to be apportioned by the Department of Revenue  
1282 pursuant to Sections 27-65-75, 27-19-159, 27-5-101 and 27-5-103  
1283 shall be distributed to the proper sources as provided by law by  
1284 the State Treasurer upon the certification of apportionment by the  
1285 Department of Revenue. The State Treasurer shall requisition  
1286 monies from the Treasury in such amounts as determined and  
1287 certified by the Department of Revenue. The Department of Finance  
1288 and Administration shall deliver the warrant to the State  
1289 Treasurer who shall transfer such funds to each municipality,  
1290 county or other such special fund by warrant or by electronic  
1291 funds transfer on the due date.

1292 Officers charged with the responsibility of handling such  
1293 funds shall be required to provide fidelity bonds in the amount  
1294 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

1330 shall be the duty of the tax assessors and collectors, or  
1331 deputies, to attend and participate in these regional conferences  
1332 and each tax assessor and collector, or his deputy, who attends  
1333 and participates in these regional conferences shall be reimbursed  
1334 for his expenses in the same manner as those attending the annual  
1335 conference.

1336 Each tax assessor and collector attending and participating  
1337 in the annual or regional conferences in person, or by deputy,  
1338 shall be entitled to receive as expenses for attending the  
1339 conferences, travel, meals, lodging and other necessary expenses  
1340 at the rate provided for in Section 25-3-41, which expenses shall  
1341 be paid from the county general fund or proceeds from the levy  
1342 imposed for the maintenance of the reappraisal program in such  
1343 county.

1344 The Department of Revenue shall have the authority to  
1345 prescribe forms and to promulgate rules and regulations necessary  
1346 to implement the provisions of this section.

1347 Forms to be used for payment and reimbursement of expenses  
1348 and forms of certificate of attendance to be furnished the tax  
1349 assessors and collectors by the Department of Revenue, requisition  
1350 and expense vouchers to be made on the State Auditor, the entire  
1351 expense to be paid from the county general fund. The requisition  
1352 and voucher shall be supported by a certificate of attendance to  
1353 the conferences from the Department of Revenue before any payment  
1354 shall be made. A newly elected county tax assessor or collector  
1355 who has not qualified and taken office shall be entitled to  
1356 receive the same payment and reimbursement for expenses in  
1357 attending the conferences as the retiring county tax assessor or  
1358 collector is entitled to receive.

1359 **SECTION 33.** Section 27-3-61, Mississippi Code of 1972, is  
1360 amended as follows:

1361 27-3-61. (1) The Department of Revenue and the Commissioner  
1362 of Revenue shall file and preserve for the time specified by this  
1363 section, and as required by any other laws of this state, complete  
1364 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,

1434 to make the audit, examination or inspection at the principal  
1435 place of business of the taxpayer, and shall state the kind of tax  
1436 for which the audit, examination or inspection is thereby made,  
1437 but for an inspection in regard to those taxes administered by the  
1438 Department of Revenue there shall be no charge of any kind made  
1439 against the taxpayer for the expenses of such inspection.

1440 **SECTION 36.** Section 27-3-73, Mississippi Code of 1972, is  
1441 amended as follows:

1442 27-3-73. (1) Except in accordance with proper judicial  
1443 order, it shall be unlawful for the Commissioner of Revenue, or  
1444 any deputy, agent, clerk or other officer or employee of the  
1445 Department of Revenue, to divulge or make known in any manner the  
1446 amount of income or any particulars set forth or disclosed in any  
1447 report or return required on any taxes collected by reports  
1448 received by the Department of Revenue. This provision relates to  
1449 all taxes collected by the \* \* \* Department of Revenue and not  
1450 referred to in Sections 27-7-83, 27-13-57 and 27-65-81, requiring  
1451 confidentiality of income tax, franchise tax and sales tax  
1452 returns. Nothing herein shall be construed to prohibit the  
1453 publication of statistics, so classified as to prevent the  
1454 identification of particular reports or returns and the items  
1455 thereof, or the inspection by the Attorney General, or any other  
1456 attorney representing the state, of the report or return of any  
1457 taxpayer who shall bring action to set aside the tax thereon, or  
1458 against whom an action or proceeding has been instituted to  
1459 recover any tax or penalty imposed. Additionally, nothing herein  
1460 shall prohibit the Commissioner of Revenue from making available  
1461 information necessary to recover taxes owing the state pursuant to  
1462 the authority granted in Section 27-75-16, Mississippi Code of  
1463 1972.

1464 The term "proper judicial order" as used in this section  
1465 shall not include subpoenas or subpoenas duces tecum but shall  
1466 include only those orders entered by a court of record in this  
1467 state after furnishing notice and a hearing to the taxpayer and  
1468 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

1504 estimated tax payments required to be made under Section 27-7-319.  
1505 All civil and criminal penalties for nonpayment of taxes,  
1506 including the penalties set forth in subsection (2) of this  
1507 section, shall be waived for any eligible individual or  
1508 corporation who, during the tax amnesty period, makes total  
1509 payment of the taxes due. The State Tax Commission is authorized  
1510 to do all things necessary to carry out the tax amnesty programs  
1511 that are not inconsistent with this section.

1512 (2) Any person eligible for the tax amnesty program and who  
1513 fails to make total payment of the taxes due during the tax  
1514 amnesty period, or any person who willfully attempts in any manner  
1515 to evade or defeat any tax imposed by the State Tax Commission or  
1516 the Department of Revenue, or assists in the evading of that tax  
1517 or the payment thereof, including violations determined under  
1518 Section 27-3-80, shall, in addition to other penalties provided by  
1519 law, be guilty of a felony and, upon conviction thereof, shall be  
1520 fined not more than One Hundred Thousand Dollars (\$100,000.00)  
1521 and, in the case of a corporation, not more than Five Hundred  
1522 Thousand Dollars (\$500,000.00), or imprisoned not more than five  
1523 (5) years, or both.

1524 (3) Any prosecutions for tax evasion as described in this  
1525 section shall be begun within six (6) years next after the  
1526 statutory due date for the taxes in issue.

1527 **SECTION 38.** Section 27-3-80, Mississippi Code of 1972, is  
1528 amended as follows:

1529 27-3-80. (1) The Attorney General, the Department of  
1530 Revenue, the Department of Public Safety and the Bureau of  
1531 Narcotics shall create a task force to facilitate the transfer of  
1532 information from law enforcement agencies to the Attorney General  
1533 indicating that an individual is a drug trafficking kingpin, is  
1534 laundering money received from drug trafficking and is likely  
1535 evading the income reporting requirements of state law. The  
1536 Attorney General shall examine all relevant information to  
1537 determine the probability that such violations of law exist. The  
1538 Attorney General may enlist the aid of any other law enforcement

1539 agency in the state in an investigation under this section. If  
1540 the Attorney General determines that tax evasion is probably  
1541 occurring, he shall forward the information to the Department of  
1542 Revenue with a request that the Department of Revenue perform a  
1543 criminal tax evasion investigation. The Department of Revenue  
1544 shall report its preliminary findings to the Attorney General  
1545 within one hundred twenty (120) days after receiving the  
1546 information.

1547 (2) If the \* \* \* report of the Department of Revenue to the  
1548 Attorney General indicates that the individual who is the subject  
1549 of the investigation has failed to report income as required by  
1550 law and such failure constitutes a criminal violation, the  
1551 Attorney General is authorized to prosecute the individual for  
1552 criminal tax violations. The Attorney General is authorized to  
1553 file an ex parte petition for release of tax information to the  
1554 Bureau of Narcotics for presentation to appropriate state or  
1555 federal prosecutors for the prosecution of federal tax offenses or  
1556 other applicable offenses.

1557 (3) Subject to available funding, the Department of Revenue  
1558 is authorized to employ a criminal investigator to carry out the  
1559 investigative and reporting requirements of this section.

1560 (4) Any information received by the Attorney General, the  
1561 Department of Revenue, the Bureau of Narcotics or other law  
1562 enforcement agency shall be confidential except to the extent that  
1563 disclosure is necessary to pursue tax evasion or other criminal  
1564 tax charges or unless a proper judicial order is obtained.  
1565 Information received under this section is exempt from the  
1566 Mississippi Public Records Act of 1983.

1567 (5) As used in this section:

1568 (a) "Drug trafficking kingpin" means an individual who  
1569 directs or participates in directing the illegal activities of a  
1570 kingpin organization.

1571 (b) "Kingpin organization" means a group of  
1572 individuals, operating as a group either formally or informally,  
1573 who sell, transport, manufacture and/or deliver controlled

1574 substances in felony violation of the Uniform Controlled  
1575 Substances Law. To qualify as a kingpin organization, the group  
1576 would either have to distribute major quantities of controlled  
1577 substances, or their trafficking activities would have to occur in  
1578 or affect more than one (1) circuit court district.

1579 **SECTION 39.** Section 27-3-81, Mississippi Code of 1972, is  
1580 amended as follows:

1581 27-3-81. The Department of Revenue may require, consistent  
1582 with the cash management policies of the State Treasurer, that any  
1583 person owing Twenty Thousand Dollars (\$20,000.00) or more in  
1584 connection with any return, report or other document to be filed  
1585 with the Department of Revenue shall pay any such tax liability to  
1586 the state no later than the date such payment is required by law  
1587 to be made in funds which are immediately available to the state  
1588 on the date of payment. Payment in immediately available funds  
1589 may be made by wire transfers of funds through the Federal Reserve  
1590 System or by any other means established by the Department of  
1591 Revenue, with the approval of the State Treasurer, which ensures  
1592 availability of such funds to the state on the date of payment.  
1593 Evidence of such payment shall be furnished to the Department of  
1594 Revenue on or before the due date of the tax as established by  
1595 law. Failure to timely make such payment in immediately available  
1596 funds or failure to provide such evidence of payment in a timely  
1597 manner shall subject the taxpayer to penalty and interest as  
1598 provided by law for delinquent or deficient tax payments. If  
1599 payment is timely made in other than immediately available funds,  
1600 penalty and interest shall be added to the amount of tax due from  
1601 the due date of the tax payment to the date that the funds for the  
1602 tax payment become available to the state.

1603 **SECTION 40.** Section 27-3-83, Mississippi Code of 1972, is  
1604 amended as follows:

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

1609 submitting the forms or documents manually or by submitting them  
1610 electronically.

1611 (2) The Commissioner of Revenue may specify by rule or  
1612 regulation alternative forms of signature that may be allowed or  
1613 required on tax returns and documents. Such alternative forms of  
1614 signature shall have the same legal effect as that of a manual  
1615 signature.

1616 (3) An electronic or paper reproduction of a form or  
1617 document, or the reproduction of the information placed on  
1618 computer storage devices by electronic means, shall be deemed to  
1619 be an original of the form or document for all purposes and is  
1620 admissible in evidence without further foundation in all courts  
1621 and administrative hearings if the following certification by the  
1622 Commissioner of Revenue, along with his official seal, is affixed  
1623 to the reproduction:

1624 The Commissioner of Revenue, official custodian of all  
1625 records of the \* \* \* Department of Revenue, hereby certifies this  
1626 document is a true reproduction of the information contained in  
1627 the official records of this agency.

1628 (4) If a person fails to comply with the rules and  
1629 regulations promulgated by the commissioner under the provisions  
1630 of subsection (1) or (2) of this section, the commissioner may  
1631 impose a penalty of Twenty-five Dollars (\$25.00) for each instance  
1632 of noncompliance. Any penalty imposed under this section shall be  
1633 collected in the same manner as that set forth for the collection  
1634 of penalties under the Mississippi Sales Tax Law, being Section  
1635 27-65-1 et seq.

1636 **SECTION 41.** Section 27-7-3, Mississippi Code of 1972, is  
1637 amended as follows:

1638 27-7-3. When used in this article:

1639 (a) "Taxpayer" includes any individual, partnership,  
1640 corporation, association, trust or estate, subject to a tax  
1641 imposed hereunder, or whose income is, in whole or in part,  
1642 subject to a tax imposed hereunder.

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

1646 (c) "Foreign," when applied to any corporation or  
1647 association, including partnerships, means created or organized  
1648 outside the State of Mississippi.

1649 (d) "Fiduciary" means a guardian, trustee, executor,  
1650 administrator, receiver, conservator, or any person, whether  
1651 individual or corporate, acting in any fiduciary capacity, for any  
1652 person, trust, or estate.

1653 (e) "Resident" means a natural person and includes, for  
1654 the purpose of determining liability for the tax imposed by this  
1655 article upon or with reference to the income of any taxable year,  
1656 any person domiciled in the State of Mississippi and any other  
1657 person who maintains a legal or actual residence within the state.

1658 (f) "Nonresident," when used in connection with this  
1659 article, shall apply to any natural person whose domicile and  
1660 place of abode is without the State of Mississippi.

1661 (g) "Foreign country" or "foreign government" means any  
1662 jurisdiction other than the one embraced within the United States.  
1663 The words "United States" includes the states, the District of  
1664 Columbia, and the territorial possessions of the United States.

1665 (h) "State Tax Commission" or "Tax Commission" means  
1666 the Department of Revenue. "Commission" or "department" also  
1667 means the Department of Revenue except where such words are  
1668 specifically given other meanings.

1669 (i) "Commissioner," "Chairman of the Mississippi State  
1670 Tax Commission," "Chairman of the State Tax Commission," "chairman  
1671 of the commission" or "chairman" means the Commissioner of Revenue  
1672 of the Department of Revenue.

1673 (j) "Taxable year" means the calendar year, or fiscal  
1674 year ending during such calendar year, upon the basis of which the  
1675 net income is computed hereunder. "Fiscal year" means an  
1676 accounting period of twelve (12) months, ending on the last day of  
1677 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           (l) "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;

1747 (c) The three (3) succeeding installments shall be paid  
1748 on or before the due date (determined without regard to  
1749 extensions) for filing the corporation's return for the three (3)  
1750 succeeding taxable years; and

1751 (d) For purposes of computing interest on  
1752 underpayments, the last three (3) installments shall not be  
1753 considered underpayments until after the payment due date  
1754 specified above.

1755 (5) For purposes of this section, a political subdivision  
1756 includes, but is not limited to, a county or separate school  
1757 district, institution of higher learning, state college or  
1758 university, or state community college.

1759 (6) The tax levied by this article and paid by a business  
1760 enterprise located in a redevelopment project area under Sections  
1761 57-91-1 through 57-91-11 shall be deposited into the Redevelopment  
1762 Project Incentive Fund created in Section 57-91-9.

1763 **SECTION 43.** Section 27-7-51, Mississippi Code of 1972, is  
1764 amended as follows:

1765 27-7-51. (1) If, upon examination of a return made under  
1766 the provisions of this article, it appears that the correct amount  
1767 of tax is greater or less than that shown in the return, the tax  
1768 shall be recomputed. Any overpayment of tax so determined shall  
1769 be credited or refunded to the taxpayer. If the correct amount of  
1770 tax is greater than that shown in the return of the taxpayer, the  
1771 commissioner shall make his assessment of additional tax due by  
1772 mail or by personal delivery of the assessment to the taxpayer,  
1773 which assessment shall constitute notice and demand for payment.  
1774 The taxpayer shall be given a period of sixty (60) days from the  
1775 date of the notice in which to pay the additional tax due,  
1776 including penalty and interest as hereinafter provided, and if the  
1777 sum is not paid within the period of sixty (60) days, the  
1778 commissioner shall proceed to collect it under the provisions of  
1779 Sections 27-7-55 through 27-7-67, provided that within the period  
1780 of sixty (60) days the taxpayer may appeal to the board of review  
1781 as provided by law.

1782           (2) In the case of an overpayment of tax, interest shall be  
1783 computed under the provisions of Section 27-7-315. In the case of  
1784 an underpayment of tax, interest at the rate of one percent (1%)  
1785 per month from the due date of the return may be added or assessed  
1786 in addition to the additional tax due as hereinabove provided in  
1787 subsection (1) of this section.

1788           (3) In case of failure to pay any additional taxes as  
1789 assessed under this section, there may be added to the additional  
1790 amount assessed a penalty of one-half of one percent (1/2 of 1%)  
1791 of the amount of the additional tax if the failure is for not more  
1792 than one (1) month, with an additional one-half of one percent  
1793 (1/2 of 1%) for each additional month or fraction thereof during  
1794 which the failure continues, not to exceed twenty-five percent  
1795 (25%) in the aggregate.

1796           (4) Where the reported net income of a taxpayer is increased  
1797 by the Internal Revenue Service, a taxpayer who, without action by  
1798 the commissioner, amends a return filed under this article on the  
1799 basis of a change in taxable income made by the Internal Revenue  
1800 Service, and pays the additional tax due within thirty (30) days  
1801 after agreeing to the federal change (and has received statement  
1802 of the federal changes to which agreement has been made or payment  
1803 thereof), shall add interest to the additional tax at the rate of  
1804 one percent (1%) per month from due date of the original return.  
1805 If the additional tax, based on changes in taxable income by the  
1806 Internal Revenue Service, is assessed by the commissioner under  
1807 subsection (1) of this section, in addition to the interest there  
1808 may be added a penalty of one-half of one percent (1/2 of 1%) of  
1809 the additional tax due if the failure is for not more than one (1)  
1810 month, with an additional one-half of one percent (1/2 of 1%) for  
1811 each additional month or fraction thereof during which the failure  
1812 to pay continues, not to exceed twenty-five percent (25%) in the  
1813 aggregate, unless it is shown that the failure is due to  
1814 reasonable cause and not due to willful neglect.

1815           (5) In the case of a taxpayer who files a bond when  
1816 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

1852 may request to pay the tax liability through an installment  
1853 agreement. The taxpayer must file such a request with the return  
1854 and must provide all information required by the commissioner. If  
1855 the commissioner determines a taxpayer is financially unable to  
1856 pay the tax liability, the commissioner may enter into an  
1857 agreement to accept payment of the tax liability in installments  
1858 if:

1859                   1. The taxpayer (and the taxpayer's spouse if  
1860 the tax liability relates to a joint return), during any of the  
1861 preceding five (5) years, has not:

1862                               a. Failed to file any return required by  
1863 this chapter,

1864                               b. Failed to pay any tax required by  
1865 this chapter, or

1866                               c. Entered into an installment agreement  
1867 under this paragraph (b);

1868                   2. The agreement requires full payment of the  
1869 tax liability in equal installments within twelve (12) months from  
1870 the date the return was filed; and

1871                   3. The taxpayer agrees to comply with the  
1872 terms of the agreement.

1873                               (ii) Payments made through an installment  
1874 agreement shall be subject to the interest provisions of  
1875 subsection (3) of this section.

1876                               (iii) The commissioner may terminate an  
1877 installment agreement entered into under this paragraph (b) if he  
1878 determines the taxpayer provided inaccurate or incomplete  
1879 information before the agreement was entered into or he believes  
1880 the collection of the tax to which the agreement relates is in  
1881 jeopardy.

1882                               (iv) The commissioner may modify or terminate an  
1883 installment agreement entered into under this paragraph (b) if the  
1884 taxpayer fails to:

1885                               1. Pay any installment due under the  
1886 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

1922 regard to any extension of time for payment or installment  
1923 agreement, or both, there may be added to the amount shown as tax  
1924 on the return one-half of one percent (1/2 of 1%) of the amount of  
1925 the tax if the failure is for not more than one (1) month, with an  
1926 additional one-half of one percent (1/2 of 1%) for each additional  
1927 month or fraction thereof during which the failure continues, not  
1928 to exceed twenty-five percent (25%) in the aggregate.

1929 **SECTION 45.** Section 27-7-303, Mississippi Code of 1972, is  
1930 amended as follows:

1931 27-7-303. As used in this article:

1932 (a) "Commissioner" means the Commissioner of Revenue of  
1933 the Department of Revenue.

1934 (b) "Commission," "State Tax Commission," "Tax  
1935 Commission" or "department" means the Department of Revenue of the  
1936 State of Mississippi.

1937 (c) "Employee" means any individual subject to the  
1938 provisions of Article 1 of this chapter, who performs or performed  
1939 services for an employer as defined herein and receives wages  
1940 therefor.

1941 (d) "Employer" means a person doing business in, or  
1942 deriving income from sources within, the state, who has control of  
1943 the payment of wages to an individual for services performed, or a  
1944 person who is the officer or agent of the person having control of  
1945 the payment of wages.

1946 (e) "Estimated tax" means the amount by which the tax  
1947 liability of the taxpayer under Article 1 of this chapter can  
1948 reasonably be expected to exceed the amount withheld from wages of  
1949 the taxpayer pursuant to this article during the income year.

1950 (f) "Income year" means the calendar or fiscal year  
1951 upon the basis of which the net income of the taxpayer is computed  
1952 under the provisions of Article 1 of this chapter; if no fiscal  
1953 year has been established, it means the calendar year.

1954 (g) "Payroll period" means a period for which a payment  
1955 of wages is made to the employee by the employer.

1956 (h) "Person" means and includes individuals,  
1957 fiduciaries, corporations, partnerships, associations, the state  
1958 and its political subdivisions, and the federal government, its  
1959 agencies and instrumentalities.

1960 (i) "Taxpayer" means and includes any individual,  
1961 fiduciary, corporation or other legal entity subject to the tax  
1962 imposed by the provisions of Article 1 of this chapter.

1963 (j) "Wages" means remuneration in cash or any other  
1964 form for services performed by an employee for an employer, except  
1965 that it shall not include remuneration paid:

1966 (i) For domestic service in a private home, local  
1967 college club, or local chapter of a college fraternity or  
1968 sorority; or

1969 (ii) For services performed by an employee in  
1970 connection with farming activities; or

1971 (iii) For services not in the course of the  
1972 employer's trade or business performed by an employee in any  
1973 calendar quarter; or

1974 (iv) For services performed by a duly ordained,  
1975 commissioned or licensed minister of a church in the exercise of  
1976 his ministry, or by a member of a religious order performing  
1977 duties required by the order.

1978 (k) "Transient employer" means an employer who is not a  
1979 resident of this state and who temporarily engages in any activity  
1980 within the state for the production of income. Without intending  
1981 to exclude others who may come within the foregoing definition,  
1982 any nonresident employer engaging in any such activity within the  
1983 state which, as of any date, cannot be reasonably expected to  
1984 continue for a period of eighteen (18) consecutive months, shall  
1985 be deemed to be temporarily engaged in such activity.

1986 (l) "Calendar quarter" means the period of three (3)  
1987 consecutive months ending on March 31, June 30, September 30 or  
1988 December 31.

1989 **SECTION 46.** Section 27-7-503, Mississippi Code of 1972, is  
1990 amended as follows:

1991           27-7-503. As used in this article, unless the context  
1992 requires otherwise:

1993           (a) "Claimant agency" means the State Department of  
1994 Public Welfare with respect to the collection of debts due and  
1995 owing for the care, support or maintenance of a child.

1996           (b) "Commission," "State Tax Commission," "Tax  
1997 Commission" or "department" means the Department of Revenue of the  
1998 State of Mississippi.

1999           (c) "Debtor" means any individual owing overdue support  
2000 for a child as defined by federal regulations.

2001           (d) "Debt" means any overdue support for a child as  
2002 defined by federal regulations.

2003           (e) "Refund" means the Mississippi income tax refund  
2004 which the commission determines to be due any individual taxpayer.

2005           **SECTION 47.** Section 27-7-601, Mississippi Code of 1972, is  
2006 amended as follows:

2007           27-7-601. As used in this act:

2008           (a) "Debt" means a past due, legally enforceable state  
2009 or federal income tax obligation, unless otherwise indicated.

2010           (b) "Debtor" means a person who owes a state or federal  
2011 income tax obligation.

2012           (c) "Past due, legally enforceable obligation" means a  
2013 debt resulting from:

2014           (i) A judgment rendered by a court of competent  
2015 jurisdiction which has determined an amount of income tax to be  
2016 due;

2017           (ii) A determination after an administrative  
2018 hearing which has determined an amount of income tax to be due and  
2019 which is no longer subject to judicial review; or

2020           (iii) An income tax assessment, including  
2021 self-assessments, which has become final in accordance with law,  
2022 but which has not been collected.

2023           (d) "State" means the State of Mississippi acting  
2024 through the Department of Revenue.

2025 (e) "State Tax Commission" or "department" means the  
2026 Department of Revenue.

2027 (f) "Federal government" means the United States  
2028 Department of the Treasury or any agency under its administration.

2029 (g) "Tax refund offset" means withholding or reducing a  
2030 tax refund overpayment by an amount necessary to satisfy a debt  
2031 owed by the payee.

2032 (h) "Tax refund payment" means any overpayment of taxes  
2033 to be refunded to the person making the overpayment.

2034 **SECTION 48.** Section 27-7-701, Mississippi Code of 1972, is  
2035 amended as follows:

2036 27-7-701. For the purposes of this article, the following  
2037 terms shall have the respective meanings ascribed by this section:

2038 (a) "Claimant agency" means the Board of Trustees of  
2039 State Institutions of Higher Learning or any institution under the  
2040 jurisdiction thereof, the Mississippi Guarantee Student Loan  
2041 Agency, the Mississippi Post-Secondary Education Assistance Board,  
2042 or any state agency which has loaned money to an individual for  
2043 educational purposes.

2044 (b) "Debtor" means any individual owing money or having  
2045 a delinquent account with any claimant agency, which obligation  
2046 has not been adjudicated satisfied by court order, set aside by  
2047 court order, or discharged in bankruptcy.

2048 (c) "Debt" means any liquidated sum due and owing any  
2049 claimant agency which has accrued through contract, subrogation,  
2050 tort or operation of law, regardless of whether there is an  
2051 outstanding judgment for that sum.

2052 (d) "Commission," "State Tax Commission" or  
2053 "department" means the Department of Revenue of the State of  
2054 Mississippi.

2055 (e) "Refund" means the Mississippi income tax refund  
2056 which the commission determines to be due any individual taxpayer.

2057 **SECTION 49.** Section 27-9-3, Mississippi Code of 1972, is  
2058 amended as follows:

2059           27-9-3. When used in reference to the estate tax in this  
2060 chapter:

2061           (a) "Commission," "State Tax Commission" or  
2062 "department" means the Department of Revenue of the State of  
2063 Mississippi.

2064           (b) \* \* \* "Commissioner," "Chairman of the State Tax  
2065 Commission" or "chairman of the commission" means the Commissioner  
2066 of Revenue of the Department of Revenue, or any agent appointed by  
2067 law under him.

2068           (c) \* \* \* "Executor" means the executor or  
2069 administrator of the decedent, or, if there is no executor or  
2070 administrator, any person who takes possession of any property of  
2071 the decedent.

2072           (d) \* \* \* "Person" means persons, corporations,  
2073 associations, joint stock companies and business trusts.

2074           (e) \* \* \* "Transfer" shall be taken to include the  
2075 passing of property or any interest therein, in possession or  
2076 enjoyment, present or future, by inheritance, descent, devise,  
2077 succession, bequest, grant, deed, bargain, sale, gift, or  
2078 appointment in the manner herein described.

2079           (f) \* \* \* "Decedent" shall include the testator,  
2080 intestate, grantor, bargainor, vendor or donor.

2081           (g) \* \* \* "Resident" means natural persons and includes  
2082 for the purpose of determining liability for the tax imposed, any  
2083 person domiciled in the State of Mississippi and any other person  
2084 who maintains a permanent place of abode within the state and  
2085 spends in the aggregate, more than six (6) months of the taxable  
2086 year within the state.

2087           (h) \* \* \* "Nonresident" shall apply to any natural  
2088 person whose domicile is without the State of Mississippi or who  
2089 maintains a place of abode without the state, and spends in the  
2090 aggregate, more than six (6) months of the taxable year without  
2091 the state.

2092           **SECTION 50.** Section 27-9-43, Mississippi Code of 1972, is  
2093 amended as follows:

2094           27-9-43. (1) As soon as practicable after the return is  
2095 filed, the commissioner shall examine it, if it then appears that  
2096 the correct amount of tax is greater or less than that shown in  
2097 the return, the tax shall be recomputed. If the amount already  
2098 paid exceeds that which should have been paid on the basis of the  
2099 return so recomputed, the excess so paid shall be credited or  
2100 refunded to the taxpayer in accordance with the provisions of this  
2101 chapter.

2102           (2) If the amount already paid is less than the amount which  
2103 should have been paid, the difference, together with interest  
2104 thereon at the rate of one-half of one percent (1/2 of 1%) per  
2105 month from the time the tax was due, shall be paid within sixty  
2106 (60) days upon written notice and demand by the commissioner. The  
2107 department, for good reason shown, may waive all or any part of  
2108 the interest imposed pursuant to this subsection.

2109           (3) If any part of the deficiency is due to negligence or  
2110 intentional disregard to authorized rules and regulations with  
2111 knowledge thereof but without intent to defraud, there shall be  
2112 added as damages ten percent (10%) of the total amount of the  
2113 deficiency in the tax, and interest in such a case shall be  
2114 collected at the rate of one percent (1%) per month on the amount  
2115 of such deficiency in the tax from the time it was due, which  
2116 interest and damages shall become due and payable upon notice and  
2117 demand by the commissioner and such executor shall be liable to  
2118 the estate personally and on his official bond, if any, for any  
2119 damages accruing under the above provisions through his negligence  
2120 or willful neglect.

2121           **SECTION 51.** Section 27-9-45, Mississippi Code of 1972, is  
2122 amended as follows:

2123           27-9-45. If no return is made by an executor required to  
2124 make returns, as provided herein, the commissioner shall give  
2125 written notice by mail to such executor to make such returns  
2126 within thirty (30) days from the date of such notice and if such  
2127 executor shall fail or refuse to make such returns as he may be  
2128 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

2266 chapter; provided that within the sixty-day period the taxpayer  
2267 may appeal to the board of review as provided by law.

2268 (3) Interest at the rate of one percent (1%) per month from  
2269 the due date of the return shall be added or assessed in addition  
2270 to the tax due as provided in subsections (1) and (2) of this  
2271 section.

2272 (4) In case of failure to file a return as required by this  
2273 chapter, unless it can be shown that the failure is due to  
2274 reasonable cause and not due to willful neglect, there shall be  
2275 added to the amount required to be shown as tax on the return a  
2276 penalty of five percent (5%) of the amount of the tax if the  
2277 failure is for not more than one (1) month, with an additional  
2278 five percent (5%) for each additional month or fraction thereof  
2279 during which the failure continues, not to exceed twenty-five  
2280 percent (25%) in the aggregate.

2281 (5) In case of failure to pay the amount shown as tax on any  
2282 return specified in subsections (1) and (2) of this section on or  
2283 before the date prescribed for payment of the tax, determined with  
2284 regard to any extension of time for payment, unless it is shown  
2285 that the failure is due to reasonable cause and not due to willful  
2286 neglect, there shall be added to the amount shown as tax on the  
2287 return one-half of one percent ( $1/2$  of 1%) of the amount of the  
2288 tax if the failure is for not more than one (1) month, with an  
2289 additional one-half of one percent ( $1/2$  of 1%) for each additional  
2290 month or fraction thereof during which the failure continues, not  
2291 to exceed twenty-five percent (25%) in the aggregate.

2292 **SECTION 54.** Section 27-13-25, Mississippi Code of 1972, is  
2293 amended as follows:

2294 27-13-25. (1) If, upon examination of a return made under  
2295 the provisions of this chapter, it appears that the correct amount  
2296 of tax is greater or less than that shown in the return, the tax  
2297 shall be recomputed. Any overpayment of tax so determined shall  
2298 be credited or refunded to the taxpayer. If the correct amount of  
2299 tax is greater than that shown in the return of the taxpayer, the  
2300 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,

2371 means and includes every officer of the state of Mississippi,  
2372 subdivisions or departments thereof whose duty it is to collect  
2373 privilege taxes as by law provided.

2374 (j) "Commission," "State Tax Commission" or "Tax  
2375 Commission" means the Department of Revenue.

2376 (k) \* \* \* "Tax commissioner," "State Tax Commissioner,"  
2377 "Chairman of the State Tax Commission," "chairman" or  
2378 "commissioner" means the Commissioner of Revenue of the Department  
2379 of Revenue.

2380 (l) \* \* \* "Taxpayer" means any person liable for any  
2381 tax hereunder in addition to the usual meaning of such word.

2382 **SECTION 56.** Section 27-15-205, Mississippi Code of 1972, is  
2383 amended as follows:

2384 27-15-205. Upon the receipt of the application herein  
2385 required, and payment of the amount shown thereby to be due for  
2386 the privilege to be exercised, the officer to whom the application  
2387 is made shall determine if the application is in proper form, and  
2388 if the correct amount be tendered, and may require the applicant  
2389 to furnish such other and further information as in his opinion is  
2390 necessary to ascertain the correct amount of tax due. When the  
2391 correct amount of the tax has been so ascertained, the \* \* \*  
2392 officer shall issue to the applicant taxpayer a privilege license  
2393 according to such application, and shall date the same as of the  
2394 first day of the month of its issuance. The officer issuing the  
2395 license shall countersign the same when issued by him, and he  
2396 shall enter the same in the register prescribed by law therefor.  
2397 The license issued by collectors as herein provided shall be  
2398 executed in duplicate, the original shall be delivered to the  
2399 licensee by the officer, and the duplicate shall be attached to  
2400 the application therefor, and preserved by the officer as a public  
2401 record.

2402 If, however, such officer, shall, before issuing the \* \* \*  
2403 license, or at any time thereafter, have reason to believe that  
2404 the statements of the business contained in the application are  
2405 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,

2440 the provisions of Section 93-11-157 or Section 93-11-163, as the  
2441 case may be, shall control.

2442 **SECTION 57.** Section 27-19-1, Mississippi Code of 1972, is  
2443 amended as follows:

2444 27-19-1. The Department of Revenue, hereinafter called the  
2445 "commission" or the "State Tax Commission," is hereby vested with  
2446 the sole power and authority, and is charged with the duty of  
2447 administering and enforcing the terms and provisions of this  
2448 article. As used in this article, the term "commissioner,"  
2449 "Chairman of the State Tax Commission" or "chairman" means the  
2450 Commissioner of Revenue of the Department of Revenue.

2451 **SECTION 58.** Section 27-19-3, Mississippi Code of 1972, is  
2452 amended as follows:

2453 27-19-3. (a) The following words and phrases when used in  
2454 this article for the purpose of this article have the meanings  
2455 respectively ascribed to them in this section, except in those  
2456 instances where the context clearly describes and indicates a  
2457 different meaning:

2458 (1) "Vehicle" means every device in, upon or by which  
2459 any person or property is or may be transported or drawn upon a  
2460 public highway, except devices moved by muscular power or used  
2461 exclusively upon stationary rails or tracks.

2462 (2) "Commercial vehicle" means every vehicle used or  
2463 operated upon the public roads, highways or bridges in connection  
2464 with any business function.

2465 (3) "Motor vehicle" means every vehicle as defined in  
2466 this section which is self-propelled, including trackless street  
2467 or trolley cars. The term "motor vehicle" shall not include  
2468 electric personal assistive mobility devices as defined in Section  
2469 63-3-103.

2470 (4) "Tractor" means every vehicle designed, constructed  
2471 or used for drawing other vehicles.

2472 (5) "Motorcycle" means every vehicle designed to travel  
2473 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

2544 municipality in this state or not exceeding five (5) miles beyond  
2545 the corporate limits of the municipality, and hearses, ambulances,  
2546 school buses as such. In addition, this definition shall not  
2547 include taxicabs.

2548           (20) "Contract carrier by motor vehicle" means any  
2549 person who or which under the special and individual contract or  
2550 agreements, and whether directly or by a lease or any other  
2551 arrangement, transports passengers or property in interstate or  
2552 intrastate commerce on the public highways of this state by motor  
2553 vehicle for compensation. The term "contract carrier by motor  
2554 vehicle" shall not include passenger buses operating wholly within  
2555 the corporate limits of a municipality in this state or not  
2556 exceeding five (5) miles beyond the corporate limits of the  
2557 municipality, and hearses, ambulances, school buses as such. In  
2558 addition, this definition shall not include taxicabs.

2559           (21) "Private commercial and noncommercial carrier of  
2560 property by motor vehicle" means any person not included in the  
2561 terms "common carrier by motor vehicle" or "contract carrier by  
2562 motor vehicle," who or which transports in interstate or  
2563 intrastate commerce on the public highways of this state by motor  
2564 vehicle, property of which such person is the owner, lessee, or  
2565 bailee, other than for hire. The term "private commercial and  
2566 noncommercial carrier of private property by motor vehicle" shall  
2567 not include passenger buses operated wholly within the corporate  
2568 limits of a municipality of this state, or not exceeding five (5)  
2569 miles beyond the corporate limits of the municipality, and  
2570 hearses, ambulances, school buses as such. In addition, this  
2571 definition shall not include taxicabs.

2572           Haulers of fertilizer shall be classified as private  
2573 commercial carriers of property by motor vehicle.

2574           (22) "Private carrier of passengers" means all other  
2575 passenger motor vehicle carriers not included in the above  
2576 definitions. The term "private carrier of passengers" shall not  
2577 include passenger buses operating wholly within the corporate  
2578 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

2614 this paragraph (27), seating capacity shall be determined  
2615 according to the manufacturer's suggested seating capacity for a  
2616 vehicle. If there is no manufacturer's suggested seating capacity  
2617 for a vehicle, the seating capacity for the vehicle shall be  
2618 determined according to regulations established by the Department  
2619 of Revenue.

2620 (28) "Empty weight" means the actual weight of a  
2621 vehicle including fixtures and equipment necessary for the  
2622 transportation of load hauled or to be hauled.

2623 (29) "Gross weight" means the empty weight of the  
2624 vehicle, as defined herein, plus any load being transported or to  
2625 be transported.

2626 (30) "Ambulance and hearse" shall have the meaning  
2627 generally ascribed to them. A hearse or funeral coach shall be  
2628 classified as a light carrier of property, as defined in Section  
2629 27-51-101.

2630 (31) "Regular seats" means each seat ordinarily and  
2631 customarily used by one (1) passenger, including all temporary,  
2632 emergency, and collapsible seats. Where any seats are not  
2633 distinguished or separated by separate cushions and backs, a seat  
2634 shall be counted for each eighteen (18) inches of space on such  
2635 seats or major fraction thereof. In the case of a regular  
2636 passenger-type automobile which is used as a common or contract  
2637 carrier of passengers, three (3) seats shall be counted for the  
2638 rear seat of such automobile and one (1) seat shall be counted for  
2639 the front seat of such automobile.

2640 (32) "Ton" means two thousand (2,000) pounds  
2641 avoirdupois.

2642 (33) "Bus" means any passenger vehicle with a seating  
2643 capacity of more than ten (10) but shall not include "private  
2644 carrier of passengers" and "school bus" as defined in paragraphs  
2645 (15) and (22) of this section. For purposes of this paragraph  
2646 (33), seating capacity shall be determined according to the  
2647 manufacturer's suggested seating capacity for a vehicle. If there  
2648 is no manufacturer's suggested seating capacity for a vehicle, the

2649 seating capacity for the vehicle shall be determined according to  
2650 regulations established by the Department of Revenue.

2651 (34) "Corporate fleet" means a group of two hundred  
2652 (200) or more marked private carriers of passengers or light  
2653 carriers of property, as defined in Section 27-51-101, trailers,  
2654 semitrailers, or motor vehicles in excess of ten thousand (10,000)  
2655 pounds gross vehicle weight, except for those vehicles registered  
2656 for interstate travel, owned or leased on a long-term basis by a  
2657 corporation or other legal entity. In order to be considered  
2658 marked, the motor vehicle must have a name, trademark or logo  
2659 located either on the sides or the rear of the vehicle in sharp  
2660 contrast to the background, and of a size, shape and color that is  
2661 legible during daylight hours from a distance of fifty (50) feet.

2662 (35) "Individual fleet" means a group of five (5) or  
2663 more private carriers of passengers or light carriers of property,  
2664 as defined in Section 27-51-101, owned or leased by the same  
2665 person and principally garaged in the same county.

2666 (b) (1) No lease shall be recognized under the provisions  
2667 of this article unless it shall be in writing and shall fully  
2668 define a bona fide relationship of lessor and lessee, signed by  
2669 both parties, dated and be in the possession of the driver of the  
2670 leased vehicle at all times.

2671 (2) Leased vehicles shall be considered as domiciled at  
2672 the place in the State of Mississippi from which they operate in  
2673 interstate or intrastate commerce, and for the purposes of this  
2674 article shall be considered as owned by the lessee, who shall  
2675 furnish all insurance on the vehicles and the driver of the  
2676 vehicles shall be considered as an agent of the lessee for all  
2677 purposes of this article.

2678 **SECTION 59.** Section 27-19-303, Mississippi Code of 1972, is  
2679 amended as follows:

2680 27-19-303. The following words and phrases, when used in  
2681 this article, shall for purposes thereof have the meaning  
2682 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

2823 Attorney General, district attorney or prosecuting attorney of any  
2824 county shall receive no fees or compensation for services rendered  
2825 in enforcing this chapter in addition to the salary paid such  
2826 officer.

2827         **SECTION 61.** Section 27-25-3, Mississippi Code of 1972, is  
2828 amended as follows:

2829         27-25-3. The following words, terms and phrases, when used  
2830 in this article, shall have the meanings as defined in this  
2831 section, except where the context clearly indicates otherwise:

2832             (a) "Commissioner," "State Tax Commissioner" or "Tax  
2833 Commissioner" means the Commissioner of Revenue of the Department  
2834 of Revenue.

2835             (b) "Grower" means any person owning or leasing lands  
2836 on which timber or timber products are grown or produced.

2837             (c) "Logs" means stems or trunks of trees cut into  
2838 convenient lengths for the manufacture of lumber or other timber  
2839 products.

2840             (d) "Lumber" means products sawed or hewed from logs,  
2841 and shall be measured by actual board measure in units of board  
2842 feet, but does not mean other products manufactured from logs such  
2843 as veneer sheets, tight or slack cooperage, hardwood shuttle  
2844 blocks, hickory, furniture or handle dimension blanks.

2845             (e) "Person" means any individual, firm, copartnership,  
2846 association, corporation, receiver, trustee or any other group or  
2847 combination acting as a unit, and the plural as well as the  
2848 singular.

2849             (f) "Producer" means any person engaging in or  
2850 continuing to engage in this state in the business of severing or  
2851 purchasing timber or timber products from the soil or water.

2852             (g) "Pulpwood" means any timber or timber products  
2853 severed, produced or used by the manufacturers in the production  
2854 of pulp and pulp products and shall be measured in units of cords  
2855 four (4) feet high, four (4) feet wide, and eight (8) feet long,  
2856 containing one hundred twenty-eight (128) cubic feet, and shall be  
2857 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

2892 accepted accounting principles of underground mining and handling  
2893 of production to the point where processing begins.

2894 (h) "Processing" means an activity of an industrial or  
2895 commercial nature wherein labor or skill is applied, by hand or  
2896 machinery, to raw materials so that a more useful product or  
2897 substance of trade or commerce is produced for sale.

2898 (i) "Engaging in business" means any act or acts  
2899 engaged in by producers, or parties at interest which results in  
2900 the production of salt from the soil or water, for storage,  
2901 transport or further processing.

2902 (j) "Salt" means a substance which is chemically  
2903 classified as sodium chloride.

2904 **SECTION 63.** Section 27-25-501, Mississippi Code of 1972, is  
2905 amended as follows:

2906 27-25-501. Whenever used in this article, the following  
2907 words and terms shall have the definition and meaning ascribed to  
2908 them in this section, unless the intention to give a more limited  
2909 meaning is disclosed by the context:

2910 (a) "Tax commission" or "department" means the  
2911 Department of Revenue of the State of Mississippi.

2912 (b) "Commissioner" means the Commissioner of Revenue of  
2913 the Department of Revenue.

2914 (c) "Annual" means the calendar year or the taxpayer's  
2915 fiscal year when permission is obtained from the commissioner to  
2916 use a fiscal year as a tax period in lieu of a calendar year.

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

2994 (n) "Discovery well" means any well producing oil from  
2995 a single pool in which a well has not been previously produced in  
2996 paying quantities after testing.

2997 (o) "Development wells" means all oil producing wells  
2998 other than discovery wells and replacement wells.

2999 (p) "Replacement well" means a well drilled on a  
3000 drilling and/or production unit to replace another well which is  
3001 drilled in the same unit and completed in the same pool.

3002 (q) "Three-dimensional seismic" means data which is  
3003 regularly organized in three (3) orthogonal directions and thus  
3004 suitable for interpretation with a three-dimensional software  
3005 package on an interactive work station.

3006 (r) "Two-year inactive well" means any oil or gas well  
3007 certified by the State Oil and Gas Board as having not produced  
3008 oil or gas in more than a total of thirty (30) days during a  
3009 twelve (12) consecutive month period in the two (2) years before  
3010 the date of certification.

3011 **SECTION 64.** Section 27-25-701, Mississippi Code of 1972, is  
3012 amended as follows:

3013 27-25-701. Whenever used in this article, the following  
3014 words and terms shall have the definition and meaning ascribed to  
3015 them in this section, unless the intention to give a more limited  
3016 meaning is disclosed by the context:

3017 (a) "Tax commission" or "department" means the  
3018 Department of Revenue of the State of Mississippi.

3019 (b) "Commissioner" means the Commissioner of Revenue of  
3020 the Department of Revenue.

3021 (c) "Annual" means the calendar year or the taxpayer's  
3022 fiscal year when permission is obtained from the commissioner to  
3023 use a fiscal year as a tax period in lieu of a calendar year.

3024 (d) "Value" means the sale price, or market value, at  
3025 the mouth of the well. If the gas is exchanged for something  
3026 other than cash, or if there is no sale at the time of severance,  
3027 or if the relation between the buyer and the seller is such that  
3028 the consideration paid, if any, is not indicative of the true

3029 value or market price, then the commissioner shall determine the  
3030 value of the gas subject to tax, considering the sale price for  
3031 cash of gas of like quality in the same or nearest gas-producing  
3032 field.

3033 (e) "Taxpayer" means any person liable for the tax  
3034 imposed by this article.

3035 (f) "Gas" means natural and casinghead gas and any gas  
3036 or vapor taken from below the surface of the soil or water in this  
3037 state, regardless of whether produced from a gas well or from a  
3038 well also productive of oil or any other product; provided,  
3039 however, the term "gas" shall not include carbon dioxide.

3040 (g) "Casinghead gas" means any gas or vapor indigenous  
3041 to an oil stratum and produced from such stratum with oil.

3042 (h) "Severed" means the extraction or withdrawing by  
3043 any means whatsoever, from below the surface of the soil or water,  
3044 of any gas.

3045 (i) "Person" means any natural person, firm,  
3046 copartnership, joint venture, association, corporation, estate,  
3047 trust, or any other group, or combination acting as a unit, and  
3048 the plural as well as the singular number.

3049 (j) "Producer" means any person owning, controlling,  
3050 managing or leasing any oil or gas property, or oil or gas well,  
3051 and any person who produces in any manner any gas by taking it  
3052 from the earth or water in this state, and shall include any  
3053 person owning any royalty or other interest in any gas or its  
3054 value, whether produced by him, or by some other person on his  
3055 behalf, either by lease contract or otherwise.

3056 (k) "Engaging in business" means any act or acts  
3057 engaged in (personal or corporate) by producers, or parties at  
3058 interest, the result of which gas is severed from the soil or  
3059 water, for storage, transport or manufacture, or by which there is  
3060 an exchange of money, or goods, or thing of value, for gas which  
3061 has been or is in process of being severed from the soil or water.

3062 (l) "Production" means the total gross amount of gas  
3063 produced, including all royalty or other interest; that is, the

3064 amount for the purpose of the tax imposed by this article shall be  
3065 measured or determined by meter readings showing one hundred  
3066 percent (100%) of the full volume expressed in cubic feet at a  
3067 standard base and flowing temperature of sixty (60) degrees  
3068 Fahrenheit and at the absolute pressure at which the gas is sold  
3069 and purchased; correction to be made for pressure according to  
3070 Boyle's law, and for specific gravity according to the gravity at  
3071 which the gas is sold and purchased or if not so specified,  
3072 according to test made by the balance method.

3073 (m) "Gathering system" means the pipelines,  
3074 compressors, pumps, regulators, separators, dehydrators, meters,  
3075 metering installations and all other property used in gathering  
3076 gas from the well from which it is produced if such properties are  
3077 owned by other than the operator, and all such properties, if  
3078 owned by the operator, beyond the first metering installation that  
3079 is nearest the well.

3080 (n) "Discovery well" means any well producing gas from  
3081 a single pool in which a well has not been previously produced in  
3082 paying quantities after testing.

3083 (o) "Development wells" means all gas producing wells  
3084 other than discovery wells and replacement wells.

3085 (p) "Replacement well" means a well drilled on a  
3086 drilling and/or production unit to replace another well which is  
3087 drilled in the same unit and completed in the same pool.

3088 (q) "Three-dimensional seismic" means data which is  
3089 regularly organized in three (3) orthogonal directions and thus  
3090 suitable for interpretation with a three-dimensional software  
3091 package on an interactive work station.

3092 (r) "Two-year inactive well" means any oil or gas well  
3093 certified by the State Oil and Gas Board as having not produced  
3094 oil or gas in more than a total of thirty (30) days during a  
3095 twelve (12) consecutive month period in the two (2) years before  
3096 the date of certification.

3097 **SECTION 65.** Section 27-33-11, Mississippi Code of 1972, is  
3098 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

3169 regular land roll where entered, the number of acres exempted, the  
3170 dollar amount of exemption allowed and such other information as  
3171 the Department of Revenue may require. The department shall  
3172 prescribe the form of the supplemental roll and may require such  
3173 rolls to be prepared and maintained on electronic media. The  
3174 supplemental roll, as herein defined, is hereby made a legal  
3175 supplement to and a part of the complete land assessment roll of  
3176 the county or municipality and shall be subject to all laws  
3177 relating to assessment rolls and particularly Sections 27-35-117,  
3178 27-35-123 and 27-35-125 as far as applicable and not inconsistent  
3179 with the provisions of this article.

3180 The supplemental roll, when certified by the clerk of the  
3181 board of supervisors and delivered to the tax collector, shall be  
3182 his warrant to allow the amount of the tax exemption to each  
3183 person as a credit on or deduction from the gross amount of the  
3184 taxes charged to that person on the assessment roll.

3185 (o) "Ad valorem tax" means any tax where the amount  
3186 levied is based upon or determined by the value of the property  
3187 subject to the tax.

3188 **SECTION 66.** Section 27-33-37, Mississippi Code of 1972, is  
3189 amended as follows:

3190 27-33-37. The board of supervisors shall perform the duties  
3191 imposed by this article on the members, the president, and the  
3192 board as a unit, with the powers and authority granted and as  
3193 necessary for the proper administration of the article, and  
3194 specifically as set out in this section.

3195 (a) At each regular monthly meeting the president of  
3196 the board shall require of and receive from the clerk of the board  
3197 all applications for homestead exemption having come into his  
3198 hands as provided in Section 27-33-35 of this article.

3199 (b) As soon as practicable after convening, at each  
3200 regular monthly meeting, the board, in the light of public  
3201 records, personal knowledge, information given by the assessor,  
3202 and any other reliable source of information that may be  
3203 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

3482 board's objection, the department will consider same and determine  
3483 whether or not the objection is valid. All such matters between  
3484 the board and the department on this objection may be concluded by  
3485 correspondence, or by personal appearance of the board, or one or  
3486 more of its members, the clerk, or the assessor, or by a  
3487 representative of the department present at any meeting of the  
3488 board. If upon consideration of the objection, the department  
3489 determines that the application for homestead exemption should be  
3490 allowed; it will reverse the adjustment resulting from the  
3491 department's rejection of the application and advise the board of  
3492 this reversal. If upon consideration of the objection, the  
3493 department determines that it had properly rejected the  
3494 application for homestead exemption; it shall advise the board  
3495 that its objection has been denied by the department. Within  
3496 thirty (30) days from the date of the notice from the department  
3497 advising the board that its objection had been denied, the board  
3498 can appeal this denial of the objection by the department to the  
3499 Board of Tax Appeals. At any hearing on the appeal by the board  
3500 to the Board of Tax Appeals on the department's denial of the  
3501 board's objection to the department's rejection of an application  
3502 for homestead exemption, the decision of the department to reject  
3503 the homestead exemption application shall be prima facie correct.

3504 (j) It shall be the duty of the department and it shall  
3505 have authority to charge the account of any taxing unit with  
3506 amounts of homestead exemption tax loss claimed by the taxing unit  
3507 in the certificate of tax loss and the supplemental roll and to  
3508 deduct the amount from subsequent installments, either first or  
3509 second. Such charges shall be made when homestead exemption  
3510 applications are rejected in whole or in part for reimbursement of  
3511 tax loss or when errors are discovered in the supplemental roll or  
3512 clerk's certificate of tax loss.

3513 (k) The authority of the department to reject an  
3514 application for reimbursement of tax loss shall not be exercised  
3515 later than one (1) year after the first day of January of the year  
3516 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

3552 compliance with the provisions of Section 63-21-18. Failure of  
3553 any tax collector to comply with the provisions of this paragraph  
3554 shall subject the county to the withholding of reimbursements of  
3555 homestead exemption tax loss as provided under Section 63-21-18.

3556       **SECTION 68.** Section 27-35-81, Mississippi Code of 1972, is  
3557 amended as follows:

3558       27-35-81. (1) If the assessment is conducted by or under  
3559 the direction of the assessor, the assessor shall complete the  
3560 assessment of both real and personal property and file the roll or  
3561 rolls with the clerk of the board of supervisors on or before the  
3562 first Monday in July of each year. He shall make an affidavit and  
3563 append it to each roll, showing that he has faithfully endeavored  
3564 to ascertain and assess all the persons and property in his  
3565 county, that he has not omitted any person or thing, or placed  
3566 upon, or accepted an under valuation of any property, through  
3567 fear, favor or partiality, and that he has required every taxpayer  
3568 to make the oath required to be taken by the person rendering a  
3569 list of his taxable property wherever possible. The assessor  
3570 shall file with the roll or rolls, under oath, a list showing the  
3571 name of every taxpayer who has failed or refused to make oath to  
3572 his tax lists.

3573       (2) If the roll or rolls are not filed as required by this  
3574 section on or before the first Monday in July of each year, the  
3575 board of supervisors at its July meeting shall adopt an order  
3576 showing the failure of the roll or rolls to be filed and shall  
3577 certify to the Department of Revenue a statement showing such  
3578 failure and the time necessary to complete the roll or rolls.

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

3587 be filed, they shall be dealt with in all respects as now provided  
3588 by law except as to the time.

3589 **SECTION 69.** Section 27-35-113, Mississippi Code of 1972, is  
3590 amended as follows:

3591 27-35-113. (1) It shall be the duty of the Department of  
3592 Revenue to carefully examine the recapitulations of the assessment  
3593 rolls of the counties, when received, to compare the assessed  
3594 valuation of the various classes of property in the respective  
3595 counties, to investigate and determine if the assessed valuation  
3596 of any classes of property in any one or more counties of the  
3597 state is not equal and uniform with the assessed values fixed upon  
3598 the same classes of property in other counties of the state, and  
3599 to ascertain if any class of property in any one or more counties  
3600 is assessed contrary to law.

3601 (2) The department shall, by regulation, establish  
3602 performance standards and acceptable parameters for evaluation of  
3603 the accuracy of assessments. These standards shall include, but  
3604 not be limited to, the following:

3605 (a) Assessment level: The ratio of assessments to  
3606 current true value or market value;

3607 (b) Assessment uniformity: The test of uniformity or  
3608 fairness of individual assessments; and

3609 (c) Assessment equity: The test of price-related bias.

3610 (3) To perform its examination of the recapitulations of the  
3611 assessment rolls of the counties, the department shall annually  
3612 conduct assessment/ratio studies of each county or utilize other  
3613 means, as determined appropriate by the department, to determine  
3614 if each county's assessment records comply with acceptable  
3615 performance standards. The department shall send notice of the  
3616 results of this examination to the assessor and the board of  
3617 supervisors of each county no later than thirty (30) days after  
3618 receipt of the board of supervisors' recapitulation. Any county  
3619 not in compliance with the acceptable performance standards shall,  
3620 within ninety (90) days from the date of the notice concerning the  
3621 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

3657 by, either requiring a fixed percent (1) to be added to the  
3658 assessed valuation of any class of property in any county found  
3659 too low; or (2) to be deducted from the assessed valuation of any  
3660 class of property found too high; in order that the class or  
3661 classes of property are being assessed in conformity with the  
3662 department's regulation.

3663 (6) Once the county achieves compliance with the standard of  
3664 performance as to assessment level, uniformity and equity as  
3665 established by the rules and regulations of the Department of  
3666 Revenue, the department shall release to the county all funds held  
3667 in escrow on its behalf during the period of noncompliance.

3668 (7) The board of supervisors of any county aggrieved by the  
3669 decision of the department regarding the department's examination  
3670 of the recapitulations of its assessment rolls may appeal such  
3671 decision to the Board of Tax Appeals within thirty (30) days from  
3672 the date of the notice from the department advising the county of  
3673 the results of the department's examination of the recapitulation  
3674 of the assessment rolls of the county. The Board of Tax Appeals  
3675 shall hear the objections by the board of supervisors and grant  
3676 whatever relief it deems appropriate; however, the Board of Tax  
3677 Appeals shall not have the authority to grant relief which is  
3678 inconsistent with this section. The decision of the Board of Tax  
3679 Appeals shall be final.

3680 (8) It is the intent of this section and that of this  
3681 chapter to vest the Department of Revenue with authority to  
3682 investigate and determine the assessed valuation of classes of  
3683 property, and to further establish and/or clarify that tax  
3684 assessors and the boards of supervisors are vested with the  
3685 absolute authority to investigate and determine the assessed  
3686 valuations of individual parcels of property located in their  
3687 particular county in a manner consistent with the laws of this  
3688 state.

3689 **SECTION 70.** Section 27-35-115, Mississippi Code of 1972, is  
3690 amended as follows:

3691           27-35-115. When the Department of Revenue has completed its  
3692 examination of the recapitulations, and within thirty (30) days  
3693 after the receipt of recapitulations from each of the counties of  
3694 the state, it shall \* \* \* direct what action the county must take  
3695 in order to comply with the provisions of Section 27-35-113. On  
3696 the other hand, if the department finds that the assessment of any  
3697 county or counties is reasonably equal and uniform with the  
3698 assessment of other counties, and in proportion to the true value  
3699 of the property and does not require an increase or decrease in  
3700 the assessment of any class of property, in order to secure such  
3701 equality and uniformity, the department, shall \* \* \* approve  
3702 the \* \* \* assessment roll or rolls, or reproductions thereof, and  
3703 direct the board of supervisors thereof, to have copies of  
3704 the \* \* \* rolls made as required by law. Like determinations  
3705 shall be made by the department with respect to the  
3706 recapitulations of all the remaining counties as they are received  
3707 by the department. The department shall send notice of the  
3708 results of its examination of the recapitulation of the assessment  
3709 rolls and the action taken in regard the recapitulation by United  
3710 States mail to the president of the board of supervisors \* \* \* of  
3711 the county whose recapitulation was examined.

3712           **SECTION 71.** Section 27-35-117, Mississippi Code of 1972, is  
3713 amended as follows:

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

3726 pursuant to the \* \* \* call and notice of the president, it shall  
3727 proceed to consider the instructions of the Department of Revenue,  
3728 and if the board be dissatisfied with the decision of the  
3729 Department of Revenue, the board may, by order, appeal the  
3730 decision of the department as provided in Section 27-35-113. The  
3731 members of the board, its attorney, tax assessor and chancery  
3732 clerk may appear before the Board of Tax Appeals and give evidence  
3733 with reference to the \* \* \* decision of the department. In its  
3734 aforesaid order, the board may fix a day for its meeting for the  
3735 further performance of its duties required under this section.  
3736 The \* \* \* witnesses shall appear before the Board of Tax Appeals  
3737 at the location set by the Board of Tax Appeals for the hearing on  
3738 the board's appeal at the time established by the Board of Tax  
3739 Appeals, or they shall lose their right to be heard. The  
3740 compensation and expenses, if any, shall be paid by the board of  
3741 supervisors of the county affected. The Board of Tax Appeals  
3742 shall hear the complaints and objections of any board of  
3743 supervisors and witnesses and may adopt an order modifying or  
3744 rescinding the decision of the department as the evidence so  
3745 requires but not inconsistent with the provisions of Section  
3746 27-35-113. Unless appealed, the decision of the department when  
3747 made shall be final and it shall be the duty of the board of  
3748 supervisors to immediately take the appropriate action in  
3749 accordance with the instructions of the department. If the  
3750 department's decision is appealed, the decision of the Board of  
3751 Tax Appeals shall be final and it shall be the duty of the board  
3752 of supervisors to immediately take the appropriate action in  
3753 accordance with the decision of the Board of Tax Appeals.

3754 **SECTION 72.** Section 27-35-129, Mississippi Code of 1972, is  
3755 amended as follows:

3756 27-35-129. The board of supervisors, at its July meeting,  
3757 shall carefully examine the assessment roll, or rolls, returned by  
3758 the tax assessor and shall then decide if a new assessment be  
3759 necessary. If it be found that the assessor is incapable, or that  
3760 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

4004 ad valorem tax liability for such subsequent year or years up to  
4005 the total amount of the refund owed to such telephone company  
4006 pursuant to this paragraph (a).

4007 (b) (i) The remaining portion of the ad valorem taxes  
4008 attributable to such reduction shall be paid by the taxing  
4009 district to the state, and such amount shall be credited to the  
4010 Telecommunications Ad Valorem Tax Reduction Fund.

4011 (ii) To the extent that the taxing district has  
4012 not fully paid to the state the amount required by this  
4013 subsection, any monies due by the state to such local taxing  
4014 jurisdiction shall be offset until such amount is fully paid.

4015 **SECTION 74.** Section 27-35-309, Mississippi Code of 1972, is  
4016 amended as follows:

4017 27-35-309. (1) The Department of Revenue shall, if  
4018 practicable, on or before the first Monday of June of each year,  
4019 make out for each person, firm, company or corporation listed in  
4020 Section 27-35-303, Mississippi Code of 1972, an assessment of the  
4021 company's property, both real and personal, tangible and  
4022 intangible. The Department of Revenue shall apportion the  
4023 assessment of value of each company's property according to the  
4024 provisions of this article, except as provided in subsection (3)  
4025 of this section, as follows:

4026 (a) When the property of such public service company is  
4027 located in more than one (1) county in this state, the Department  
4028 of Revenue shall direct the company to apportion the assessed  
4029 value between the counties and municipalities and all other taxing  
4030 districts therein, in the proportion which the property located  
4031 therein bears to the entire value of the property of such company  
4032 as valued by the department, so that to each county, municipality  
4033 and taxing district therein, there shall be apportioned such part  
4034 of the entire valuation as will fairly equalize the relative value  
4035 of the property therein located to the whole value thereof.

4036 (b) When the property of such public utility required  
4037 to be assessed by the provisions of this article is located in  
4038 more than one (1) state, the assessed value thereof shall be

4039 apportioned by the Department of Revenue in such manner as will  
4040 fairly and equitably determine the principal sum for the value  
4041 thereof in this state, and after ascertaining such value it shall  
4042 be apportioned by them as herein provided.

4043 The assessment roll shall contain all the property of any  
4044 such public service company, railroad, person, firm or corporation  
4045 and the value thereof, and so made that each county, municipality,  
4046 and taxing district shall receive its just share of taxes  
4047 proportionately to the amount of property therein situated.

4048 (2) (a) The assessment when made shall remain open for  
4049 thirty (30) days in the office of the Department of Revenue, and  
4050 be for such time subject to the objections thereto which may be  
4051 filed with the Executive Director of the Board of Tax Appeals; but  
4052 real estate belonging to railroads and which forms no part of the  
4053 road, and is wholly disconnected from its railroad business, shall  
4054 not be assessed by the Department of Revenue, but shall be  
4055 assessed as other real estate is assessed by the tax assessor of  
4056 the county where situated.

4057 (b) The apportionment of the assessed value as required  
4058 by this section shall be filed with the Department of Revenue by  
4059 such public service company on or before the first day of August  
4060 in each year. If such company shall fail, refuse or neglect to  
4061 render the apportionment of assessed value as required by this  
4062 section, such company shall be subject to the penalties provided  
4063 for in Section 27-35-305. The filing of an objection by such  
4064 public service company shall not preclude such company from filing  
4065 the property apportionment as required by this section.

4066 (3) Any nuclear generating plant which is located in the  
4067 state, which is owned or operated by a public utility rendering  
4068 electric service within the state and not exempt from ad valorem  
4069 taxation under any other statute and which is not owned or  
4070 operated by an instrumentality of the federal government shall be  
4071 exempt from county, municipal and district ad valorem taxes. In  
4072 lieu of the payment of county, municipal and district ad valorem  
4073 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

4142 subsection (ii) shall be deposited in the Grand Gulf Disaster  
4143 Assistance Fund as provided in Section 33-15-51.

4144 (iii) The remaining balance of the payments in  
4145 excess of Sixteen Million Dollars (\$16,000,000.00) annually, less  
4146 amounts transferred under (i) and (ii) of this subsection,  
4147 beginning with fiscal year 1991, shall be allocated in accordance  
4148 with subsection (3) (f) of this section.

4149 (c) Pursuant to certification by the Attorney General  
4150 to the State Treasurer and the State Tax Commission that the suit  
4151 against the State of Mississippi pending on the effective date of  
4152 House Bill 8, First Extraordinary Session of 1990, [Laws, 1990 Ex  
4153 Session, Ch. 12, eff June 26, 1990], in the Chancery Court for the  
4154 First Judicial District of Hinds County, Mississippi, styled  
4155 Albert Butler et al v. the Mississippi State Tax Commission et al,  
4156 has been voluntarily dismissed with prejudice as to all plaintiffs  
4157 at the request of the complainants and that no attorney's fees or  
4158 court costs have been assessed against the state and each of the  
4159 parties, including Claiborne County and each municipality and  
4160 school district located in the county, have signed and delivered  
4161 to the Attorney General a full and complete release in favor of  
4162 the State of Mississippi and its elected officials of all claims  
4163 that have been asserted or may be asserted in the suit pending on  
4164 the effective date of House Bill 8, First Extraordinary Session of  
4165 1990, [Laws, 1990 Ex Session, Ch. 12, eff June 26, 1990], in the  
4166 Chancery Court for the First Judicial District of Hinds County,  
4167 Mississippi, styled Albert Butler et al v. the Mississippi State  
4168 Tax Commission et al, and the deposit into the State General Fund  
4169 of in-lieu payments and interest thereon due the state under  
4170 subsection (3) (b) of this section but placed in escrow because of  
4171 the lawsuit described above, the state shall promptly transfer to  
4172 the Board of Supervisors of Claiborne County out of the State  
4173 General Fund an amount of Two Million Dollars (\$2,000,000.00)  
4174 which shall be a one-time distribution to Claiborne County from  
4175 the state. Such payment may be expended by the Board of  
4176 Supervisors of Claiborne County for any purposes for which a

4177 county is authorized by law to levy an ad valorem tax and shall  
4178 not be included or considered as proceeds of ad valorem taxes for  
4179 the purposes of the growth limitation on ad valorem taxes for the  
4180 1991 fiscal year under Sections 27-39-321 and 27-39-305.

4181 (d) After distribution of the one-time payment to  
4182 Claiborne County as set forth in subsection (3)(c) of this  
4183 section, the Department of Revenue upon certification that the  
4184 pending lawsuit as described in subsection (3)(c) of this section  
4185 has been voluntarily dismissed shall promptly deposit an amount of  
4186 Five Hundred Thousand Dollars (\$500,000.00) into the Grand Gulf  
4187 Disaster Assistance Trust Fund as provided for in Section  
4188 33-15-51, which shall be a one-time payment, to be utilized in  
4189 accordance with the provisions of such section.

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

4211 the purposes of the growth limitation on ad valorem taxes under  
4212 Sections 27-39-321 and 27-39-305.

4213 (f) After distribution of the payments for fiscal year  
4214 1991 as set forth in Section 19-9-151 and distribution of the  
4215 payments as provided for in subsection (3) (b) of this section, the  
4216 Department of Revenue shall distribute ten percent (10%) of the  
4217 remainder of the payments to the General Fund of the state and the  
4218 balance to the counties and municipalities in this state wherein  
4219 such public utility renders electric service in the proportion  
4220 that the amount of electric energy consumed by the retail  
4221 customers of such public utility in each county, excluding  
4222 municipalities therein, and in each municipality for the next  
4223 preceding fiscal year bears to the total amount of electric energy  
4224 consumed by all retail customers of such public utility in the  
4225 State of Mississippi for the next preceding fiscal year.

4226 (g) No county, including municipalities therein, shall  
4227 receive in excess of twenty percent (20%) of the funds distributed  
4228 under paragraph (f) of this subsection.

4229 (h) The revenues received by counties and  
4230 municipalities under paragraph (f) of this subsection shall not be  
4231 included or considered as proceeds of ad valorem taxes for the  
4232 purposes of the growth limitation on ad valorem taxes under  
4233 Sections 27-39-305 and 27-39-321.

4234 **SECTION 75.** Section 27-35-311, Mississippi Code of 1972, is  
4235 amended as follows:

4236 27-35-311. (1) It shall be the duty of the Board of Tax  
4237 Appeals \* \* \* to hear and determine objections to assessments made  
4238 by the Department of Revenue for ad valorem tax purposes. \* \* \*  
4239 They may, if they think objections just, sustain the same and  
4240 amend assessments, if necessary accordingly.

4241 (2) Any objection shall be in writing and filed with the  
4242 Executive Director of the Board of Tax Appeals within the  
4243 thirty-day period set out in Section 27-35-309(2) (a). At the time  
4244 of filing the objection with the Executive Director of the Board

4245 of Tax Appeals, the taxpayer shall also file a copy of his written  
4246 objection with the Department of Revenue.

4247 **SECTION 76.** Section 27-35-313, Mississippi Code of 1972, is  
4248 amended as follows:

4249 27-35-313. So soon as the assessment rolls have remained  
4250 subject to objection for thirty (30) days, and when all  
4251 objections, if any, are disposed of, the assessment rolls shall be  
4252 approved by the Department of Revenue, and a certified copy of the  
4253 assessment rolls shall be sent immediately to the clerks of the  
4254 board of supervisors of the respective counties, who shall file  
4255 and preserve it as a record.

4256 **SECTION 77.** Section 27-35-325, Mississippi Code of 1972, is  
4257 amended as follows:

4258 27-35-325. The Department of Revenue is hereby authorized  
4259 and empowered and it shall be its duty to assess any property  
4260 required to be assessed by the Department of Revenue as the state  
4261 assessor of railroads, which it discovers escaping taxation in  
4262 former years by reason of not being assessed; and to assess or  
4263 cause to be assessed and taxed, any such property which it  
4264 discovers escaping taxation by reason of not being assessed in or  
4265 for the benefit of any road district, school district, or other  
4266 taxing district or municipality, although the property may have  
4267 been assessed and taxed for state and general county taxes; \* \* \*  
4268 however, \* \* \* the right to so assess property shall expire at the  
4269 end of seven (7) years from the date when the right so to do first  
4270 accrued. When any property is discovered escaping assessment and  
4271 taxation which, under the law, is required to be assessed by the  
4272 Department of Revenue as state assessor of railroads, the  
4273 Department of Revenue shall assess the same for such purpose and  
4274 for the years it has escaped taxation, and shall give notice by  
4275 United States mail, or otherwise, by the Commissioner of Revenue  
4276 of the Department of Revenue to the owner of the property, or  
4277 agent, of such owner, showing what property has escaped assessment  
4278 and for what years, and all other proper information, and the  
4279 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.

4314       (2) Any objection shall be in writing and filed with the  
4315 Executive Director of the Board of Tax Appeals within the  
4316 thirty-day period set out in subsection (1) of this section for  
4317 objections. At the time of filing the objection with the  
4318 Executive Director of the Board of Tax Appeals, the taxpayer shall  
4319 also file a copy of his written objection with the Department of  
4320 Revenue.

4321       **SECTION 80.** Section 27-35-701, Mississippi Code of 1972, is  
4322 amended as follows:

4323       27-35-701. As used in this article, the words shall have the  
4324 following meanings:

4325           (a) "Aircraft" means any contrivance, fully equipped  
4326 for flight, used or designed for navigation or flight through the  
4327 air.

4328           (b) "Airline company" means any person who undertakes,  
4329 directly or indirectly, to engage in the scheduled transportation  
4330 by aircraft of persons or property for hire in interstate,  
4331 intrastate or international transportation.

4332           (c) "Operated" or "operation" means regularly scheduled  
4333 landings or takeoffs of aircraft.

4334           (d) "Commission" or "department" means the Department  
4335 of Revenue.

4336           (e) "Person" means any individual, corporation, firm,  
4337 partnership, company or association, and includes a guardian,  
4338 trustee, executor, administrator, receiver, conservator or any  
4339 person acting in a fiduciary capacity therefor.

4340       **SECTION 81.** Section 27-35-703, Mississippi Code of 1972, is  
4341 amended as follows:

4342       27-35-703. (1) The department shall annually assess,  
4343 adjust, equalize and apportion the valuation of all aircraft of  
4344 each airline company of a type or model operated in this state by  
4345 such airline company by such type or model. Such aircraft shall  
4346 be valued by the department in the same manner as other personal  
4347 property in the state is valued.

4348           (2) Each airline company shall file with the department, on  
4349 or before the first Monday in April of each year, a complete  
4350 schedule of all aircraft of a type or model operated in this state  
4351 by such company. Such schedule shall be made under oath on forms  
4352 prescribed and furnished by the department. If any airline  
4353 company shall fail, refuse or neglect to file the required  
4354 schedules, such company may be penalized in the manner provided  
4355 for in Section 27-35-305.

4356           (3) The assessment when made and completed shall remain open  
4357 for thirty (30) days for inspection in the offices of the  
4358 Department of Revenue and be subject to objections by the airline  
4359 companies for the same time period. The Board of Tax Appeals  
4360 shall hear all objections, and it may increase or decrease any  
4361 assessment if such action appears to be necessary and proper.

4362           (4) Any objection shall be in writing and filed with the  
4363 Executive Director of the Board of Tax Appeals within the  
4364 thirty-day period set out in subsection (3) of this section for  
4365 objections. At the time of filing the objection with the  
4366 Executive Director of the Board of Tax Appeals, the taxpayer shall  
4367 also file a copy of his written objection with the Department of  
4368 Revenue.

4369           **SECTION 82.** Section 27-41-69, Mississippi Code of 1972, is  
4370 amended as follows:

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

4418 other classes in general. These various motor vehicles, together  
4419 with any special equipment, may be grouped into as many categories  
4420 as, in the judgment of the Department of Revenue, will be most  
4421 practical in effecting equalization.

4422 In preparing the assessment schedule, the Department of  
4423 Revenue shall apply such a percentage to the base value of such  
4424 motor vehicles which, in its best judgment, will produce an  
4425 assessed value which will equalize the assessed value of motor  
4426 vehicles with the assessed value of other property in general,  
4427 throughout the state, so far as is practical.

4428 The Department of Revenue shall also make necessary  
4429 corrections and amendments to this schedule from time to time  
4430 throughout the fiscal year, and in so doing the general procedure  
4431 set out above shall be followed.

4432 **SECTION 84.** Section 27-51-45, Mississippi Code of 1972, is  
4433 amended as follows:

4434 27-51-45. For any year, the Commissioner of Revenue is  
4435 hereby authorized, in his discretion, to \* \* \* postpone for not  
4436 more than thirty (30) days the time for preparation of the  
4437 assessment schedule herein referred to, the time for forwarding  
4438 the schedule to the presidents of the various boards of  
4439 supervisors and mayors or other presiding officers of the various  
4440 municipalities, the time for the consideration of the schedule and  
4441 the subsequent time for adoption and publication by these  
4442 respective boards, and the time for filing objection to the  
4443 schedule by any affected motor vehicle owner. In cases where any  
4444 municipality elects to prepare its own independent schedule, such  
4445 postponement shall also apply to its acts and duties.

4446 Notice of such postponement \* \* \* shall be made \* \* \* by the  
4447 Commissioner of Revenue of the Department of Revenue and a  
4448 certified copy shall be furnished the presiding officers of the  
4449 various counties and municipalities and such postponement shall be  
4450 binding on all counties and municipalities.

4451 **SECTION 85.** Section 27-51-101, Mississippi Code of 1972, is  
4452 amended as follows:

4453 27-51-101. (1) As used in Sections 27-51-101 through  
4454 27-51-107, unless the context requires otherwise:

4455 (a) "Private carrier of passengers" shall have the  
4456 meaning ascribed to such term in Section 27-19-3, but shall not be  
4457 construed to include motorcycles.

4458 (b) "Light carrier of property" means any motor vehicle  
4459 with a gross weight, as defined in Section 27-19-3, of ten  
4460 thousand (10,000) pounds or less that is designed and constructed  
4461 for the primary purpose of transporting property on the roads and  
4462 highways.

4463 (c) "Local taxing district" means any county,  
4464 municipality, school district or other local entity that levies an  
4465 ad valorem tax or for which an ad valorem tax is levied, to fund  
4466 all or a portion of its budget.

4467 (d) "State fiscal year" means the period beginning on  
4468 July 1 and ending on June 30 of the following year.

4469 (e) "Commission," "State Tax Commission" or  
4470 "department" means the Department of Revenue.

4471 **SECTION 86.** Section 27-55-1, Mississippi Code of 1972, is  
4472 amended as follows:

4473 27-55-1. The Department of Revenue, hereinafter called the  
4474 commission or the department, is hereby vested with the sole power  
4475 and authority, and is charged with the duty of administering and  
4476 enforcing the terms and provisions of this article.

4477 **SECTION 87.** Section 27-55-5, Mississippi Code of 1972, is  
4478 amended as follows:

4479 27-55-5. The words, terms and phrases as used in this  
4480 article shall have the following meanings unless the context  
4481 requires otherwise:

4482 (a) "Gasoline" means:

4483 (i) All products commonly or commercially known or  
4484 sold as gasoline (excluding casinghead and absorption or natural  
4485 gasoline) regardless of their classification or uses; and

4486 (ii) Any liquid prepared, advertised, offered for  
4487 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

4625 with any department, agency, or institution of such political  
4626 subdivision. Also, provided that no refund of tax paid on  
4627 gasoline used on the highways of this state in motor vehicles  
4628 owned or operated by the federal government, State of Mississippi,  
4629 or any department or political subdivision of either will be  
4630 allowed.

4631 Any person who shall purchase and use gasoline other than  
4632 aviation gasoline for aviation purposes, as defined in this  
4633 article, shall be entitled to a refund of all but Six and  
4634 Four-tenths Cents (6.4¢) per gallon of the tax actually paid on  
4635 gasoline thus used.

4636 The granting of a refund privilege to any claimant under the  
4637 provisions of this article is declared to be a matter of grace  
4638 rather than a matter of right, and in all cases arising under this  
4639 section the burden shall be on the claimant to make proof  
4640 sufficient to convince the department of the claimant's compliance  
4641 with the provisions of this article; otherwise, the refund claim  
4642 shall be denied or the claimant's permit cancelled by the  
4643 department, as the case may be.

4644 Before any person shall be entitled to claim refund of any  
4645 tax paid on gasoline under the provisions of this section, he  
4646 shall file an information blank for a refund permit with the  
4647 department. Such information blank shall be made on forms  
4648 furnished by the department and shall give a detailed description  
4649 of the equipment and such other information as the department may  
4650 require with respect to the equipment or machinery in which refund  
4651 gasoline is to be used. If such gasoline is not to be used in  
4652 equipment or machinery, the purpose for which such gasoline is to  
4653 be used shall be stated. The information blank and supplements  
4654 thereto shall be signed by the person desiring to use refund  
4655 gasoline or his authorized agent and filed under the penalty of  
4656 perjury.

4657 If additional or replacement equipment or machinery is  
4658 acquired, or if the status of the claimant otherwise changes after  
4659 the original information blank is filed, supplemental information

4660 reflecting these changes shall be filed at the time of filing the  
4661 next refund claim. The supplemental information blank shall  
4662 contain the same information with respect to the changes as is  
4663 required on the original information blank.

4664       Upon approval of the information blank, the department shall  
4665 assign a file number to be used by the refund user. Provided,  
4666 also, that such refund user will be issued a refund certificate  
4667 book to be used when purchasing refund gasoline. Each refund  
4668 certificate shall carry the file number of the refund user and,  
4669 upon each purchase of refund gasoline, a certificate shall be  
4670 filled in and signed on the calendar day of delivery, by either  
4671 the dealer or the refund user or their authorized agents, but in  
4672 no case may one (1) individual sign such certificate as both the  
4673 dealer and the user. Each certificate, however, must be signed by  
4674 both the claimant and dealer, or their authorized agents, before a  
4675 refund of tax can be allowed on the certificate. Such refund  
4676 certificate book shall not be transferable or assignable and shall  
4677 be kept in the possession of the refund user or in his control at  
4678 all times. Upon receipt of the information blank properly  
4679 completed, the department shall forward to such refund user the  
4680 file number and certificate book. Should the department refuse to  
4681 issue a file number and refund certificate book, or refuse to pay  
4682 any refund alleged to be due, the applicant or user may, within  
4683 sixty (60) days from the date of the notice of the refusal by the  
4684 department, appeal to the board of review of the Department of  
4685 Revenue as hereinafter provided.

4686       It shall be the duty of the consumer of gasoline for which  
4687 refund application is to be made, including any distributor of  
4688 gasoline using his own gasoline for a refund purpose, to have  
4689 storage facilities available for delivery of refund gasoline.  
4690 Such storage facilities shall be plainly marked "refund gasoline"  
4691 in lettering of contrasting color and not less than four (4)  
4692 inches in height. Where refund gasoline is delivered directly  
4693 into the fuel tank of equipment belonging to or used by the refund  
4694 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

4730 to refund gasoline or that the requirement that dye be added has  
4731 been waived by the department. The claim shall be certified under  
4732 the penalty of perjury.

4733 Any person who shall file a claim for refund under the  
4734 provisions of this article shall show on each refund claim filed:  
4735 the names and addresses of the person or persons from whom the  
4736 claimant customarily purchases motor fuel for use in propelling  
4737 motor vehicles owned or operated by the claimant on the highways  
4738 of this state. Until the provisions of this paragraph are  
4739 complied with, the refund claim shall not be allowed.

4740 Upon receipt of the claim, the department shall determine the  
4741 amount of refund due to the claimant and the amount shall be  
4742 refunded to the claimant as provided in Section 27-55-19. If for  
4743 any reason the department should determine that an erroneous claim  
4744 has been paid, it may deduct such erroneous payment from any legal  
4745 claim subsequently filed by the claimant to whom erroneous payment  
4746 was made.

4747 If the department determines that any refund claim shall not  
4748 be paid, it shall notify the claimant, in writing, at the earliest  
4749 date possible after such determination stating the reason or  
4750 reasons why such claim is disallowed.

4751 A refund claimant may, within sixty (60) days after receipt  
4752 of notice of the disallowance of his claim, appeal to the board of  
4753 review of the Department of Revenue as hereinafter provided.

4754 **SECTION 89.** Section 27-55-27, Mississippi Code of 1972, is  
4755 amended as follows:

4756 27-55-27. When gasoline is lost or destroyed in quantities  
4757 of seven hundred fifty (750) gallons or more through explosion,  
4758 fire, collision, storage tank wreckage, wreckage of loading or  
4759 unloading facilities, such as pumps and lines, or acts of  
4760 Providence while in storage in this state or while being  
4761 transported in this state, the owner of such gasoline shall be  
4762 entitled to tax credit or refund of the tax paid thereon.

4763 The department shall be notified by the owner of gasoline  
4764 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:

4798           27-55-505. The words, terms and phrases as used in this  
4799 article shall have the following meanings unless the context  
4800 requires otherwise:

4801           (a) "Special fuel" means kerosene, diesel fuel, fuel  
4802 oils, and any petroleum fuel or any other product other than  
4803 gasoline or compressed gas which is usable as fuel in an internal  
4804 combustion engine, and any combustible liquid other than gasoline  
4805 or compressed gas used or capable of being used as a fuel in  
4806 aircraft. The term "special fuel" shall not include racing  
4807 gasoline as defined in Section 27-55-5.

4808           (b) "Bunker oil" means a residual product obtained in  
4809 the refining of crude petroleum intended for use for the  
4810 generation of heat in a firebox or furnace when its flash point,  
4811 as determined by use of the Pensky-Martens tester, shall not be  
4812 less than one hundred fifty (150) degrees Fahrenheit and when its  
4813 viscosity at one hundred (100) degrees Fahrenheit shall not be  
4814 less than one hundred fifty (150) seconds when determined by use  
4815 of the Saybolt Universal Tubes.

4816           (c) "Person" means any individual, firm, copartnership,  
4817 joint venture, association, corporation, estate, trust, or any  
4818 group or combination acting as a unit, and the plural as well as  
4819 the singular number unless the intention to give a more limited  
4820 meaning is disclosed by the context.

4821           (d) "Distributor of special fuel" means:

4822                   (i) Any person importing special fuel into this  
4823 state;

4824                   (ii) Any person who shall receive, purchase,  
4825 acquire, use, store or sell any special fuel in this state on  
4826 which the excise tax hereinafter imposed by this article has not  
4827 been paid;

4828                   (iii) Any person exporting special fuel;

4829                   (iv) Any person engaged in the distribution of  
4830 special fuel by tank car or tank truck or both; however, no person  
4831 may qualify as a distributor of special fuel for the sole purpose  
4832 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

4937 or destruction as may be reasonably necessary for the effective  
4938 administration of this article.

4939 The claim shall be made in the name of the owner of the lost  
4940 or destroyed special fuel and shall be signed by the owner or his  
4941 authorized agent and filed within three (3) years after the date  
4942 of loss. All claims must be accompanied by proof satisfactory to  
4943 the department that the special fuel for which credit is claimed  
4944 was destroyed by or through one (1) of the means set forth in the  
4945 first paragraph of this section, and in all cases where the  
4946 special fuel alleged to have been destroyed was covered by  
4947 insurance, the department shall not approve such claims unless and  
4948 until the insurer has acknowledged and actually paid the loss.

4949 Upon receipt of the claim the department shall determine the  
4950 amount of refund or tax credit due the claimant and in the case of  
4951 refund the amount shall be refunded to the claimant as provided in  
4952 Section 27-55-19.

4953 If the department determines that any refund claim shall not  
4954 be paid, it shall notify the claimant stating the reason or  
4955 reasons why the claim is disallowed.

4956 A claimant may, within sixty (60) days from the date of the  
4957 written notice of the disallowance of his claim, appeal to the  
4958 board of review as provided by law.

4959 **SECTION 93.** Section 27-57-1, Mississippi Code of 1972, is  
4960 amended as follows:

4961 27-57-1. The Department of Revenue, hereinafter called the  
4962 "commission" or the "department," is hereby vested with the sole  
4963 power and authority, and is charged with the duty of administering  
4964 and enforcing the terms and provisions of this article.

4965 **SECTION 94.** Section 27-57-5, Mississippi Code of 1972, is  
4966 amended as follows:

4967 27-57-5. The words, terms and phrases as used in this  
4968 article shall have the following meanings unless the context  
4969 requires otherwise:

4970 (a) "Lubricating oil" means all petroleum-based oils or  
4971 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

5007 with different physical and chemical properties from the original  
5008 products.

5009 (f) "Waters" shall mean public waters.

5010 (g) "Retailer" means every person who sells lubricating  
5011 oil at retail.

5012 **SECTION 95.** Section 27-57-19, Mississippi Code of 1972, is  
5013 amended as follows:

5014 27-57-19. When lubricating oil is lost or destroyed in  
5015 quantities of two hundred fifty (250) gallons or more through  
5016 explosion, fire, collision, storage tank wreckage, wreckage of  
5017 loading or unloading facilities or other acts of Providence, only  
5018 while in storage in this state or while being transported in this  
5019 state, the owner of the lubricating oil shall be entitled to a  
5020 refund of the tax paid thereon.

5021 The department shall be notified by the owner of lubricating  
5022 oil lost or destroyed within five (5) days after the loss or  
5023 destruction is discovered. The department shall make an  
5024 investigation of the facts and circumstances surrounding the loss  
5025 or destruction as may be reasonably necessary for the effective  
5026 administration of this section.

5027 The claim shall be made in the name of the owner of the  
5028 lubricating oil lost or destroyed, and shall be signed by the  
5029 owner or his authorized agent and filed within three (3) years  
5030 after the date of the loss. All claims must be accompanied by  
5031 proof satisfactory to the department that the lubricating oil for  
5032 which credit is claimed was destroyed as herein provided. In all  
5033 cases where lubricating oil alleged to have been destroyed was  
5034 covered by insurance, the department shall not approve such claim  
5035 unless and until the insurer has acknowledged and actually paid  
5036 the loss.

5037 Upon the receipt of the claim, the department shall determine  
5038 the amount of refund or tax credit due to the claimant and in the  
5039 case of refund the amount shall be refunded to the claimant as  
5040 provided in Section 27-55-19. The refund shall be paid from  
5041 current lubricating oil tax collections.

5042           If the department determines that any refund claim shall not  
5043 be paid or any tax credit allowed, it shall notify the claimant at  
5044 the earliest possible date after it determines the claim cannot be  
5045 allowed stating the reason or reasons why the claim is rejected.

5046           A claimant may, within sixty (60) days from the date of the  
5047 rejection of his claim, appeal to the board of review as provided  
5048 by law.

5049           **SECTION 96.** Section 27-59-1, Mississippi Code of 1972, is  
5050 amended as follows:

5051           27-59-1. The Department of Revenue, hereinafter called the  
5052 "commission" or the "department," is hereby vested with the sole  
5053 power and authority, and is charged with the duty of administering  
5054 and enforcing the terms and provisions of this chapter.

5055           **SECTION 97.** Section 27-59-3, Mississippi Code of 1972, is  
5056 amended as follows:

5057           27-59-3. The words, terms and phrases as used in this  
5058 chapter shall have the following meanings unless the context  
5059 requires otherwise:

5060           (a) "Person" means any individual, firm, copartnership,  
5061 joint venture, association, corporation, estate, trust, or any  
5062 other group or combination acting as a unit, and the plural as  
5063 well as the singular number unless the intention to give a more  
5064 limited meaning is disclosed by the context.

5065           (b) "Highway" means and includes every way or place, of  
5066 whatever nature, including public roads, toll roads, streets, and  
5067 alleys of the state generally open to the use of the public or to  
5068 be opened or reopened to the use of the public for the purpose of  
5069 vehicular travel, and notwithstanding that the same may be  
5070 temporarily closed for the purpose of construction,  
5071 reconstruction, maintenance or repair. Provided further, that the  
5072 confines of a highway shall include the entire width and length of  
5073 the right-of-way.

5074           (c) "Motor vehicle" means every vehicle licensed for  
5075 highway use by which any person or property is transported or  
5076 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:

5147           27-59-301. The Department of Revenue, hereinafter called the  
5148 commission or the department, is hereby vested with the sole power  
5149 and authority, and is charged with the duty of administering and  
5150 enforcing the terms and provisions of this article.

5151           **SECTION 99.** Section 27-59-303, Mississippi Code of 1972, is  
5152 amended as follows:

5153           27-59-303. The words, terms and phrases as used in this  
5154 article shall have the following meanings unless the context  
5155 requires otherwise.

5156           (a) "Natural gas" means a mixture of hydrocarbons and  
5157 small quantities of nonhydrocarbons existing in the gaseous phase.

5158           (b) "Locomotive fuel" means diesel fuel and any other  
5159 fuel except gasoline used as fuel in a railroad locomotive.

5160           (c) "Person" means any individual, firm, copartnership,  
5161 joint venture, association, corporation, estate, trust or any  
5162 other combination acting as a unit, and the plural as well as the  
5163 singular number unless the intention to give a more limited  
5164 meaning is disclosed by the context.

5165           (d) "Commission" or "department" means the Department  
5166 of Revenue, acting either directly or through its duly authorized  
5167 officers, agents or employees.

5168           (e) "Permittee" means any person holding a user's  
5169 permit issued under the provisions of this article.

5170           (f) "Industrial purposes" means the operation of  
5171 machinery used for manufacturing.

5172           (g) "Engine" or "motor" means internal combustion  
5173 engine.

5174           (h) "Manufacturer" means a person conducting an  
5175 activity of an industrial or commercial nature wherein labor or  
5176 skill is applied by hand or by machinery, to materials belonging  
5177 to the manufacturer so that a new, different or more useful  
5178 article of tangible personal property or article of trade or  
5179 commerce is produced for sale or rental.

5180           (i) "Custom processor" means a person who performs the  
5181 services of a manufacturer upon the property of a customer.

5182 (j) "Compressed gas" means gases derived from petroleum  
5183 or natural gas which are in the gaseous state at normal  
5184 atmospheric temperature and pressure, but which may be maintained  
5185 in the liquid state at normal atmospheric temperature by suitable  
5186 pressure. As used herein, the term shall be deemed to mean and  
5187 include methane, ethane, propane, ethylene, propylene, butylene,  
5188 butane, isobutane, and any and all liquid flammable materials  
5189 derived from petroleum or natural gas having a vapor pressure  
5190 exceeding forty (40) pounds per square inch, absolute, at one  
5191 hundred (100) degrees Fahrenheit. Normal storage of these gases  
5192 is a liquid under pressure.

5193 **SECTION 100.** Section 27-61-1, Mississippi Code of 1972, is  
5194 amended as follows:

5195 27-61-1. The purpose of this chapter is to insure that all  
5196 carriers specified herein, using the highways of this state, shall  
5197 pay a reasonable tax for the privilege of, and as compensation  
5198 for, such use.

5199 The Department of Revenue, hereinafter called the  
5200 "commission" or the "department," is hereby vested with the sole  
5201 power and authority, and is charged with the duty of administering  
5202 and enforcing the terms and provisions of this chapter.

5203 **SECTION 101.** Section 27-61-3, Mississippi Code of 1972, is  
5204 amended as follows:

5205 27-61-3. When used in this chapter, the following words and  
5206 phrases shall have the meaning ascribed to them hereby, except  
5207 where the context clearly describes and indicates a different  
5208 meaning:

5209 (a) Person: Any individual, firm, copartnership, joint  
5210 venture, association, corporation, estate, trust, or any other  
5211 group or combination acting as a unit and the plural as well as  
5212 the singular number unless the intention to give a more limited  
5213 meaning is disclosed by the context.

5214 (b) Motor vehicle: A motor vehicle used, designed or  
5215 maintained for transportation of persons or property and (i)  
5216 having two (2) axles and a gross vehicle weight exceeding

5217 twenty-six thousand (26,000) pounds; (ii) having three (3) or more  
5218 axles, regardless of weight; or being used in combination when the  
5219 gross vehicle weight of such combination exceeds twenty-six  
5220 thousand (26,000) pounds. The term "motor vehicle" does not  
5221 include recreational vehicles.

5222 (c) Fuel: Any product which is used, or is capable of  
5223 being used, for the generation of power for the operation of a  
5224 motor vehicle.

5225 (d) Commission or department: The Department of  
5226 Revenue, either acting directly or through its duly authorized  
5227 officers, agents and employees.

5228 (e) Owner: A person who holds the legal title of a  
5229 motor vehicle, or in the event a motor vehicle is the subject of  
5230 an agreement for the conditional sale, lease or transfer of the  
5231 possession, howsoever, thereof, with the right of purchase upon  
5232 performance of conditions stated in the agreement, and with an  
5233 immediate right of possession vested in the conditional vendee,  
5234 lessee, possessor, or in the event such or similar transaction is  
5235 had by means of a mortgage and the mortgagor of a motor vehicle is  
5236 entitled to possession, then such conditional vendee, lessee,  
5237 possessor or mortgagor shall be deemed the owner for the purposes  
5238 of this chapter.

5239 (f) Highway: The entire width between boundary lines  
5240 of every way in the state that is publicly maintained or any part  
5241 of which is publicly maintained and is open or is to be opened to  
5242 use by the public for the purpose of vehicular travel, including  
5243 all streets and alleys in cities and towns.

5244 (g) Operator: Any person, partnership, joint stock  
5245 company or corporation operating on the public highways of this  
5246 state one or more motor vehicles as the beneficial owner or  
5247 lessee.

5248 (h) Driver: Any person actually in control of, driving  
5249 or operating a motor vehicle at any given time.

5250 (i) The terms "gross weight," "common carrier by motor  
5251 vehicle," "contract carrier by motor vehicle," "private commercial

5252 carrier of property by motor vehicle," "private commercial carrier  
5253 of passengers by motor vehicle," and "private carrier of property"  
5254 shall, respectively, have the meaning ascribed to them in Sections  
5255 27-19-1 through 27-19-167, Mississippi Code of 1972.

5256 (j) Retail dealer: Any person not licensed as a  
5257 distributor who sells gasoline, special fuel, diesel fuel or  
5258 compressed gas.

5259 (k) Motor carrier: Any person operating a motor  
5260 vehicle, as defined in this section, on the highways of this  
5261 state.

5262 (l) "Recreational vehicle" means vehicles such as motor  
5263 homes, pickup trucks with attached campers, and buses when used  
5264 exclusively for personal pleasure by an individual. In order to  
5265 qualify as a recreational vehicle, the vehicle shall not be used  
5266 in connection with any business endeavor.

5267 **SECTION 102.** Section 27-65-3, Mississippi Code of 1972, is  
5268 amended as follows:

5269 27-65-3. The words, terms and phrases, when used in this  
5270 chapter, shall have the meanings ascribed to them herein.

5271 (a) "Tax Commission" or "department" means the  
5272 Department of Revenue of the State of Mississippi.

5273 (b) "Commissioner" means the Commissioner of Revenue of  
5274 the Department of Revenue.

5275 (c) "Person" means and includes any individual, firm,  
5276 copartnership, joint venture, association, corporation, promoter  
5277 of a temporary event, estate, trust or other group or combination  
5278 acting as a unit, and includes the plural as well as the singular  
5279 in number. "Person" shall include husband or wife or both where  
5280 joint benefits are derived from the operation of a business taxed  
5281 hereunder. "Person" shall also include any state, county,  
5282 municipal or other agency or association engaging in a business  
5283 taxable under this chapter.

5284 (d) "Tax year" or "taxable year" means either the  
5285 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

5425 classification. It shall include, but not be limited to, sales in  
5426 place of roofing, tile, glass, carpets, drapes, fences, awnings,  
5427 window air conditioning units, gasoline pumps, window guards,  
5428 floor coverings, carports, store fixtures, aluminum and plastic  
5429 siding, tombstones and similar personal property.

5430 (1) "Newspaper" means a periodical which:

5431 (i) Is not published primarily for advertising  
5432 purposes and has not contained more than seventy-five percent  
5433 (75%) advertising in more than one-half (1/2) of its issues during  
5434 any consecutive twelve-month period excluding separate advertising  
5435 supplements inserted into but separately identifiable from any  
5436 regular issue or issues;

5437 (ii) Has been established and published  
5438 continuously for at least twelve (12) months;

5439 (iii) Is regularly issued at stated intervals no  
5440 less frequently than once a week, bears a date of issue, and is  
5441 numbered consecutively; provided, however, that publication on  
5442 legal holidays of this state or of the United States and on  
5443 Saturdays and Sundays shall not be required, and failure to  
5444 publish not more than two (2) regular issues in any calendar year  
5445 shall not exclude a periodical from this definition;

5446 (iv) Is issued from a known office of publication,  
5447 which shall be the principal public business office of the  
5448 newspaper and need not be the place at which the periodical is  
5449 printed and a newspaper shall be deemed to be "published" at the  
5450 place where its known office of publication is located;

5451 (v) Is formed of printed sheets; provided,  
5452 however, that a periodical that is reproduced by the stencil,  
5453 mimeograph or hectograph process shall not be considered to be a  
5454 "newspaper"; and

5455 (vi) Is originated and published for the  
5456 dissemination of current news and intelligence of varied, broad  
5457 and general public interest, announcements and notices, opinions  
5458 as editorials on a regular or irregular basis, and advertising and  
5459 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

5530 date \* \* \* of the notice. The notice shall be sent by certified  
5531 or registered mail or delivered by an agent of the commissioner  
5532 either to the taxpayer or someone of suitable age and discretion  
5533 at the taxpayer's residence or place of business.

5534 If the taxpayer shall fail or refuse to comply with the  
5535 notice of assessment or shall fail to petition for a hearing, the  
5536 commissioner shall proceed as provided in Section 27-65-39.

5537 **SECTION 105.** Section 27-65-87, Mississippi Code of 1972, is  
5538 amended as follows:

5539 27-65-87. The administration of this chapter is vested in  
5540 and shall be exercised by the Commissioner of Revenue of the  
5541 Department of Revenue, except as otherwise herein provided, and  
5542 the enforcement of any of the provisions of this chapter in any of  
5543 the courts of the state shall be under the exclusive jurisdiction  
5544 of the Commissioner of Revenue of the Department of Revenue who  
5545 may require the assistance of an act through the Attorney General,  
5546 prosecuting attorney of any county, or any district attorney, or  
5547 any attorney for the Department of Revenue, and may with the  
5548 assent of the Governor, employ special counsel in any county to  
5549 aid the prosecuting attorney, the compensation of whom shall be  
5550 fixed by and paid only upon the approval of the Governor; but the  
5551 Attorney General, district attorney or prosecuting attorney of any  
5552 county shall receive no fees or compensation for services rendered  
5553 in enforcing this chapter in addition to the salary paid to such  
5554 officer.

5555 In case of violation of the provisions of this chapter, the  
5556 commissioner may decline to prosecute for the first offense, if in  
5557 his judgment such violation is not willful or flagrant.

5558 **SECTION 106.** Section 27-65-89, Mississippi Code of 1972, is  
5559 amended as follows:

5560 27-65-89. The Commissioner of Revenue of the Department of  
5561 Revenue shall appoint, as needed, such deputies, agents, clerks  
5562 and stenographers as authorized by law, who shall serve under him,  
5563 and shall perform such duties as may be required by the  
5564 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,

5600 valued in money, including any additional charges for deferred  
5601 payment, installation and service charges, and freight charges to  
5602 the point of use within this state, without any deduction for cost  
5603 of property sold, expenses or losses, or taxes of any kind except  
5604 those exempt by the sales tax law. "Purchase price" or "sales  
5605 price" shall not include cash discounts allowed and taken or  
5606 merchandise returned by customers when the total sales price is  
5607 refunded either in cash or by credit, and shall not include  
5608 amounts allowed for a trade-in of similar property.

5609 (g) "Lease" or "rent" means any agreement entered into  
5610 for a consideration that transfers possession or control of  
5611 tangible personal property to a person for use within this state.

5612 (h) "Value" means the estimated or assessed monetary  
5613 worth of a thing or property. The value of property transferred  
5614 into this state for sales promotion or advertising shall be an  
5615 amount not less than the cost paid by the transferor or donor.  
5616 The value of property which has been used in another state shall  
5617 be determined by its cost less straight line depreciation provided  
5618 that value shall never be less than twenty percent (20%) of the  
5619 cost or other method acceptable to the commissioner. On property  
5620 imported by the manufacturer thereof for rental or lease within  
5621 this state, value shall be the manufactured cost of the property  
5622 and freight to the place of use in Mississippi.

5623 (i) "Tangible personal property" means personal  
5624 property perceptible to the human senses or by chemical analysis,  
5625 as opposed to real property or intangibles. "Tangible personal  
5626 property" shall include printed, mimeographed, multigraphed  
5627 matter, or material reproduced in any other manner, and books,  
5628 catalogs, manuals, publications or similar documents covering the  
5629 services of collecting, compiling or analyzing information of any  
5630 kind or nature. However, reports representing the work of persons  
5631 such as lawyers, accountants, engineers and similar professionals  
5632 shall not be included. "Tangible personal property" shall also  
5633 include tangible advertising or sales promotion materials such as,  
5634 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.

5670 (b) "Commissioner" shall mean the Commissioner of  
5671 Revenue of the Department of Revenue.

5672 (c) "Person" shall include a natural person, firm,  
5673 corporation, copartnership, joint venture, association, estate or  
5674 any other group or combination acting as a unit and the plural as  
5675 well as the singular thereof.

5676 (d) "Taxpayer" shall mean any person liable for the tax  
5677 hereunder.

5678 (e) "Sale" or "purchase" shall include the barter or  
5679 exchange of properties as well as the sale or purchase thereof for  
5680 money, and every closed transaction by which the title to tangible  
5681 property passes, either within or without this state, shall  
5682 constitute a taxable event, whether compensation shall be money or  
5683 service or some other thing of value.

5684 (f) "Purchase price" or "sales price" shall mean the  
5685 total amount for which tangible personal property is purchased or  
5686 sold, valued in money, whether paid in money or merchandise;  
5687 provided that cash discounts allowed and taken shall not be  
5688 included.

5689 (g) "Tangible personal property" shall mean tangible  
5690 goods, wares and merchandise when sold, purchased or delivered  
5691 within this state.

5692 (h) "Salesman" or "salesmen" shall mean and include any  
5693 and all persons engaged in the itinerant solicitation and taking  
5694 of orders for tangible personal property by use of the highways of  
5695 this state for subsequent delivery to retailers or consumers  
5696 within this state.

5697 **SECTION 109.** Section 27-68-3, Mississippi Code of 1972, is  
5698 amended as follows:

5699 27-68-3. As used in this chapter:

5700 (a) "Agreement" means the Streamlined Sales and Use Tax  
5701 Agreement.

5702 (b) "Certified Automated System" means software  
5703 certified jointly by the states that are signatories to the  
5704 agreement to calculate the tax imposed by each jurisdiction on a

5705 transaction, determine the amount of tax to remit to the  
5706 appropriate state, and maintain a record of the transaction.

5707 (c) "Certified Service Provider" means an agent  
5708 certified jointly by the states that are signatories to the  
5709 agreement to perform all of the seller's sales tax functions.

5710 (d) "Person" means an individual, trust, estate,  
5711 fiduciary, partnership, limited liability company, limited  
5712 liability partnership, corporation, or any other legal entity.

5713 (e) "Sales tax" means the tax levied under Chapter 65,  
5714 Title 27, Mississippi Code of 1972.

5715 (f) "Seller" means any person making sales, leases, or  
5716 rentals of personal property or services.

5717 (g) "State" means any state of the United States and  
5718 the District of Columbia.

5719 (h) "State Tax Commission" or "department" means the  
5720 Department of Revenue.

5721 (i) "Use tax" means the tax levied under Chapter 67,  
5722 Title 27, Mississippi Code of 1972.

5723 **SECTION 110.** Section 27-69-3, Mississippi Code of 1972, is  
5724 amended as follows:

5725 27-69-3. When used in this chapter:

5726 (a) "State" means the State of Mississippi as  
5727 geographically defined, and any and all waters under the  
5728 jurisdiction of the State of Mississippi.

5729 (b) "State Auditor" means the Auditor of Public  
5730 Accounts of the State of Mississippi, or his legally appointed  
5731 deputy, clerk or agent.

5732 (c) "Commissioner" means the Commissioner of Revenue of  
5733 the Department of Revenue, and his authorized agents and  
5734 employees.

5735 (d) "Person" means any individual, company,  
5736 corporation, partnership, association, joint venture, estate,  
5737 trust, or any other group, or combination acting as a unit, and  
5738 the plural as well as the singular, unless the intention to give a  
5739 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 (l) "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,

5914 means only those areas immediately adjacent and connected to the  
5915 brewing facility where food is normally sold and consumed.

5916 "Premises," for the purposes of this paragraph (j) for a brewpub  
5917 not operated by a hospitality operator, means those areas normally  
5918 used by the brewpub to conduct business and shall include the  
5919 selling areas, brewing areas and storage areas. For purposes of  
5920 this paragraph (j), hospitality operator shall have the meaning  
5921 ascribed to such term in Section 67-33-22.

5922 (k) "Hospitality cart" means a mobile cart from which  
5923 alcoholic beverages and light wine and beer are sold on a golf  
5924 course and for which a hospitality cart permit has been issued  
5925 under Section 67-1-51.

5926 **SECTION 113.** Section 27-77-1, Mississippi Code of 1972, is  
5927 amended as follows:

5928 27-77-1. As used in this chapter:

5929 (a) "Agency" means the commissioner acting directly or  
5930 through his duly authorized officers, agents, representatives and  
5931 employees, to perform duties and powers prescribed by the laws of  
5932 this state to be performed by the \* \* \* Commissioner of Revenue or  
5933 the Department of Revenue \* \* \*.

5934 (b) "Board of review" means the board of review of the  
5935 Department of Revenue as appointed by the commissioner under  
5936 Section 27-77-3, and also means a panel of the board of review  
5937 when an appeal is considered by a panel of the board of review  
5938 instead of the board of review en banc.

5939 (c) "Board of Tax Appeals" means the Board of Tax  
5940 Appeals as created under Section 1 of this act \* \* \*.

5941 (d) "Chairman" means the Chairman of the Board of Tax  
5942 Appeals.

5943 (e) "Commissioner" means the Commissioner of the  
5944 Department of Revenue.

5945 (f) "Denial" means the final decision of the staff of  
5946 the agency to deny the claim, request for waiver or application  
5947 being considered. In this context, staff of the agency does not  
5948 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           (l) "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.

6053 Pursuant to Section 27-51-103, imposition of this ad valorem tag  
6054 penalty at the maximum rate of twenty-five percent (25%) also  
6055 results in ineligibility for the credit against motor vehicle ad  
6056 valorem taxes provided by that statute. Waiver of the twenty-five  
6057 percent (25%) delinquency penalty by the agency under Section  
6058 27-51-43 shall reinstate credit eligibility.

6059 (u) "Tax" means a tax, fee, penalty and/or interest  
6060 which the agency is required by either general law or by local and  
6061 private law to administer, assess and collect.

6062 (v) "Taxpayer" means a person who is liable for or paid  
6063 any tax to the agency.

6064 (w) "Title" means a title to a motor vehicle or  
6065 manufactured housing issued by the agency under the Mississippi  
6066 Motor Vehicle Title Law, Section 63-21-1 et seq.

6067 (x) "Title interest holder" shall mean the owner or  
6068 lienholder in a motor vehicle or manufactured housing as indicated  
6069 on a title issued by the agency or as indicated on an application  
6070 to the agency for the issuance of a title.

6071 **SECTION 114.** Section 27-77-5, Mississippi Code of 1972, is  
6072 amended as follows:

6073 27-77-5. (1) Any taxpayer aggrieved by an assessment of tax  
6074 by the agency, by the agency's denial of a refund claim, or by the  
6075 denial of a waiver of tag penalty, and who wishes to contest the  
6076 action of the agency shall, within sixty (60) days from the date  
6077 of the action, file an appeal in writing with the board of review  
6078 requesting a hearing and correction of the contested action  
6079 specifying in detail the relief requested and any other  
6080 information that might be required by regulation. Even after an  
6081 appeal is filed with the board of review, the agency retains the  
6082 authority to change the assessment, the denial of refund claim or  
6083 the denial of tag penalty being appealed.

6084 (2) Upon receipt of a timely written appeal from a tax  
6085 assessment, refund claim denial or denial of waiver of a tag  
6086 penalty, a hearing shall be scheduled before the board of review  
6087 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

6262 amount of the bond provided herein or to forego the bond in its  
6263 entirety if he finds that the interest of the state to obtain  
6264 payment of the taxes, penalties and interest in issue in the  
6265 appeal are otherwise protected. As an alternative to the posting  
6266 of bond, a taxpayer appealing an order of the Board of Tax Appeals  
6267 affirming a tax assessment may, prior to the filing of the  
6268 petition, pay to the agency, under protest, the amount ordered by  
6269 the Board of Tax Appeals to be paid and seek a refund of such  
6270 taxes, plus interest thereon, in the appeal. The taxpayer shall  
6271 pay to the agency any tax included in the assessment which he is  
6272 not contesting. If the petition initiating the appeal is filed by  
6273 the taxpayer, the payment of the uncontested tax shall be made  
6274 prior to the expiration of the sixty-day time period for filing a  
6275 petition under subsection (1) of this section. If the petition  
6276 initiating the appeal is filed by the agency, the payment of the  
6277 uncontested tax shall be made prior to the expiration of the  
6278 sixty-day time period for the filing of the petition. Failure of  
6279 the taxpayer to timely pay the uncontested tax shall bar the  
6280 taxpayer from obtaining a reduction, abatement and/or refund of  
6281 any contested tax in the appeal and shall result in the taxpayer's  
6282 appeal or cross-appeal being dismissed with prejudice and with  
6283 judgment being entered granting the agency the relief it  
6284 requested.

6285 (4) In an action under this section resulting from an order  
6286 of the Board of Tax Appeals involving a refund claim denial, the  
6287 agency shall refund or credit to the taxpayer, as provided by law,  
6288 the amount of any overpayment included in the refund claim which  
6289 the agency does not contest. If the petition initiating the  
6290 appeal is filed by the agency, the uncontested overpayment shall  
6291 be paid or credited to the taxpayer prior to the expiration of the  
6292 sixty-day time period for filing a petition under subsection (1)  
6293 of this section. If the petition initiating the appeal is filed  
6294 by the taxpayer, such uncontested overpayment shall be paid or  
6295 credited to the taxpayer prior to the expiration of the thirty-day  
6296 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

6332 those as to legality and the amount of tax or refund due, and if  
6333 it finds that the tax assessment or denial of refund claim in  
6334 issue is incorrect or invalid, in whole or in part, it shall  
6335 determine the amount of tax or refund due, including interest and,  
6336 if applicable, penalty to date, and enter such order or judgment  
6337 as it deems proper. Interest and penalty included in this  
6338 determination shall be computed by the court based on the methods  
6339 for computing penalty and interest as specified by law for the  
6340 type of tax in issue. When the chancery court determines that an  
6341 overpayment exists, the determination as to whether such  
6342 overpayment shall be refunded to the taxpayer or credited against  
6343 the taxpayer's future taxes shall be made by the chancery court  
6344 based on the method for handling overpayments as specified by the  
6345 law for the type of tax in issue. Either the agency or the  
6346 taxpayer, or both, shall have the right to appeal from the order  
6347 of the chancery court to the Supreme Court as in other cases. If  
6348 an appeal is taken from the order of the chancery court, the bond  
6349 provided for in subsection (3) of this section shall continue to  
6350 remain in place until a final decision is rendered in the case.

6351 **SECTION 116.** Section 27-77-9, Mississippi Code of 1972, is  
6352 amended as follows:

6353 27-77-9. (1) If the agency determines that there is a basis  
6354 for suspension, surrender, seizure or revocation of a permit, tag  
6355 or title issued or approved by the agency, the agency shall give  
6356 the permittee, tag holder, title interest holder in the permit,  
6357 tag or title, written notice of its intent to suspend, revoke or  
6358 to order the surrender and/or seizure of the permit, tag or title.  
6359 The notice of intent shall be mailed or hand delivered to the  
6360 permittee, tag holder or title interest holder involved, shall set  
6361 forth the facts and conduct that provide the basis for the  
6362 intended action and shall advise the permittee, tag holder or  
6363 title interest holder involved \* \* \* that he has thirty (30) days  
6364 from the date of the notice to file with the board of review a  
6365 written request for a hearing on the intended action. \* \* \* If  
6366 the permittee, tag holder or title interest holder involved fails

6367 to file a written request with the board of review for a hearing  
6368 on the intended action within the thirty-day period, the intended  
6369 action shall automatically go into effect on the thirty-first day  
6370 after the date of the notice of intent without any further action  
6371 by the agency. The agency retains jurisdiction to reinstate,  
6372 reduce or remove a suspension and/or return the permit, tag or  
6373 title suspended, revoked, surrendered or seized under this  
6374 provision.

6375 (2) Upon receipt of a timely filed written request for a  
6376 hearing on the intended suspension, surrender, seizure or  
6377 revocation of the permit, tag or title in issue, the person filing  
6378 the request shall be advised of the date, time and location of a  
6379 show cause hearing that will be held a minimum of thirty (30) days  
6380 from the date of the notice. In the case of a request for hearing  
6381 involving an intended action regarding a title, the notice of  
6382 hearing shall also be mailed to any other title interest holders  
6383 in the motor vehicle or manufactured housing in issue. At the  
6384 hearing, the person requesting the hearing shall show cause why  
6385 the proposed action should not be taken. The show cause hearing  
6386 shall be informal and the rules of evidence shall be relaxed. The  
6387 hearing shall be conducted by the board of review or by a single  
6388 hearing officer selected by the chairman of the board of review  
6389 from a pool of qualified individuals designated by the  
6390 commissioner to serve as administrative hearing officers. The  
6391 person that requested the hearing or his designated representative  
6392 shall attend the hearing unless a request is made to, and granted  
6393 by, the board of review or the designated hearing officer to allow  
6394 the person to submit his position in writing or by electronic  
6395 transmission in lieu of attending the hearing. Failure of the  
6396 person requesting the hearing or his designated representative to  
6397 attend a hearing or submit his position in writing or by  
6398 electronic transmission in lieu of attendance by the date  
6399 specified by the board of review or designated hearing officer or  
6400 by the hearing date, if no date is specified, shall constitute an  
6401 involuntary withdrawal of the appeal. As soon as practical after

6402 the show cause hearing, the hearing officer or the members of the  
6403 board of review that conducted the hearing shall make a  
6404 determination as to whether the intended action or any other  
6405 action should be taken in regard to the permit, tag or title in  
6406 issue. The hearing officer or board of review shall enter an  
6407 order based on this determination and a copy of this order shall  
6408 be mailed to the permittee, tag holder or title interest holder  
6409 involved notifying same of the decision and the action taken.

6410       (3) The order of the hearing officer or the board of review  
6411 in regard to a show cause hearing shall be final unless, within  
6412 thirty (30) days from the date of the order, the permittee, tag  
6413 holder or title interest holder appeals the order to the Board of  
6414 Tax Appeals. The appeal shall be in writing and request a hearing  
6415 and reversal or modification of the order of the hearing officer  
6416 or board of review, specify in detail the relief requested,  
6417 contain any other information that might be required by regulation  
6418 and be filed with the executive director. The person filing the  
6419 appeal with the executive director shall also file a copy of his  
6420 written appeal with the board of review. Even after an appeal is  
6421 filed with the executive director, the board of review or hearing  
6422 officer who entered the order appealed retains the authority to  
6423 amend and/or correct this order at any time prior to a decision by  
6424 the Board of Tax Appeals on the appeal. Failure to timely file a  
6425 written appeal with the executive director within the thirty-day  
6426 period shall make the order of the hearing officer or the board of  
6427 review being appealed final and not subject to further review by  
6428 the Board of Tax Appeals or a court other than as to the issue of  
6429 whether a written appeal from the order of the hearing officer or  
6430 board of review was timely filed with the executive director.

6431       (4) Upon receipt of a written appeal from an order of a  
6432 hearing officer or the board of review regarding a show cause  
6433 hearing on a permit, tag or title, the executive director shall  
6434 schedule a hearing before the Board of Tax Appeals on this appeal.  
6435 A notice of the hearing shall be mailed to the person who filed  
6436 the appeal and the agency to advise them of the date, time and

6437 location of hearing. In the case of an appeal from a show cause  
6438 hearing on a title, the notice of hearing shall also be mailed to  
6439 any other title interest holders in the motor vehicle or  
6440 manufactured housing in issue. The person who filed the appeal or  
6441 his designated representative shall attend the hearing. Failure  
6442 of this person or his designated representative to attend a  
6443 hearing shall constitute an involuntary withdrawal of the appeal.

6444 (5) At any hearing before the Board of Tax Appeals on an  
6445 appeal of an order regarding a show cause hearing on a permit, tag  
6446 or title, two (2) members of the Board of Tax Appeals shall  
6447 constitute a quorum. At the hearing the Board of Tax Appeals  
6448 shall try the issues presented according to law and the facts and  
6449 pursuant to any guidelines established by regulation. The rules  
6450 of evidence shall be relaxed at the hearing and the hearing shall  
6451 be taken down by a court reporter. After reaching a decision on  
6452 the issues presented, the Board of Tax Appeals shall enter an  
6453 order setting forth its findings and decision on the appeal. A  
6454 copy of the order of the Board of Tax Appeals shall be mailed to  
6455 the person who filed the appeal and the agency to notify them of  
6456 the findings and decision of the Board of Tax Appeals. In the  
6457 case of an appeal involving a title, a copy of the order of the  
6458 Board of Tax Appeals shall also be mailed to any other title  
6459 interest holder in the motor vehicle or manufactured housing in  
6460 issue.

6461 (6) At any time after the filing of an appeal with the board  
6462 of review under this section, an appeal may be withdrawn. A  
6463 withdrawal of an appeal can be made voluntarily by the person  
6464 appealing or may occur involuntarily as the result of his failure  
6465 to appear at a scheduled hearing, or by any other act or failure  
6466 that the hearing officer or the board of review determines  
6467 represents a failure on the part of that person to prosecute his  
6468 appeal. A voluntary withdrawal shall be in writing or by  
6469 electronic transmission and sent from the person appealing or his  
6470 designated representative to the chairman of the board of review  
6471 or to the hearing officer designated to hear the matter. If the

6472 withdrawal of appeal is involuntary, the board of review or the  
6473 hearing officer designated to hear the matter shall note on its  
6474 minutes or by order the involuntary withdrawal of the appeal and  
6475 the basis for the withdrawal. Once an appeal to the board of  
6476 review under subsection (1) above is withdrawn, whether voluntary  
6477 or involuntary, the intended suspension, surrender, seizure or  
6478 revocation from which the appeal was taken shall become final and  
6479 not subject to further review by the Board of Tax Appeals or a  
6480 court. The agency shall then proceed in accordance with law based  
6481 on such final action.

6482 (7) At any time after the filing of an appeal with the Board  
6483 of Tax Appeals under this section, the appeal may be withdrawn. A  
6484 withdrawal of an appeal can be made voluntarily by the person  
6485 appealing or may occur involuntarily as the result of the failure  
6486 to appear at a scheduled hearing, or by any other act or failure  
6487 that the Board of Tax Appeals determines to represent a failure on  
6488 the part of that person to prosecute his appeal. A voluntary  
6489 withdrawal shall be in writing or by electronic transmission and  
6490 sent from the person appealing or his designated representative to  
6491 the executive director. If the withdrawal of the appeal is  
6492 involuntary, the Board of Tax Appeals shall note on its minutes  
6493 the involuntary withdrawal of the appeal and the basis for the  
6494 withdrawal. Once an appeal is withdrawn under this section,  
6495 whether voluntary or involuntary, the order from the show cause  
6496 hearing from which the appeal was taken shall become final and not  
6497 subject to further review by the Board of Tax Appeals or a court.  
6498 The agency shall then proceed in accordance with law based on the  
6499 final order.

6500 **SECTION 117.** Section 27-77-11, Mississippi Code of 1972, is  
6501 amended as follows:

6502 27-77-11. (1) If the agency determines that an application  
6503 or request for a permit, IFTA license, tag or title issued or  
6504 approved by the agency should be denied, the agency shall give the  
6505 applicant for the permit, IFTA license, tag or title written  
6506 notice of the denial by mailing or hand delivering the notice to

6507 the applicant. In regard to the denial of an application for  
6508 title, the designated agent who took the application and any other  
6509 alleged title interest holders as appearing on the application  
6510 shall also be mailed or hand delivered a copy of the agency's  
6511 denial of the title application. If the applicant, or in the case  
6512 of the denial of a title application, any title interest holder  
6513 appearing on the title application, is aggrieved by the denial and  
6514 wishes to contest the denial, he shall, within thirty (30) days  
6515 from the date of the written notice of the denial, file an appeal  
6516 in writing with the board of review requesting a hearing on the  
6517 denial that specified in detail the relief requested and contains  
6518 any other information required by regulation. Failure to timely  
6519 file a written appeal with the board of review within this  
6520 thirty-day period shall make final the agency's denial of the  
6521 permit, IFTA license, tag or title in issue and not subject to  
6522 further review by the board of review, the Board of Tax Appeals or  
6523 a court except as to the issue of whether a written appeal to the  
6524 board of review was timely filed. Even if an appeal to the board  
6525 of review is filed under this section, the agency retains  
6526 jurisdiction to reverse its denial and issue or approve the  
6527 permit, IFTA license, tax or title involved in the appeal.

6528 (2) Upon receipt of a written appeal by the board of review  
6529 from a denial of a permit, IFTA license, tag or title, a hearing  
6530 shall be scheduled before the board of review unless it is  
6531 determined that the relief requested in the written appeal should  
6532 be granted without a hearing. A notice of the hearing shall be  
6533 mailed to the person appealing advising him of the date, time and  
6534 location of hearing. If the appeal involves the denial of a  
6535 title, the notice of hearing shall also be mailed to all other  
6536 title interest holders in the motor vehicle or manufactured  
6537 housing in issue, including both those that appear on a current  
6538 title and those that appear on the application that was denied.  
6539 The notice may contain a statement as to the basis for the denial  
6540 of the permit, IFTA license, tag or title. The person appealing  
6541 or his designated representative shall attend the hearing unless a

6542 request is made to and granted by the board of review to allow him  
6543 to submit his position in writing or by electronic transmission in  
6544 lieu of attendance. Failure of the person appealing, or his  
6545 designated representative, to attend a hearing or to submit his  
6546 position in writing or by electronic transmission in lieu of  
6547 attendance by the date specified by the board of review or by the  
6548 hearing date, if no date is specified, shall constitute a  
6549 withdrawal of the appeal.

6550 (3) At a hearing before the board of review on a denial of a  
6551 permit, IFTA license, tag or title, the board of review shall try  
6552 the issues presented, according to law and the facts and within  
6553 the guidelines established by regulation. The hearing before the  
6554 board of review shall be informal and no official transcript shall  
6555 be made of the hearing. At the earliest practical date after the  
6556 hearing, the members of the board of review that heard the appeal  
6557 shall make a determination of the matter presented and notify the  
6558 person appealing of its findings by mailing a copy of its order to  
6559 that person. In the case of a hearing involving the denial of a  
6560 title, the order shall also be mailed to all other title interest  
6561 holders in the motor vehicle or manufactured housing in issue,  
6562 including those that appear on a current title and those that  
6563 appear on the application that was denied.

6564 (4) The order of the board of review involving the denial of  
6565 a permit, IFTA license, tag or title shall be final unless within  
6566 thirty (30) days from the date of the order, the applicant appeals  
6567 the order to the Board of Tax Appeals. In the case of an order of  
6568 the board of review involving a review of the denial of a title,  
6569 any title interest holder in the motor vehicle or manufactured  
6570 housing in issue may appeal the order to the Board of Tax Appeals.  
6571 The appeal shall be in writing, request a hearing and reversal or  
6572 modification of the order of the board of review, specify in  
6573 detail the relief requested, contain any other information that is  
6574 required by regulation and be filed with the executive director  
6575 with a copy sent to the board of review. Failure to timely file a  
6576 written appeal with the executive director within the thirty-day

6577 period will make the order of the board of review being appealed  
6578 final and not subject to further review by the Board of Tax  
6579 Appeals or a court other than as to the issue of whether a written  
6580 appeal from the order of the board of review was timely filed with  
6581 the executive director. Even if an appeal to the Board of Tax  
6582 Appeals is filed under this section, the board of review retains  
6583 the authority to amend and/or correct its order being appealed  
6584 prior to a decision by the Board of Tax Appeals on the appeal.

6585 (5) Upon receipt of a written appeal from an order of the  
6586 board of review involving the denial of a permit, IFTA license,  
6587 tag or title, the executive director shall schedule a hearing  
6588 before the Board of Tax Appeals on the appeal. A notice of the  
6589 hearing shall be mailed to the person who filed the appeal and the  
6590 agency to advise them of the date, time and location of hearing.  
6591 In the case of an appeal from an order of the board of review  
6592 involving the denial of a title, the notice of hearing shall also  
6593 be mailed to all title interest holders in the motor vehicle or  
6594 manufactured housing in issue. The person who filed the appeal or  
6595 his designated representative shall attend the hearing. Failure  
6596 of this person or his designated representative to attend a  
6597 hearing shall constitute an involuntary withdrawal of the appeal.

6598 (6) At any hearing before the Board of Tax Appeals on an  
6599 appeal of an order from the board of review involving the denial  
6600 of a permit, IFTA license, tag or title, two (2) members of the  
6601 Board of Tax Appeals shall constitute a quorum. At the hearing,  
6602 the commission shall try the issues presented according to law and  
6603 the facts and pursuant to any guidelines established by  
6604 regulation. The rules of evidence shall be relaxed at the hearing  
6605 and the hearing shall be taken down by a court reporter. After  
6606 reaching a decision on the issues presented, the Board of Tax  
6607 Appeals shall enter its order setting forth its findings and  
6608 decision on the appeal. A copy of the order of the Board of Tax  
6609 Appeals shall be mailed to the person who filed the appeal and the  
6610 agency with the Board of Tax Appeals to notify them of the  
6611 findings and decision of the Board of Tax Appeals. In the case of

6612 an appeal involving a title, a copy of the order of the Board of  
6613 Tax Appeals shall also be mailed to all title interest holders in  
6614 the motor vehicle or manufactured housing in issue.

6615 (7) At any time after the filing of an appeal with the board  
6616 of review, or from the board of review to the Board of Tax Appeals  
6617 under this chapter, an appeal can be withdrawn. A withdrawal of  
6618 an appeal may be made voluntarily by the person who filed the  
6619 appeal or may occur involuntarily by the person failing to appear  
6620 at a scheduled hearing, by failing to make a written submission or  
6621 electronic transmission to the board of review in lieu of  
6622 attendance by the date specified by the board or by the hearing  
6623 date, if no date was specified, or by any other act or failure  
6624 that the board of review or the Board of Tax Appeals determines  
6625 represents a failure on the part of this person to prosecute his  
6626 appeal. Any voluntary withdrawal shall be in writing or by  
6627 electronic transmission and sent by the person appealing or his  
6628 designated representative to the chairman of the board of review,  
6629 if the appeal being withdrawn is to the board of review, or to the  
6630 executive director, if the appeal being withdrawn is to the Board  
6631 of Tax Appeals. If the withdrawal of appeal is involuntary, the  
6632 administrative appeal body from whom the appeal is being withdrawn  
6633 shall note on its minutes the involuntary withdrawal of the appeal  
6634 and the basis for the withdrawal. Once an appeal is withdrawn,  
6635 whether voluntary or involuntary, the action from which the appeal  
6636 was taken, whether the original denial or the order of the board  
6637 of review, shall become final and not subject to further review by  
6638 the board of review, the Board of Tax Appeals or a court. The  
6639 agency shall then proceed in accordance with law based on such  
6640 final action.

6641 **SECTION 118.** Section 27-77-12, Mississippi Code of 1972, is  
6642 amended as follows:

6643 27-77-12. (1) If the agency determines that there is a  
6644 basis for revocation of an IFTA license, the agency shall give the  
6645 IFTA licensee holding the IFTA license written notice of its  
6646 intent to revoke his IFTA license. The notice of intent shall be

6647 mailed or hand delivered to the IFTA licensee and shall set forth  
6648 the facts and conduct that provide the basis for the intended  
6649 revocation and shall advise the IFTA licensee that he has thirty  
6650 (30) days from the date of the notice to file with the board of  
6651 review a written request for a hearing on the intended revocation.  
6652 If the IFTA licensee fails to file a written request with the  
6653 board of review for a hearing on the intended revocation within  
6654 the thirty-day period, the IFTA license shall be automatically  
6655 revoked on the thirty-first day after the date of the notice  
6656 without any further action by the agency. The agency retains  
6657 jurisdiction to reinstate an IFTA license after revocation.  
6658 Failure of the IFTA licensee to timely file a written request for  
6659 a hearing on the intended revocation will bar further review of  
6660 the revocation by any court.

6661 (2) Upon receipt by the board of review of a timely filed  
6662 written request for a hearing on the intended revocation of the  
6663 IFTA license, the IFTA licensee filing the request shall be  
6664 advised of the date, time and location of a show cause hearing  
6665 that will be held a minimum of thirty (30) days from the date of  
6666 the notice. At the hearing, the IFTA licensee shall show cause  
6667 why his IFTA license should not be revoked. The show cause  
6668 hearing shall be informal and the rules of evidence shall be  
6669 relaxed. The hearing shall be conducted by the board of review or  
6670 by a single hearing officer selected by the chairman of the board  
6671 of review from a pool of qualified individuals designated by the  
6672 commissioner to serve as administrative hearing officers. The  
6673 IFTA licensee or his designated representative shall attend the  
6674 hearing unless a request is made to, and granted by, the board of  
6675 review or the designated hearing officer to allow the IFTA  
6676 licensee to submit his position in writing or by electronic  
6677 transmission in lieu of attending the hearing. Failure of the  
6678 IFTA licensee or his designated representative to attend a hearing  
6679 or submit his position in writing or by electronic transmission in  
6680 lieu of attendance by the date specified by the board of review or  
6681 designated hearing officer or by the hearing date, if no date is

6682 specified, shall constitute an involuntary withdrawal of the  
6683 appeal. As soon as practical after the show cause hearing, the  
6684 hearing officer or the board of review \* \* \* shall make a  
6685 determination as to whether the IFTA license \* \* \* should be  
6686 revoked. The hearing officer or board of review shall enter an  
6687 order based on this determination and a copy of this order shall  
6688 be mailed to the IFTA licensee notifying him of the decision and  
6689 the action taken.

6690 (3) The order of the hearing officer or the board of review  
6691 in regard to a show cause hearing shall be final unless, within  
6692 thirty (30) days from the date of the order, the IFTA licensee  
6693 appeals the order to the Board of Tax Appeals. The appeal shall  
6694 be in writing and request a hearing and reversal or modification  
6695 of the order of the hearing officer or board of review, specify in  
6696 detail the relief requested, contain any other information that  
6697 might be required by regulation and be filed with the executive  
6698 director with a copy sent to the board of review. Even after an  
6699 appeal is filed with the executive director, the board of review  
6700 or hearing officer who entered the order appealed retains the  
6701 authority to amend and/or correct this order at any time prior to  
6702 a decision by the Board of Tax Appeals on the appeal.

6703 (4) Upon receipt of a written appeal from an order of a  
6704 hearing officer or the board of review regarding a show cause  
6705 hearing on an IFTA license, the executive director shall schedule  
6706 a hearing before the Board of Tax Appeals on the appeal. A notice  
6707 of the hearing shall be mailed to the IFTA licensee or his  
6708 designated representative and the agency to advise them of the  
6709 date, time and location of the hearing. The IFTA licensee or his  
6710 designated representative shall attend the hearing. Failure of  
6711 the IFTA licensee or his designated representative to attend a  
6712 hearing shall constitute an involuntary withdrawal of the appeal.

6713 (5) At any hearing before the Board of Tax Appeals on an  
6714 appeal of an order regarding a show cause hearing on an IFTA  
6715 license, two (2) members of the Board of Tax Appeals shall  
6716 constitute a quorum. At the hearing the Board of Tax Appeals

6717 shall try the issues presented according to law and the facts and  
6718 pursuant to any guidelines established by regulation. The rules  
6719 of evidence shall be relaxed at the hearing and the hearing shall  
6720 be recorded by a court reporter. After reaching a decision on the  
6721 issues presented, the Board of Tax Appeals shall enter an order  
6722 setting forth its findings and decision on the appeal. A copy of  
6723 the order of the Board of Tax Appeals shall be mailed to the  
6724 person who filed the appeal and the agency to notify them of the  
6725 findings and decision of the Board of Tax Appeals.

6726 (6) At any time after the filing of a timely written request  
6727 with the board of review for a hearing on the intended revocation  
6728 of an IFTA license under this section, the request may be  
6729 withdrawn. A withdrawal of a request for a hearing on the  
6730 intended revocation may be made voluntarily by the person  
6731 requesting the hearing or may occur involuntarily as a result of a  
6732 failure to appear at a scheduled hearing, or by any other act or  
6733 failure that the board of review or designated hearing officer  
6734 determines represents a failure on the part of that person to  
6735 pursue his request for a hearing on the intended revocation. A  
6736 voluntary withdrawal shall be in writing or by electronic  
6737 transmission and sent from the person requesting the hearing or  
6738 his designated representative to the chairman of the board of  
6739 review or the hearing officer designated to hear the matter. If  
6740 the withdrawal of the request for a hearing is involuntary, the  
6741 board of review or the hearing officer designated to hear the  
6742 matter shall note on its minutes or by order the involuntary  
6743 withdrawal of the request and the basis for the withdrawal. Once  
6744 a request for hearing on the intended revocation is withdrawn,  
6745 whether voluntary or involuntary, the IFTA license shall be  
6746 automatically revoked.

6747 (7) At any time after the filing of an appeal with the Board  
6748 of Tax Appeals under this section, the appeal may be withdrawn. A  
6749 withdrawal of an appeal can be made voluntarily by the person  
6750 appealing or may occur involuntarily as the result of the failure  
6751 to appear at a scheduled hearing, or by any other act or failure

6752 that the Board of Tax Appeals determines to represent a failure on  
6753 the part of that person to prosecute his appeal. A voluntary  
6754 withdrawal shall be in writing or by electronic transmission and  
6755 sent from the person appealing or his designated representative to  
6756 the executive director. If the withdrawal of the appeal is  
6757 involuntary, the Board of Tax Appeals shall note on its minutes  
6758 the involuntary withdrawal of the appeal and the basis for the  
6759 withdrawal. Once an appeal is withdrawn under this section,  
6760 whether voluntary or involuntary, the order from the show cause  
6761 hearing from which the appeal was taken shall become final and not  
6762 subject to further review by the Board of Tax Appeals or a court.  
6763 The agency shall then proceed in accordance with law based on the  
6764 final order.

6765 **SECTION 119.** Section 27-77-13, Mississippi Code of 1972, is  
6766 amended as follows:

6767 27-77-13. (1) The findings and order of the Board of Tax  
6768 Appeals entered in accordance with Section 27-77-9, 27-77-11 or  
6769 Section 27-77-12, shall be final unless the agency or the  
6770 permittee, IFTA licensee, tag holder, or title interest holder of  
6771 the permit, IFTA license, tag or title in regard to which action  
6772 was taken in the order shall, within thirty (30) days from the  
6773 date of the order, file a petition in \* \* \* chancery court seeking  
6774 a review of the order. If a petition under this subsection is  
6775 filed by the permittee, IFTA licensee, tag holder or title  
6776 interest holder, the petition shall be filed against the agency as  
6777 respondent. If a petition under this subsection is filed by the  
6778 agency, the petition shall be filed against the permittee, IFTA  
6779 licensee, tag holder or title interest holder of the permit, IFTA  
6780 license, tag or title which is the subject of the order sought to  
6781 be reviewed as respondent. The respondent to a petition has  
6782 thirty (30) days from the date of service of the petition to file  
6783 a cross-appeal. The petition shall contain a concise statement of  
6784 the facts as contended by the petitioner, identify the order from  
6785 which the appeal is being taken and the type of relief sought.  
6786 Where the petition is being filed by a permittee, IFTA licensee,

6787 tag holder or title interest holder, the petition shall also  
6788 contain a certificate that the petitioner has paid to the  
6789 executive director the estimated cost of the preparation of the  
6790 entire record of the Board of Tax Appeals on the matter for which  
6791 a review is sought.

6792 (2) A petition under subsection (1) of this section shall be  
6793 filed in the chancery court of the county or judicial district in  
6794 which the permittee, IFTA licensee, tag holder or title interest  
6795 holder of the permit, IFTA license, tag or title which is the  
6796 subject of the order of the Board of Tax Appeals sought to be  
6797 reviewed has a place of business or in the First Judicial District  
6798 of Hinds County, Mississippi; however, a resident permittee, IFTA  
6799 licensee, tag holder or title interest holder may file a petition  
6800 in the chancery court of the county or judicial district in which  
6801 he is a resident. If both the agency and the permittee, IFTA  
6802 licensee, tag holder or title interest holder file a petition  
6803 under subsection (1) of this section, the appeals shall be  
6804 consolidated and the chancery court where the first petition was  
6805 filed shall have jurisdiction over the consolidated appeal. If it  
6806 cannot be determined which petition was filed first, the chancery  
6807 court where the permittee, IFTA licensee, tag holder or title  
6808 interest holder filed his petition shall have jurisdiction over  
6809 the consolidated appeal.

6810 (3) The review by the chancery court of the order of the  
6811 Board of Tax Appeals on a petition filed under subsection (1) of  
6812 this section shall be based on the record made before the Board of  
6813 Tax Appeals. Before filing a petition under subsection (1) of  
6814 this section, a petitioner, who is a permittee, IFTA licensee, tag  
6815 holder or title interest holder, shall obtain from the executive  
6816 director an estimate of the cost to prepare the entire record of  
6817 the Board of Tax Appeals and shall pay to the executive director  
6818 the amount of the estimate. If, upon the preparation of the  
6819 record, it is determined that the estimate paid was insufficient  
6820 to pay the actual cost of the preparation of the record, the  
6821 executive director shall mail to the petitioner a written notice

6822 of the deficiency. The petitioner shall pay the deficiency to the  
6823 executive director within thirty (30) days from the date of this  
6824 written notice. If upon the preparation of the record, it is  
6825 determined that the estimate paid by the petitioner exceeds the  
6826 actual cost of the preparation of the record, the executive  
6827 director shall remit to the petitioner the amount by which the  
6828 estimate paid exceeds the actual cost. The chancery court shall  
6829 dismiss with prejudice any petition filed by a permittee, IFTA  
6830 licensee, tag holder or title interest holder where it is shown  
6831 that the petitioner failed to pay prior to filing the petition the  
6832 estimated cost for preparation of the record of the Board of Tax  
6833 Appeals or failed to pay any deficiency in the estimate within  
6834 thirty (30) days of a notice of deficiency. Where the agency  
6835 files a petition under subsection (1) of this section, the agency  
6836 shall pay the cost of the preparation of the entire record of the  
6837 Board of Tax Appeals on the matter for which a review is sought.  
6838 Where both the agency and the permittee, IFTA licensee, tag holder  
6839 or title interest holder file a petition under subsection (1) of  
6840 this section from the same Board of Tax Appeals order, the  
6841 executive director shall remit to the permittee, IFTA licensee,  
6842 tag holder or title interest holder that filed the petition the  
6843 amount by which, if any, the payment received from this permittee,  
6844 IFTA licensee, tag holder or title interest holder for preparation  
6845 of the record exceeds one half (1/2) of the actual cost of  
6846 preparation of the record. The other half of the actual cost of  
6847 preparation of the record in this situation shall be paid by the  
6848 agency.

6849 (4) Upon the filing of the petition under subsection (1) of  
6850 this section, the clerk of the court in which the petition is  
6851 filed shall issue a summons to the respondent requiring the  
6852 respondent to answer or otherwise respond to the petition within  
6853 thirty (30) days of service. Where the agency is the respondent,  
6854 the summons shall be served on the agency by personal service on  
6855 the commissioner as the chief executive officer of the agency.

6856 (5) Upon the filing of an answer and/or response \* \* \* to  
6857 the petition filed under subsection (1) of this section, and upon  
6858 the filing of the record made before the Board of Tax Appeals with  
6859 the clerk of the court, the chancery court shall, upon the motion  
6860 of either party, establish a schedule for the filing of briefs in  
6861 the action. The scope of review of the chancery court in an  
6862 action filed under subsection (1) of this section shall be limited  
6863 to a review of the record made before the Board of Tax Appeals to  
6864 determine if the action of the Board of Tax Appeals is unlawful  
6865 for the reason that it was:

- 6866 (a) Not supported by substantial evidence;
- 6867 (b) Arbitrary or capricious;
- 6868 (c) Beyond the power of the Board of Tax Appeals to  
6869 make; or
- 6870 (d) In violation of some statutory or constitutional  
6871 right of the petitioner.

6872 (6) No relief shall be granted based upon the chancery  
6873 court's finding of harmless error by the Board of Tax Appeals in  
6874 complying with any procedural requirement; however, in the event  
6875 that there is a finding of prejudicial error in the proceedings,  
6876 the cause shall be remanded to the Board of Tax Appeals for a  
6877 rehearing consistent with the findings of the court.

6878 (7) The respondent, the petitioner, or both, shall have the  
6879 right to appeal from the order of the chancery court to the  
6880 Supreme Court as in other cases.

6881 **SECTION 120.** Section 27-77-15, Mississippi Code of 1972, is  
6882 amended as follows:

6883 27-77-15. (1) Except as otherwise provided in this section,  
6884 it shall be unlawful for the executive director, the Board of  
6885 Appeals, the commissioner, \* \* \* the agency, or an officer, agent  
6886 or employee of the agency or the Board of Tax Appeals, to divulge  
6887 or make known in any manner the information contained in the  
6888 files, records and orders of the agency, a hearing officer of the  
6889 agency, the board of review or the Board of Tax Appeals in regard

6890 to an appeal to a hearing officer, the board of review or the  
6891 Board of Tax Appeals under this chapter.

6892 (2) For purposes of this section, the term "appellant" means  
6893 the taxpayer, IFTA licensee, permittee, tag holder or title  
6894 interest holder who filed the appeal to the board of review or the  
6895 Board of Tax Appeals under this chapter which resulted in the  
6896 files, records and orders of that appeal. \* \* \*

6897 (3) The executive director, the Board of Tax Appeals, the  
6898 commissioner, \* \* \* the agency, hearing officer or an agent or  
6899 employee of the agency or the Board of Tax Appeals is permitted to  
6900 divulge and make known information otherwise prohibited from  
6901 disclosure under subsection (1) of this section in any of the  
6902 following circumstances:

6903 (a) Where the information is being disclosed as a  
6904 result of complying with the provisions of this chapter and/or  
6905 with regulations promulgated to enforce the provisions of this  
6906 chapter.

6907 (b) Where the information is being provided to the  
6908 appellant or his designated representative.

6909 (c) Where the information is being disclosed to  
6910 employees or officers of the agency.

6911 (d) Where the information is being provided or  
6912 disclosed pursuant to a written authorization executed by the  
6913 appellant as prescribed by regulation.

6914 (e) Where the information is being provided or  
6915 disclosed in the course of a court action in which the agency, the  
6916 Board of Tax Appeals, the commissioner, an \* \* \* officer or \* \* \*  
6917 employee of the agency or the Board of Tax Appeals and the  
6918 appellant are parties, including, but not limited to, an action  
6919 brought under this chapter or in the course of the bankruptcy case  
6920 of the appellant.

6921 (f) Where the information is being provided to the  
6922 Internal Revenue Service or a taxing authority of another state  
6923 under an information exchange agreement where similar information

6924 can be obtained by the agency from the Internal Revenue Service or  
6925 state taxing authority receiving the information.

6926 (g) Where the information is being provided pursuant to  
6927 the International Registration Plan (IRP) or the International  
6928 Fuel Tax Agreement (IFTA) or any regulations, rules or procedures  
6929 adopted under such plan or agreement.

6930 (h) Where the disclosure of information is authorized  
6931 under Section 27-55-49, 27-55-557, 27-57-39, 27-59-53 or 27-61-20.

6932 (i) Where the information is being provided to the  
6933 State Auditor or his employees in the course of his audit of the  
6934 agency; however, the prohibitions against disclosure which apply  
6935 to the agency shall also apply to the State Auditor and his  
6936 employees or former employees.

6937 (j) Where the information is being provided to the  
6938 Attorney General or any other attorney representing the state or  
6939 the agency in an action brought by the appellant to set aside the  
6940 tax, in an action brought by the state or agency to recover the  
6941 tax imposed, or in an action where the appellant is being  
6942 prosecuted for a crime under the tax laws of this state.

6943 (k) Where the information is being provided by the  
6944 commissioner to a contractor of collection services pursuant to  
6945 the authority granted the commissioner in Section 27-75-16.

6946 (l) Where the information is being provided in  
6947 accordance with a proper judicial order. The term "proper  
6948 judicial order" as used in this paragraph shall not include  
6949 subpoenas or subpoenas duces tecum, but shall include only those  
6950 orders entered by a court of record in this state after furnishing  
6951 notice and a hearing to the appellant and the Department of  
6952 Revenue. The court shall not authorize the furnishing of such  
6953 information unless it is satisfied that the information is needed  
6954 to pursue pending litigation in which the information itself is in  
6955 issue, or the judge is satisfied that the need for furnishing the  
6956 information outweighs the rights of the appellant to have such  
6957 information secreted.

6958 (4) Nothing in subsection (1) of this section shall prohibit  
6959 the inspection or disclosure of the minutes of the Board of Tax  
6960 Appeals except to the extent that such minutes reflect the  
6961 specific amount of a tax assessment or refund claim or the  
6962 specific amount of tax or refund claim determined by the Board of  
6963 Tax Appeals to be due.

6964 (5) Information that is prohibited from being disclosed in  
6965 subsection (1) of this section shall be exempt from the provisions  
6966 of the Mississippi Public Records Act of 1983.

6967 (6) Due to the need to discuss confidential tax information,  
6968 the hearings before a hearing officer, the board of review and the  
6969 Board of Tax Appeals under this chapter, and the meetings in which  
6970 the board of review and the Board of Tax Appeals deliberate and  
6971 vote on the issues raised at such hearings shall be exempt from  
6972 the provisions of Section 25-41-1 et seq.

6973 **SECTION 121.** Section 27-77-17, Mississippi Code of 1972, is  
6974 amended as follows:

6975 27-77-17. Except as to the determination of whether a tag  
6976 penalty should be waived under Section 27-51-43, the provisions of  
6977 this chapter shall not apply to any action taken by the agency,  
6978 commissioner or the Department of Revenue in regard to ad valorem  
6979 taxes, including, but not limited to, the determination under  
6980 Section 27-31-107 as to whether property is entitled to a new or  
6981 expanded enterprise exemption, the duties and actions performed  
6982 under the Homestead Exemption Law of 1946, being Section 27-33-1  
6983 et seq., the actions taken as the result of the examination of the  
6984 recapitulation of the assessment rolls of the counties under  
6985 Section 27-35-113, the actions relating to the examination of the  
6986 assessment rolls under Section 27-35-127, and the ad valorem  
6987 assessment of railroads, public service corporations, nuclear  
6988 generating plants, railcar companies, airline companies, motor  
6989 vehicles, manufactured homes and mobile homes. The provisions of  
6990 this chapter shall not apply to any action of the agency,  
6991 commissioner or Department of Revenue under the Local Option  
6992 Alcoholic Beverage Control Law, being Section 67-1-1 et seq. or

6993 any action under the Mississippi Native Wine Law of 1976, being  
6994 Section 67-5-1 et seq.

6995 **SECTION 122.** Section 27-77-19, Mississippi Code of 1972, is  
6996 amended as follows:

6997 27-77-19. (1) The commissioner may from time to time make  
6998 such rules and regulations, not inconsistent with this chapter, as  
6999 he may deem necessary to enforce its provisions as it relates to  
7000 matters, proceedings and/or appeals before the agency, a hearing  
7001 officer of the agency and the board of review.

7002 (2) The Board of Tax Appeals may from time to time make such  
7003 rules and regulations, not inconsistent with this chapter, as it  
7004 may deem necessary to enforce its provisions as it relates to  
7005 matters, proceedings and/or appeals before the Board of Tax  
7006 Appeals.

7007 (3) By issuance of a subpoena under his signature and seal,  
7008 the commissioner may require any person to attend a hearing before  
7009 a hearing officer or the board of review \* \* \* and to give  
7010 testimony and/or produce documents or other things at that  
7011 hearing. If any person subpoenaed by the commissioner fails to  
7012 attend the hearing, refuses to testify or answer any material  
7013 question at the hearing or refuses to produce at the hearing any  
7014 document or thing subpoenaed, the commissioner or the person who  
7015 requested issuance of the subpoena is authorized to institute  
7016 proceedings in the circuit court of the county where such person  
7017 resides or is found to compel compliance with the subpoena.

7018 (4) By issuance of a subpoena under his signature and seal,  
7019 the executive director may require any person to attend a hearing  
7020 before the Board of Tax Appeals and to give testimony and/or  
7021 produce documents or other things at that hearing. If any person  
7022 subpoenaed by the executive director fails to attend the hearing,  
7023 refuses to testify or answer any material question at the hearing  
7024 or refuses to produce at the hearing any document or thing  
7025 subpoenaed, the executive director or the person who requested  
7026 issuance of the subpoena is authorized to institute proceedings in

7027 the circuit court of the county where such person resides or is  
7028 found to compel compliance with the subpoena.

7029 **SECTION 123.** Section 63-21-3, Mississippi Code of 1972, is  
7030 amended as follows:

7031 63-21-3. The terms and provisions of this chapter shall be  
7032 administered by the Department of Revenue. The Department of  
7033 Revenue shall have charge of all the affairs of administering the  
7034 laws of the state relative to vehicle registration and titling and  
7035 manufactured housing titling as hereinafter provided and may  
7036 employ such administrative and clerical assistance, material and  
7037 equipment as may be necessary to enable it to speedily, completely  
7038 and efficiently perform the duties as outlined in this chapter.

7039 **SECTION 124.** Section 63-21-5, Mississippi Code of 1972, is  
7040 amended as follows:

7041 63-21-5. The following words and phrases when used in this  
7042 chapter shall, for the purpose of this chapter, have the meanings  
7043 respectively ascribed to them in this section except where the  
7044 context clearly indicates a different meaning:

7045 (a) "State Tax Commission" or "department" means the  
7046 Department of Revenue of the State of Mississippi.

7047 (b) "Dealer" means every person engaged regularly in  
7048 the business of buying, selling or exchanging motor vehicles,  
7049 trailers, semitrailers, trucks, tractors or other character of  
7050 commercial or industrial motor vehicles in this state, and having  
7051 in this state an established place of business as defined in  
7052 Section 27-19-303, Mississippi Code of 1972. The term "dealer"  
7053 shall also mean every person engaged regularly in the business of  
7054 buying, selling or exchanging manufactured housing in this state,  
7055 and licensed as a dealer of manufactured housing by the  
7056 Mississippi Department of Insurance.

7057 (c) "Designated agent" means each county tax collector  
7058 in this state who may perform his duties under this chapter either  
7059 personally or through any of his deputies, or such other persons  
7060 as the Department of Revenue may designate. The term shall also  
7061 mean those "dealers" as herein defined and/or their officers and

7062 employees and other persons who are appointed by the Department of  
7063 Revenue in the manner provided in Section 63-21-13, Mississippi  
7064 Code of 1972, to perform the duties of "designated agent" for the  
7065 purposes of this chapter.

7066 (d) "Implement of husbandry" means every vehicle  
7067 designed and adapted exclusively for agricultural, horticultural  
7068 or livestock raising operations or for lifting or carrying an  
7069 implement of husbandry and in either case not subject to  
7070 registration if used upon the highways.

7071 (e) "Vehicle identification number" means the numbers  
7072 and letters on a vehicle, manufactured home or mobile home  
7073 designated by the manufacturer or assigned by the Department of  
7074 Revenue for the purpose of identifying the vehicle, manufactured  
7075 home or mobile home.

7076 (f) "Lien" means every kind of written lease which is  
7077 substantially equivalent to an installment sale or which provides  
7078 for a right of purchase; conditional sale; reservation of title;  
7079 deed of trust; chattel mortgage; trust receipt; and every other  
7080 written agreement or instrument of whatever kind or character  
7081 whereby an interest other than absolute title is sought to be held  
7082 or given on a motor vehicle, manufactured home or mobile home.

7083 (g) "Lienholder" means any natural person, firm,  
7084 copartnership, association or corporation holding a lien as herein  
7085 defined on a motor vehicle, manufactured home or mobile home.

7086 (h) "Manufactured housing" or "manufactured home" means  
7087 any structure, transportable in one or more sections, which in the  
7088 traveling mode, is eight (8) body feet or more in width or forty  
7089 (40) body feet or more in length or, when erected on site, is  
7090 three hundred twenty (320) or more square feet and which is built  
7091 on a permanent chassis and designed to be used as a dwelling with  
7092 or without a permanent foundation when connected to the required  
7093 utilities, and includes the plumbing, heating, air-conditioning  
7094 and electrical systems contained therein; except that such terms  
7095 shall include any structure which meets all the requirements of  
7096 this paragraph except the size requirements and with respect to

7097 which the manufacturer voluntarily files a certification required  
7098 by the Secretary of Housing and Urban Development and complies  
7099 with the standards established under the National Manufactured  
7100 Housing Construction and Safety Standards Act of 1974, 42 USCS,  
7101 Section 5401.

7102 (i) "Manufacturer" means any person regularly engaged  
7103 in the business of manufacturing, constructing or assembling motor  
7104 vehicles, manufactured homes or mobile homes, either within or  
7105 without this state.

7106 (j) "Mobile home" means any structure, transportable in  
7107 one or more sections, which in the traveling mode, is eight (8)  
7108 body feet or more in width or forty (40) body feet or more in  
7109 length or, when erected on site, is three hundred twenty (320) or  
7110 more square feet and which is built on a permanent chassis and  
7111 designed to be used as a dwelling with or without a permanent  
7112 foundation when connected to the required utilities, and includes  
7113 the plumbing, heating, air-conditioning and electrical systems  
7114 contained therein and manufactured prior to June 15, 1976. Any  
7115 mobile home designated as realty on or before July 1, 1999, shall  
7116 continue to be designated as realty so that a security interest  
7117 will be made by incorporating such mobile home in a deed of trust.

7118 (k) "Motorcycle" means every motor vehicle having a  
7119 seat or saddle for the use of the rider and designed to travel on  
7120 not more than three (3) wheels in contact with the ground, but  
7121 excluding a farm tractor.

7122 (l) "Motor vehicle" means every automobile, motorcycle,  
7123 mobile trailer, semitrailer, truck, truck tractor, trailer and  
7124 every other device in, upon, or by which any person or property is  
7125 or may be transported or drawn upon a public highway which is  
7126 required to have a road or bridge privilege license, except such  
7127 as is moved by animal power or used exclusively upon stationary  
7128 rails or tracks.

7129 (m) "New vehicle" means a motor vehicle, manufactured  
7130 home or mobile home which has never been the subject of a first  
7131 sale for use.

7132           (n) "Used vehicle" means a motor vehicle, manufactured  
7133 home or mobile home that has been the subject of a first sale for  
7134 use, whether within this state or elsewhere.

7135           (o) "Owner" means a person or persons holding the legal  
7136 title of a vehicle, manufactured home or mobile home; in the event  
7137 a vehicle, manufactured home or mobile home is the subject of a  
7138 deed of trust or a chattel mortgage or an agreement for the  
7139 conditional sale or lease thereof or other like agreement, with  
7140 the right of purchase upon performance of the conditions stated in  
7141 the agreement and with the immediate right of possession vested in  
7142 the grantor in the deed of trust, mortgagor, conditional vendee or  
7143 lessee, the grantor, mortgagor, conditional vendee or lessee shall  
7144 be deemed the owner for the purpose of this chapter.

7145           (p) "Person" includes every natural person, firm,  
7146 copartnership, association or corporation.

7147           (q) "Pole trailer" means every vehicle without motive  
7148 power designed to be drawn by another vehicle and attached to the  
7149 towing vehicle by means of a reach or pole, or by being boomed or  
7150 otherwise secured to the towing vehicle, and ordinarily used for  
7151 transporting long or irregularly shaped loads such as poles,  
7152 pipes, boats or structural members capable generally of sustaining  
7153 themselves as beams between the supporting connections.

7154           (r) "Security agreement" means a written agreement  
7155 which reserves or creates a security interest.

7156           (s) "Security interest" means an interest in a vehicle,  
7157 manufactured home or mobile home reserved or created by agreement  
7158 and which secures payment or performance of an obligation. The  
7159 term includes the interest of a lessor under a lease intended as  
7160 security. A security interest is "perfected" when it is valid  
7161 against third parties generally, subject only to specific  
7162 statutory exceptions.

7163           (t) "Special mobile equipment" means every vehicle not  
7164 designed or used primarily for the transportation of persons or  
7165 property and only incidentally operated or moved over a highway,  
7166 including, but not limited to: ditch-digging apparatus,

7167 well-boring apparatus and road construction and maintenance  
7168 machinery such as asphalt spreaders, bituminous mixers, bucket  
7169 loaders, tractors other than truck tractors, ditchers, leveling  
7170 graders, finishing machines, motor graders, road rollers,  
7171 scarifiers, earth-moving carryalls and scrapers, power shovels and  
7172 draglines, and self-propelled cranes, vehicles so constructed that  
7173 they exceed eight (8) feet in width and/or thirteen (13) feet six  
7174 (6) inches in height, and earth-moving equipment. The term does  
7175 not include house trailers, dump trucks, truck-mounted transit  
7176 mixers, cranes or shovels, or other vehicles designed for the  
7177 transportation of persons or property to which machinery has been  
7178 attached.

7179 (u) "Nonresident" means every person who is not a  
7180 resident of this state.

7181 (v) "Current address" means a new address different  
7182 from the address shown on the application or on the certificate of  
7183 title. The owner shall within thirty (30) days after his address  
7184 is changed from that shown on the application or on the  
7185 certificate of title notify the department of the change of  
7186 address in the manner prescribed by the department.

7187 (w) "Odometer" means an instrument for measuring and  
7188 recording the actual distance a motor vehicle travels while in  
7189 operation; but shall not include any auxiliary instrument designed  
7190 to be reset by the operator of the motor vehicle for the purpose  
7191 of recording the distance traveled on trips.

7192 (x) "Odometer reading" means the actual cumulative  
7193 distance traveled disclosed on the odometer.

7194 (y) "Odometer disclosure statement" means a statement  
7195 certified by the owner of the motor vehicle to the transferee or  
7196 to the department as to the odometer reading.

7197 (z) "Mileage" means actual distance that a vehicle has  
7198 traveled.

7199 (aa) "Trailer" means every vehicle other than a "pole  
7200 trailer" as defined in this chapter without motive power designed  
7201 to be drawn by another vehicle and attached to the towing vehicle

7202 for the purpose of hauling goods or products. The term "trailer"  
7203 shall not refer to any structure, transportable in one or more  
7204 sections regardless of size, when erected on site, and which is  
7205 built on a permanent chassis and designed to be used as a dwelling  
7206 with or without a permanent foundation when connected to the  
7207 required utilities, and includes the plumbing, heating,  
7208 air-conditioning and electrical systems contained therein  
7209 regardless of the date of manufacture.

7210 (bb) "Salvage mobile home" or "salvage manufactured  
7211 home" means a mobile home or manufactured home for which a  
7212 certificate of title has been issued that an insurance company  
7213 obtains from the owner as a result of paying a total loss claim  
7214 resulting from collision, fire, flood, wind or other occurrence.  
7215 The term "salvage mobile home" or "salvage manufactured home" does  
7216 not mean or include and is not applicable to a mobile home or  
7217 manufactured home that is twenty (20) years old or older.

7218 (cc) "Salvage certificate of title" means a document  
7219 issued by the department for a salvage mobile home or salvage  
7220 manufactured home as defined in this chapter.

7221 (dd) "All-terrain vehicle" means a motor vehicle that  
7222 is designed for off-road use and is not required to have a motor  
7223 vehicle privilege license.

7224 **SECTION 125.** Section 63-21-75, Mississippi Code of 1972, is  
7225 amended as follows:

7226 63-21-75. The Department of Revenue is charged with the  
7227 enforcement of the provisions of this chapter and the department  
7228 is hereby authorized and empowered to call upon any and all law  
7229 enforcement agencies and officers of this state for such  
7230 assistance as it may deem necessary in order to assure such  
7231 enforcement. It shall be the duty of such law enforcement  
7232 agencies and officers to render such assistance to the Department  
7233 of Revenue when called upon by the department to so do.

7234 **SECTION 126.** Section 67-1-5, Mississippi Code of 1972, is  
7235 amended as follows:

7236           67-1-5. For the purposes of this chapter and unless  
7237 otherwise required by the context:

7238           (a) "Alcoholic beverage" means any alcoholic liquid,  
7239 including wines of more than five percent (5%) of alcohol by  
7240 weight, capable of being consumed as a beverage by a human being,  
7241 but shall not include wine containing five percent (5%) or less of  
7242 alcohol by weight and shall not include beer containing not more  
7243 than five percent (5%) of alcohol by weight, as provided for in  
7244 Section 67-3-5, Mississippi Code of 1972, but shall include native  
7245 wines. The words "alcoholic beverage" shall not include ethyl  
7246 alcohol manufactured or distilled solely for fuel purposes.

7247           (b) "Alcohol" means the product of distillation of any  
7248 fermented liquid, whatever the origin thereof, and includes  
7249 synthetic ethyl alcohol, but does not include denatured alcohol or  
7250 wood alcohol.

7251           (c) "Distilled spirits" means any beverage containing  
7252 more than four percent (4%) of alcohol by weight produced by  
7253 distillation of fermented grain, starch, molasses or sugar,  
7254 including dilutions and mixtures of these beverages.

7255           (d) "Wine" or "vinous liquor" means any product  
7256 obtained from the alcoholic fermentation of the juice of sound,  
7257 ripe grapes, fruits or berries and made in accordance with the  
7258 revenue laws of the United States.

7259           (e) "Person" means and includes any individual,  
7260 partnership, corporation, association or other legal entity  
7261 whatsoever.

7262           (f) "Manufacturer" means any person engaged in  
7263 manufacturing, distilling, rectifying, blending or bottling any  
7264 alcoholic beverage.

7265           (g) "Wholesaler" means any person, other than a  
7266 manufacturer, engaged in distributing or selling any alcoholic  
7267 beverage at wholesale for delivery within or without this state  
7268 when such sale is for the purpose of resale by the purchaser.

7269 (h) "Retailer" means any person who sells, distributes,  
7270 or offers for sale or distribution, any alcoholic beverage for use  
7271 or consumption by the purchaser and not for resale.

7272 (i) "State Tax Commission," "Commission" or  
7273 "department" means the Department of Revenue of the State of  
7274 Mississippi, which shall create a division in its organization to  
7275 be known as the Alcoholic Beverage Control Division. Any  
7276 reference to the commission or the department hereafter means the  
7277 powers and duties of the Department of Revenue with reference to  
7278 supervision of the Alcoholic Beverage Control Division.

7279 (j) "Division" means the Alcoholic Beverage Control  
7280 Division of the Department of Revenue.

7281 (k) "Municipality" means any incorporated city or town  
7282 of this state.

7283 (l) "Hotel" means an establishment within a  
7284 municipality, or within a qualified resort area approved as such  
7285 by the department, where, in consideration of payment, food and  
7286 lodging are habitually furnished to travelers and wherein are  
7287 located at least twenty (20) adequately furnished and completely  
7288 separate sleeping rooms with adequate facilities that persons  
7289 usually apply for and receive as overnight accommodations. Hotels  
7290 in towns or cities of more than twenty-five thousand (25,000)  
7291 population are similarly defined except that they must have fifty  
7292 (50) or more sleeping rooms. Any such establishment described in  
7293 this paragraph with less than fifty (50) beds shall operate one or  
7294 more regular dining rooms designed to be constantly frequented by  
7295 customers each day. When used in this chapter, the word "hotel"  
7296 shall also be construed to include any establishment that meets  
7297 the definition of "bed and breakfast inn" as provided in this  
7298 section.

7299 (m) "Restaurant" means a place which is regularly and  
7300 in a bona fide manner used and kept open for the serving of meals  
7301 to guests for compensation, which has suitable seating facilities  
7302 for guests, and which has suitable kitchen facilities connected  
7303 therewith for cooking an assortment of foods and meals commonly

7304 ordered at various hours of the day; the service of such food as  
7305 sandwiches and salads only shall not be deemed in compliance with  
7306 this requirement. No place shall qualify as a restaurant under  
7307 this chapter unless twenty-five percent (25%) or more of the  
7308 revenue derived from such place shall be from the preparation,  
7309 cooking and serving of meals and not from the sale of beverages,  
7310 or unless the value of food given to and consumed by customers is  
7311 equal to twenty-five percent (25%) or more of total revenue.

7312 (n) "Club" means an association or a corporation:

7313 (i) Organized or created under the laws of this  
7314 state for a period of five (5) years prior to July 1, 1966;

7315 (ii) Organized not primarily for pecuniary profit  
7316 but for the promotion of some common object other than the sale or  
7317 consumption of alcoholic beverages;

7318 (iii) Maintained by its members through the  
7319 payment of annual dues;

7320 (iv) Owning, hiring or leasing a building or space  
7321 in a building of such extent and character as may be suitable and  
7322 adequate for the reasonable and comfortable use and accommodation  
7323 of its members and their guests;

7324 (v) The affairs and management of which are  
7325 conducted by a board of directors, board of Governors, executive  
7326 committee, or similar governing body chosen by the members at a  
7327 regular meeting held at some periodic interval; and

7328 (vi) No member, officer, agent or employee of  
7329 which is paid, or directly or indirectly receives, in the form of  
7330 a salary or other compensation any profit from the distribution or  
7331 sale of alcoholic beverages to the club or to members or guests of  
7332 the club beyond such salary or compensation as may be fixed and  
7333 voted at a proper meeting by the board of directors or other  
7334 governing body out of the general revenues of the club.

7335 The department may, in its discretion, waive the five-year  
7336 provision of this paragraph. In order to qualify under this  
7337 paragraph, a club must file with the department, at the time of  
7338 its application for a license under this chapter, two (2) copies

7339 of a list of the names and residences of its members and similarly  
7340 file, within ten (10) days after the election of any additional  
7341 member, his name and address. Each club applying for a license  
7342 shall also file with the department at the time of the application  
7343 a copy of its articles of association, charter of incorporation,  
7344 bylaws or other instruments governing the business and affairs  
7345 thereof.

7346 (o) "Qualified resort area" means any area or locality  
7347 outside of the limits of incorporated municipalities in this state  
7348 commonly known and accepted as a place which regularly and  
7349 customarily attracts tourists, vacationists and other transients  
7350 because of its historical, scenic or recreational facilities or  
7351 attractions, or because of other attributes which regularly and  
7352 customarily appeal to and attract tourists, vacationists and other  
7353 transients in substantial numbers; however, no area or locality  
7354 shall so qualify as a resort area until it has been duly and  
7355 properly approved as such by the department.

7356 (i) The department may approve an area or locality  
7357 outside of the limits of an incorporated municipality that is in  
7358 the process of being developed as a qualified resort area if such  
7359 area or locality, when developed, can reasonably be expected to  
7360 meet the requisites of the definition of the term "qualified  
7361 resort area." In such a case, the status of qualified resort area  
7362 shall not take effect until completion of the development.

7363 (ii) The term includes any state park which is  
7364 declared a resort area by the department; however, such  
7365 declaration may only be initiated in a written request for resort  
7366 area status made to the department by the Executive Director of  
7367 the Department of Wildlife, Fisheries and Parks, and no permit for  
7368 the sale of any alcoholic beverage, as defined in this chapter,  
7369 except an on-premises retailer's permit, shall be issued for a  
7370 hotel, restaurant or bed and breakfast inn in such park.

7371 (iii) The term includes:

7372 1. The clubhouses associated with the state  
7373 park golf courses at the Lefleur's Bluff State Park, the John Kyle

7374 State Park, the Percy Quin State Park and the Hugh White State  
7375 Park;

7376                   2. The clubhouse and associated golf course  
7377 where the golf course is adjacent to one or more planned  
7378 residential developments and the golf course and all such  
7379 developments collectively include at least seven hundred fifty  
7380 (750) acres and at least four hundred (400) residential units; and

7381                   3. Any facility located on property that is a  
7382 game reserve with restricted access that consists of at least  
7383 three thousand (3,000) contiguous acres with no public roads and  
7384 that offers as a service hunts for a fee to overnight guests of  
7385 the facility.

7386           The status of these clubhouses, facilities and golf courses  
7387 as qualified resort areas does not require any declaration of same  
7388 by the department.

7389           (p) "Native wine" means any product, produced in  
7390 Mississippi for sale, having an alcohol content not to exceed  
7391 twenty-one percent (21%) by weight and made in accordance with  
7392 revenue laws of the United States, which shall be obtained  
7393 primarily from the alcoholic fermentation of the juice of ripe  
7394 grapes, fruits, berries or vegetables grown and produced in  
7395 Mississippi; provided that bulk, concentrated or fortified wines  
7396 used for blending may be produced without this state and used in  
7397 producing native wines. The department shall adopt and promulgate  
7398 rules and regulations to permit a producer to import such bulk  
7399 and/or fortified wines into this state for use in blending with  
7400 native wines without payment of any excise tax that would  
7401 otherwise accrue thereon.

7402           (q) "Native winery" means any place or establishment  
7403 within the State of Mississippi where native wine is produced in  
7404 whole or in part for sale.

7405           (r) "Bed and breakfast inn" means an establishment  
7406 within a municipality where in consideration of payment, breakfast  
7407 and lodging are habitually furnished to travelers and wherein are  
7408 located not less than eight (8) and not more than nineteen (19)

7409 adequately furnished and completely separate sleeping rooms with  
7410 adequate facilities, that persons usually apply for and receive as  
7411 overnight accommodations; however, such restriction on the minimum  
7412 number of sleeping rooms shall not apply to establishments on the  
7413 National Register of Historic Places. No place shall qualify as a  
7414 bed and breakfast inn under this chapter unless on the date of the  
7415 initial application for a license under this chapter more than  
7416 fifty percent (50%) of the sleeping rooms are located in a  
7417 structure formerly used as a residence.

7418 (s) "Board" shall refer to Board of Tax Appeals of the  
7419 State of Mississippi.

7420 **SECTION 127.** Section 67-1-19, Mississippi Code of 1972, is  
7421 amended as follows:

7422 67-1-19. The administration and enforcement of this chapter  
7423 shall be vested in the Department of Revenue \* \* \*. There is  
7424 hereby created the Alcoholic Beverage Control Division within and  
7425 as a part of the Department of Revenue.

7426 **SECTION 128.** Section 67-1-23, Mississippi Code of 1972, is  
7427 amended as follows:

7428 67-1-23. The Commissioner of Revenue of the Department of  
7429 Revenue shall appoint a director of the division, and may appoint  
7430 or employ such agents, inspectors, clerks and other employees for  
7431 such division as may be necessary to carry out the provisions of  
7432 this chapter or to perform the duties and exercise the powers  
7433 conferred by this chapter upon the department. The Commissioner  
7434 of Revenue shall have the authority to employ, compensate,  
7435 terminate, suspend with or without pay, promote, demote, transfer  
7436 or reprimand the director, agents, inspectors, clerks and other  
7437 employees of the division. \* \* \* The director and all permanent  
7438 employees of the division shall devote their full time to the  
7439 duties of their respective offices.

7440 **SECTION 129.** Section 67-1-33, Mississippi Code of 1972, is  
7441 amended as follows:

7442 67-1-33. (1) No member of the Board of Tax Appeals,  
7443 Commissioner of Revenue of the Department of Revenue, or person

7444 appointed or employed by the department under this chapter shall  
7445 solicit, accept or receive any gift, gratuity, emolument or  
7446 employment from any person subject to the provisions of this  
7447 chapter, or from any officer, agent or employee thereof.

7448 (2) No \* \* \* member of the Board of Tax Appeals, the  
7449 Commissioner of Revenue of the Department of Revenue, or person  
7450 appointed or employed by the department under this chapter shall  
7451 solicit, request from or recommend, directly or indirectly, to  
7452 any \* \* \* person subject to the provisions of this chapter, or to  
7453 any officer, agent or employee thereof, the appointment of any  
7454 person to any place or position.

7455 (3) Every \* \* \* person subject to the provisions of this  
7456 chapter, and every officer, agent or employee thereof, is hereby  
7457 forbidden to offer to any member of the Board of Tax Appeals, to  
7458 the Commissioner of Revenue or to any person appointed or employed  
7459 by the department under this chapter any gift, gratuity, emolument  
7460 or employment.

7461 (4) If any member of the Board of Tax Appeals, the  
7462 Commissioner of Revenue or any person appointed or employed by the  
7463 department under this chapter shall violate any of the provisions  
7464 of this section, he shall be removed from the office or employment  
7465 held by him.

7466 (5) Every person violating the provisions of this section  
7467 shall be guilty of a misdemeanor.

7468 (6) For purposes of this provision, the terms "gift,"  
7469 "gratuity," "emolument" and "employment" do not include the  
7470 payment of expenses associated with social occasions afforded  
7471 public servants or any other benefit that does not come within the  
7472 definition of "pecuniary benefit" as defined in Section 25-4-103.

7473 **SECTION 130.** Section 67-1-35, Mississippi Code of 1972, is  
7474 amended as follows:

7475 67-1-35. \* \* \* The department may, for authentication of  
7476 records, process and proceedings, adopt, keep and use a seal for  
7477 the Alcoholic Beverage Control Division of the Department of  
7478 Revenue, of which seal judicial notice shall be taken in all

7479 courts of this state. Any process, notice or other paper which  
7480 the department may be authorized by law to issue under this  
7481 chapter shall be deemed sufficient if signed by the director and  
7482 authenticated by such seal. All acts, orders, proceedings, rules,  
7483 regulations, entries, minutes, and other records of the department  
7484 in connection with this chapter, and all reports and documents  
7485 filed with it under this chapter, may be proved in any court of  
7486 this state by a copy thereof certified to by the director with the  
7487 seal of the division affixed.

7488         **SECTION 131.** Section 67-1-37, Mississippi Code of 1972, is  
7489 amended as follows:

7490         **[Until July 1, 2011, this section will read as follows:]**

7491         67-1-37. (1) The Department of Revenue, under its duties  
7492 and powers with respect to the Alcoholic Beverage Control Division  
7493 therein, shall have the following powers, functions and duties:

7494             (a) To issue or refuse to issue any permit provided for  
7495 by this chapter, or to extend the permit or remit in whole or any  
7496 part of the permit monies when the permit cannot be used due to a  
7497 natural disaster or Act of God.

7498             (b) To revoke, suspend or cancel, for violation of or  
7499 noncompliance with the provisions of this chapter, or the law  
7500 governing the production and sale of native wines, or any lawful  
7501 rules and regulations of the department issued hereunder, or for  
7502 other sufficient cause, any permit issued by it under the  
7503 provisions of this chapter \* \* \*. The department shall also be  
7504 authorized to suspend the permit of any permit holder for being  
7505 out of compliance with an order for support, as defined in Section  
7506 93-11-153. The procedure for suspension of a permit for being out  
7507 of compliance with an order for support, and the procedure for the  
7508 reissuance or reinstatement of a permit suspended for that  
7509 purpose, and the payment of any fees for the reissuance or  
7510 reinstatement of a permit suspended for that purpose, shall be  
7511 governed by Section 93-11-157 or Section 93-11-163, as the case  
7512 may be. If there is any conflict between any provision of Section  
7513 93-11-157 or Section 93-11-163 and any provision of this chapter,

7514 the provisions of Section 93-11-157 or Section 93-11-163, as the  
7515 case may be, shall control.

7516 (c) To prescribe forms of permits and applications for  
7517 permits and of all reports which it deems necessary in  
7518 administering this chapter.

7519 (d) To fix standards, not in conflict with those  
7520 prescribed by any law of this state or of the United States, to  
7521 secure the use of proper ingredients and methods of manufacture of  
7522 alcoholic beverages.

7523 (e) To issue rules regulating the advertising of  
7524 alcoholic beverages in the state in any class of media and  
7525 permitting advertising of the retail price of alcoholic beverages.

7526 (f) To issue reasonable rules and regulations, not  
7527 inconsistent with the federal laws or regulations, requiring  
7528 informative labeling of all alcoholic beverages offered for sale  
7529 within this state and providing for the standards of fill and  
7530 shapes of retail containers of alcoholic beverages; however, such  
7531 containers shall not contain less than fifty (50) milliliters by  
7532 liquid measure.

7533 (g) Subject to the provisions of subsection (3) of  
7534 Section 67-1-51, to issue rules and regulations governing the  
7535 issuance of retail permits for premises located near or around  
7536 schools, colleges, universities, churches and other public  
7537 institutions, and specifying the distances therefrom within which  
7538 no such permit shall be issued. The Alcoholic Beverage Control  
7539 Division shall not issue a package retailer's or on-premises  
7540 retailer's permit for the sale or consumption of alcoholic  
7541 beverages in or on the campus of any public school, community or  
7542 junior college, college or university.

7543 (h) To adopt and promulgate, repeal and amend, such  
7544 rules, regulations, standards, requirements and orders, not  
7545 inconsistent with this chapter or any law of this state or of the  
7546 United States, as it deems necessary to control the manufacture,  
7547 importation, transportation, distribution and sale of alcoholic  
7548 liquor, whether intended for beverage or nonbeverage use in a

7549 manner not inconsistent with the provisions of this chapter or any  
7550 other statute, including the native wine laws.

7551 (i) To call upon other administrative departments of  
7552 the state, county and municipal governments, county and city  
7553 police departments and upon prosecuting officers for such  
7554 information and assistance as it may deem necessary in the  
7555 performance of its duties.

7556 (j) To prepare and submit to the Governor during the  
7557 month of January of each year a detailed report of its official  
7558 acts during the preceding fiscal year ending June 30, including  
7559 such recommendations as it may see fit to make, and to transmit a  
7560 like report to each member of the Legislature of this state upon  
7561 the convening thereof at its next regular session.

7562 (k) To inspect, or cause to be inspected, any premises  
7563 where alcoholic liquors intended for sale are manufactured,  
7564 stored, distributed or sold, and to examine or cause to be  
7565 examined all books and records pertaining to the business  
7566 conducted therein.

7567 \* \* \*

7568 (l) To investigate the administration of laws in  
7569 relation to alcoholic liquors in this and other states and any  
7570 foreign countries, and to recommend from time to time to the  
7571 Governor and through him to the Legislature of this state such  
7572 amendments to this chapter, if any, as it may think desirable.

7573 (m) To designate hours and days when alcoholic  
7574 beverages may be sold in different localities in the state which  
7575 permit such sale.

7576 (n) To assign employees to posts of duty at locations  
7577 where they will be most beneficial for the control of alcoholic  
7578 beverages and to take any other action concerning persons employed  
7579 under this chapter as authorized by law and taken in accordance  
7580 with the rules, regulations and procedures of the State Personnel  
7581 Board. \* \* \*

7582 \* \* \*

7583           (o) To enforce the provisions made unlawful by Sections  
7584 67-3-13, 67-3-15, 67-3-53, 67-3-57 and 67-3-70.

7585           (p) To delegate its authority under this chapter to the  
7586 Alcoholic Beverage Control Division, its director or any other  
7587 officer or employee of the department that it deems appropriate.

7588           (2) No alcoholic beverage shall be sold or consumed at any  
7589 public athletic event at any public school, community or junior  
7590 college, college or university.

7591           **[From and after July 1, 2011, this section will read as**  
7592 **follows:]**

7593           67-1-37. (1) The Department of Revenue, under its duties  
7594 and powers with respect to the Alcoholic Beverage Control Division  
7595 therein, shall have the following powers, functions and duties:

7596           (a) To issue or refuse to issue any permit provided for  
7597 by this chapter, or to extend the permit or remit in whole or any  
7598 part of the permit monies when the permit cannot be used due to a  
7599 natural disaster or Act of God.

7600           (b) To revoke, suspend or cancel, for violation of or  
7601 noncompliance with the provisions of this chapter, or the law  
7602 governing the production and sale of native wines, or any lawful  
7603 rules and regulations of the department issued hereunder, or for  
7604 other sufficient cause, any permit issued by it under the  
7605 provisions of this chapter \* \* \*. The department shall also be  
7606 authorized to suspend the permit of any permit holder for being  
7607 out of compliance with an order for support, as defined in Section  
7608 93-11-153. The procedure for suspension of a permit for being out  
7609 of compliance with an order for support, and the procedure for the  
7610 reissuance or reinstatement of a permit suspended for that  
7611 purpose, and the payment of any fees for the reissuance or  
7612 reinstatement of a permit suspended for that purpose, shall be  
7613 governed by Section 93-11-157 or 93-11-163, as the case may be.  
7614 If there is any conflict between any provision of Section  
7615 93-11-157 or 93-11-163 and any provision of this chapter, the  
7616 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
7617 shall control.

7618           (c) To prescribe forms of permits and applications for  
7619 permits and of all reports which it deems necessary in  
7620 administering this chapter.

7621           (d) To fix standards, not in conflict with those  
7622 prescribed by any law of this state or of the United States, to  
7623 secure the use of proper ingredients and methods of manufacture of  
7624 alcoholic beverages.

7625           (e) To issue rules regulating the advertising of  
7626 alcoholic beverages in the state in any class of media and  
7627 permitting advertising of the retail price of alcoholic beverages.

7628           (f) To issue reasonable rules and regulations, not  
7629 inconsistent with the federal laws or regulations, requiring  
7630 informative labeling of all alcoholic beverages offered for sale  
7631 within this state and providing for the standards of fill and  
7632 shapes of retail containers of alcoholic beverages; however, such  
7633 containers shall not contain less than fifty (50) milliliters by  
7634 liquid measure.

7635           (g) Subject to the provisions of subsection (3) of  
7636 Section 67-1-51, to issue rules and regulations governing the  
7637 issuance of retail permits for premises located near or around  
7638 schools, colleges, universities, churches and other public  
7639 institutions, and specifying the distances therefrom within which  
7640 no such permit shall be issued. The Alcoholic Beverage Control  
7641 Division shall not issue a package retailer's or on-premises  
7642 retailer's permit for the sale or consumption of alcoholic  
7643 beverages in or on the campus of any public school, community or  
7644 junior college, college or university.

7645           (h) To adopt and promulgate, repeal and amend, such  
7646 rules, regulations, standards, requirements and orders, not  
7647 inconsistent with this chapter or any law of this state or of the  
7648 United States, as it deems necessary to control the manufacture,  
7649 importation, transportation, distribution and sale of alcoholic  
7650 liquor, whether intended for beverage or nonbeverage use in a  
7651 manner not inconsistent with the provisions of this chapter or any  
7652 other statute, including the native wine laws.

7653 (i) To call upon other administrative departments of  
7654 the state, county and municipal governments, county and city  
7655 police departments and upon prosecuting officers for such  
7656 information and assistance as it may deem necessary in the  
7657 performance of its duties.

7658 (j) To prepare and submit to the Governor during the  
7659 month of January of each year a detailed report of its official  
7660 acts during the preceding fiscal year ending June 30, including  
7661 such recommendations as it may see fit to make, and to transmit a  
7662 like report to each member of the Legislature of this state upon  
7663 the convening thereof at its next regular session.

7664 (k) To inspect, or cause to be inspected, any premises  
7665 where alcoholic liquors intended for sale are manufactured,  
7666 stored, distributed or sold, and to examine or cause to be  
7667 examined all books and records pertaining to the business  
7668 conducted therein.

7669 \* \* \*

7670 (l) To investigate the administration of laws in  
7671 relation to alcoholic liquors in this and other states and any  
7672 foreign countries, and to recommend from time to time to the  
7673 Governor and through him to the Legislature of this state such  
7674 amendments to this chapter, if any, as it may think desirable.

7675 (m) To designate hours and days when alcoholic  
7676 beverages may be sold in different localities in the state which  
7677 permit such sale.

7678 (n) To assign employees to posts of duty at locations  
7679 where they will be most beneficial for the control of alcoholic  
7680 beverages and to take any other action concerning persons employed  
7681 under this chapter as authorized by law and taken in accordance  
7682 with the rules, regulations and procedures of the State Personnel  
7683 Board. \* \* \*

7684 \* \* \*

7685 (o) To delegate its authority under this chapter to the  
7686 Alcoholic Beverage Control Division, its director or any other  
7687 officer or employee of the department that it deems appropriate.

7688 (2) No alcoholic beverage shall be sold or consumed at any  
7689 public athletic event at any public school, community or junior  
7690 college, college or university.

7691 **SECTION 132.** Section 67-1-39, Mississippi Code of 1972, is  
7692 amended as follows:

7693 67-1-39. Any appeal from an order of the Board of Tax  
7694 Appeals regarding an action taken under this chapter shall be  
7695 filed without supersedeas to the Chancery Court of the First  
7696 Judicial District of Hinds County, Mississippi, if the appellant  
7697 is the department, or to the county of the domicile of any other  
7698 appellant. \* \* \* Any such appeal shall be based on the record  
7699 made before the Board of Tax Appeals and shall be filed within  
7700 thirty (30) days from the date of the order being appealed. There  
7701 may be an appeal therefrom to the Supreme Court as in other cases  
7702 provided, but it shall be without supersedeas on the order of the  
7703 Board of Tax Appeals to them made and finally determined either by  
7704 the chancery court or the Supreme Court. Actions taken by the  
7705 department in suspending a permit when required by Section  
7706 93-11-157 or 93-11-163 are not actions resulting in an order from  
7707 which an appeal may be taken under this section. Any appeal of a  
7708 permit suspension that is required by Section 93-11-157 shall be  
7709 taken in accordance with the appeal procedure specified in Section  
7710 93-11-157 or 93-11-163, as the case may be, rather than the  
7711 procedure specified in this section.

7712 **SECTION 133.** Section 67-1-63, Mississippi Code of 1972, is  
7713 amended as follows:

7714 67-1-63. (1) Any permittee may renew his permit at the  
7715 expiration thereof for an additional term of one (1) year,  
7716 provided he is then qualified to receive a permit and the premises  
7717 for which the renewal is sought are suitable for such purposes.  
7718 The renewal privilege herein provided for shall not be construed  
7719 as a vested right. No "on-premises" retailer's permit shall be  
7720 renewed at the expiration thereof for any "hotel" or "restaurant"  
7721 under this chapter unless the commission is satisfied that the

7722 holder thereof is continuing to meet the requirements of a hotel  
7723 or restaurant, as defined in Section 67-1-5.

7724 (2) When an application for the renewal of a permit has been  
7725 denied by the department for a reason other than for being  
7726 incomplete, for failure to pay any applicable license privilege  
7727 taxes or fees required for renewal or for failure to post a bond,  
7728 cash or securities as required by Section 27-71-21, the permittee  
7729 shall be allowed to continue to operate under the permit for which  
7730 renewal was denied until the last of the following dates:

7731 (a) The date on which the permit expires;

7732 (b) The date on which the time period for filing an  
7733 appeal of the denial of the renewal to the Board of Tax Appeals  
7734 expires;

7735 (c) If the denial is timely appealed to the Board of Tax  
7736 Appeals and this appeal is later withdrawn, the date on which the  
7737 withdrawal of appeal occurs; or

7738 (d) If the denial is timely appealed to the Board of Tax  
7739 Appeals and an order is entered by the Board of Tax Appeals  
7740 affirming the denial of the renewal, the date on which the  
7741 permittee receives notice of the decision of the Board of Tax  
7742 Appeals affirming the denial. Refusal to accept delivery of such  
7743 notice or the posting of the final decision of the Board of Tax  
7744 Appeals at the permitted place of business shall constitute  
7745 receipt of notice by the permittee of this decision.

7746 (3) If the denial of an application for renewal of a permit  
7747 is appealed to the Board of Tax Appeals and the board reverses the  
7748 denial of the application for renewal, the department shall renew  
7749 and issue the permit from its last expiration date.

7750 (4) The issuance and/or renewal of a permit based on the  
7751 decision of the Board of Tax Appeals shall not bar or estop the  
7752 department from appealing this decision of the Board of Tax  
7753 Appeals to chancery court under Section 67-1-39. Any subsequent  
7754 renewal of this permit while an appeal by the department from the  
7755 decision of the Board of Tax Appeals is pending shall be subject  
7756 to the final decision of the court on this appeal. If in such an

7757 appeal by the department, a court enters a final decision and/or  
7758 order reversing the decision of the board and affirming the denial  
7759 of the application for a permit or the application for renewal of  
7760 a permit, the permit, even if subsequently renewed, shall be  
7761 deemed denied and not authorize the permittee to sell alcoholic  
7762 beverages under that permit after the date on which the decision  
7763 and/or order of the court affirming the denial of the permit  
7764 becomes final and not subject to any further appeal.

7765         **SECTION 134.** Section 67-1-71, Mississippi Code of 1972, is  
7766 amended as follows:

7767         67-1-71. The department may revoke or suspend any permit  
7768 issued by it for a violation by the permittee of any of the  
7769 provisions of this chapter or of the regulations promulgated under  
7770 it by the department.

7771         Permits must be revoked or suspended for the following  
7772 causes:

7773                 (a) Conviction of the permittee for the violation of  
7774 any of the provisions of this chapter;

7775                 (b) Willful failure or refusal by any permittee to  
7776 comply with any of the provisions of this chapter or of any rule  
7777 or regulation adopted pursuant thereto;

7778                 (c) The making of any materially false statement in any  
7779 application for a permit;

7780                 (d) Conviction of one or more of the clerks, agents or  
7781 employees of the permittee, of any violation of this chapter upon  
7782 the premises covered by such permit within a period of time as  
7783 designated by the rules or regulations of the department;

7784                 (e) The possession on the premises of any retail  
7785 permittee of any alcoholic beverages upon which the tax has not  
7786 been paid;

7787                 (f) The willful failure of any permittee to keep the  
7788 records or make the reports required by this chapter, or to allow  
7789 an inspection of such records by any duly authorized person;

7790 (g) The suspension or revocation of a permit issued to  
7791 the permittee by the federal government, or conviction of  
7792 violating any federal law relating to alcoholic beverages;

7793 (h) The failure to furnish any bond required by Section  
7794 27-71-21 within fifteen (15) days after notice from the  
7795 department; and

7796 (i) The conducting of any form of illegal gambling on  
7797 the premises of any permittee or on any premises connected  
7798 therewith or the presence on any such premises of any gambling  
7799 device with the knowledge of the permittee.

7800 The provisions of paragraph (i) of this section shall not  
7801 apply to gambling or the presence of any gambling devices, with  
7802 knowledge of the permittee, on board a cruise vessel in the waters  
7803 within the State of Mississippi, which lie adjacent to the State  
7804 of Mississippi south of the three (3) most southern counties in  
7805 the State of Mississippi, or on any vessel as defined in Section  
7806 27-109-1 whenever such vessel is on the Mississippi River or  
7807 navigable waters within any county bordering on the Mississippi  
7808 River. The department may, in its discretion, issue on-premises  
7809 retailer's permits to a common carrier of the nature described in  
7810 this paragraph.

7811 No permit shall be suspended or revoked until after the  
7812 permittee has been provided reasonable notice of the charges  
7813 against him for which suspension or revocation is sought and the  
7814 opportunity to a hearing before the Board of Tax Appeals to  
7815 contest such charges and the suspension or revocation proposed.  
7816 Opportunity to a hearing is provided without an actual hearing if  
7817 the permittee, after receiving reasonable notice, including notice  
7818 of his right to a hearing, fails to timely request a hearing. The  
7819 permittee may also at any time waive his rights to reasonable  
7820 notice and/or to the opportunity to a hearing by agreeing to a  
7821 suspension or revocation offered by the department.

7822 Notwithstanding the requirement above that a permit may not be  
7823 suspended without notice and opportunity to a hearing, sales of  
7824 alcoholic beverages by a permittee under a permit for which the

7825 bond shall be suspended under Section 27-71-21 has been cancelled  
7826 from and after issuance of this notice provided in subsection (h)  
7827 above and shall continue to be suspended until the bond is  
7828 reinstated, a new bond is posted or sufficient cash or securities  
7829 as provided under Section 27-71-21 are deposited with the State  
7830 Treasurer for this permit.

7831 In addition to the causes specified in this section and other  
7832 provisions of this chapter, the department shall be authorized to  
7833 suspend the permit of any permit holder for being out of  
7834 compliance with an order for support, as defined in Section  
7835 93-11-153. The procedure for suspension of a permit for being out  
7836 of compliance with an order for support, and the procedure for the  
7837 reissuance or reinstatement of a permit suspended for that  
7838 purpose, and the payment of any fees for the reissuance or  
7839 reinstatement of a permit suspended for that purpose, shall be  
7840 governed by Section 93-11-157 or 93-11-163, as the case may be.  
7841 If there is any conflict between any provision of Section  
7842 93-11-157 or 93-11-163 and any provision of this chapter, the  
7843 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
7844 shall control.

7845 **SECTION 135.** The following shall be codified as Section  
7846 67-1-72, Mississippi Code of 1972:

7847 67-1-72. (1) Except as otherwise provided in this chapter,  
7848 any applicant or holder of a permit issued under this chapter  
7849 which is aggrieved by an action of the Department of Revenue to  
7850 deny his application for a permit, to deny the renewal of his  
7851 permit or to revoke or suspend his permit shall be allowed to  
7852 appeal to the Board of Tax Appeals from this action. This appeal  
7853 is to be filed by the aggrieved person with the Executive Director  
7854 of the Board of Tax Appeals, with a copy being sent to the  
7855 Department of Revenue, within fifteen (15) days of the date to  
7856 that person received notice of the action of the department being  
7857 aggrieved. If the person aggrieved fails to appeal within this  
7858 fifteen-day period, the action of the Department of Revenue shall  
7859 take effect as set out in the notice. The Department of Revenue

7860 retains the authority to change at any time the action aggrieved  
7861 to in an appeal under this subsection. The applicant or holder of  
7862 any permit issued under this chapter may waive his right to notice  
7863 and opportunity to a hearing as provided by this subsection and  
7864 agree to the action being taken by the department. The inability  
7865 of the Department of Revenue to issue or renew a permit due to an  
7866 incomplete application or due to the failure of the applicant to  
7867 pay the annual privilege taxes and fees provided by Section  
7868 27-71-5 and/or the failure of the applicant to post or deposit the  
7869 bond, cash or securities as required by Section 27-71-21 shall not  
7870 constitute a denial for purposes of this subsection.

7871 (2) Any applicant for approval as a manager of an  
7872 establishment operating under a permit issued under this chapter  
7873 or who holds the designation of an approved manager of an  
7874 establishment operating under a permit issued under this chapter  
7875 and who is aggrieved by an action of the Department of Revenue to  
7876 deny his application for approval as a manager or to revoke or  
7877 suspend his designation as an approved manager shall be allowed to  
7878 appeal to the Board of Tax Appeals from this action. This appeal  
7879 is to be filed by the aggrieved person with the Executive Director  
7880 of the Board of Tax Appeals, with a copy being sent to the  
7881 Department of Revenue, within fifteen (15) days from the date that  
7882 person received notice of the action of the department being  
7883 aggrieved. If the person aggrieved fails to appeal within this  
7884 fifteen-day period, the action of the Department of Revenue shall  
7885 take effect as set out in the notice. The Department of Revenue  
7886 retains the authority to change at any time the action aggrieved  
7887 to in an appeal under this subsection. The applicant or holder of  
7888 an approved manager designation may waive his right to notice and  
7889 opportunity to a hearing as provided by this subsection and agree  
7890 to the action being taken by the department. The inability of the  
7891 Department of Revenue to consider an application for approval of  
7892 an applicant as a manager due to an incomplete application shall  
7893 not constitute a denial of the application for purposes of this  
7894 subsection.

7895           (3) Any applicant for approval of an area or locality as a  
7896 qualified resort area under this chapter who is aggrieved by the  
7897 decision of the Department of Revenue to deny the qualified resort  
7898 area as requested and any county or municipality wherein the  
7899 proposed qualified resort area is located may appeal to the Board  
7900 of Tax Appeals from such decision. This appeal is to be filed by  
7901 the aggrieved applicant or by the affected county or municipality  
7902 with the Executive Director of the Board of Tax Appeals, with a  
7903 copy being sent to the Department of Revenue, within fifteen (15)  
7904 days from the date that the person or entity filing the appeal  
7905 received notice of the decision of the Department of Revenue to  
7906 deny the qualified resort area. If an appeal is not filed within  
7907 this fifteen-day period, the decision of the Department of Revenue  
7908 shall become final. The Department of Revenue retains the  
7909 authority to change at any time the decision aggrieved to in an  
7910 appeal under this subsection. The inability of the Department of  
7911 Revenue to consider an application for the approval of an area or  
7912 locality as a qualified resort area due to an incomplete  
7913 application shall not constitute a denial of that application for  
7914 purposes of this subsection.

7915           (4) Any person, including any county or municipality in  
7916 which the qualified resort area is located, who is aggrieved by  
7917 the decision of the Department of Revenue to revoke the approval  
7918 of an area or locality as a qualified resort area may appeal to  
7919 the Board of Tax Appeals from such decision. This appeal is to be  
7920 filed by the aggrieved person with the Executive Director of the  
7921 Board of Tax Appeals, with a copy being sent to the Department of  
7922 Revenue, within fifteen (15) days from the date that the person or  
7923 entity filing the appeal received notice of the decision of the  
7924 department to revoke approval of the qualified resort area. At  
7925 the discretion of the Department of Revenue, in addition to any  
7926 other notice to be provided under this subsection, the department  
7927 may provide notice of its decision to revoke approval of the  
7928 qualified resort area by publication in the same manner as  
7929 provided by regulation when approval of a qualified resort area is

7930 sought. In regard to such publication, the fifteen (15) day  
7931 period provide herein will begin on the date that notice is first  
7932 published. If an appeal is not filed within this fifteen-day  
7933 period, the decision of the Department of Revenue shall become  
7934 final. The Department of Revenue retains the authority to change  
7935 at any time the decision aggrieved to in an appeal under this  
7936 subsection.

7937 (5) Any person objecting to an application for the issuance  
7938 or transfer of a permit, other than a temporary retailer's permit,  
7939 issued under this chapter and who timely requests in writing a  
7940 hearing on his objection shall be given a hearing before the Board  
7941 of Tax Appeals unless the permit is denied by the Department of  
7942 Revenue and an appeal is not taken by the applicant to the Board  
7943 of Tax Appeals from that denial or the applicant withdraws his  
7944 application. Any written request for a hearing on an objection  
7945 must be filed with the Department of Revenue within fifteen (15)  
7946 days from the first date of publication of the notice of such  
7947 application under Section 67-1-53. If the department determines  
7948 that the permit should be denied, notice will be provided to the  
7949 applicant as set out in subsection (1) above, and if the applicant  
7950 timely requests a hearing on the denial as provided by this  
7951 subsection (1), the department will advise the Executive Director  
7952 of the Board of Tax Appeals and the applicant of the written  
7953 request for a hearing on an objection to the permit. The hearing  
7954 on the objection to the permit and the hearing on the appeal by  
7955 the applicant from the denial of the department of the application  
7956 shall be consolidated and heard by the Board of Tax Appeals at the  
7957 same time. If the department determines that the permit should be  
7958 issued, the department will advise the applicant and the Executive  
7959 Director of the Board of Tax Appeals of the timely written request  
7960 for a hearing on an objection to the application and a hearing  
7961 will be set before the Board of Tax Appeals on this objection. If  
7962 prior to the hearing, either the person requesting the hearing  
7963 withdraws his request or the applicant withdraws his application,  
7964 the hearing will be cancelled and the objection proceedings before

7965 the Board of Tax Appeals on the application will be dismissed as  
7966 moot. In the case of such withdrawals, the Board of Tax Appeals  
7967 is authorized to assess to either or both parties any costs  
7968 incurred by it prior to such withdrawal. The Department of  
7969 Revenue retains authority to issue the permit to the applicant  
7970 where the person objecting to the application withdraws his  
7971 request for a hearing.

7972 (6) Any person objecting to an application for approval by  
7973 the Department of Revenue of a area or locality as a qualified  
7974 resort area under this chapter and who timely requests in writing  
7975 a hearing on his objection shall be given a hearing before the  
7976 Board of Tax Appeals unless approval of the application is denied  
7977 by the Department of Revenue and an appeal is not taken by the  
7978 applicant or the county or municipality in which the proposed  
7979 qualified resort area is located to the Board of Tax Appeals from  
7980 that denial or the applicant withdraws his application. Any  
7981 written request for a hearing on an objection must be filed with  
7982 the Department of Revenue within fifteen (15) days from the first  
7983 date of publication on the notice of such application as provided  
7984 by regulation. If the department determines that the application  
7985 for approval of the proposed area or locality as a qualified  
7986 resort area should be denied, the department will proceed with  
7987 denial of such application as set out in subsection (3) above, and  
7988 if the applicant or the county or municipality in which the  
7989 proposed qualified resort area is located timely requests a  
7990 hearing on the denial as provided by this subsection (3), the  
7991 department will advise the Executive Director of the Board of Tax  
7992 Appeals and the applicant of the written request for a hearing on  
7993 an objection to the application. The hearing on the objection to  
7994 approval of the proposed qualified resort area and the hearing on  
7995 the appeal from the denial of the department of the application  
7996 for such approval shall be consolidated and heard by the Board of  
7997 Tax Appeals at the same time. If the department determines that  
7998 the proposed qualified resort area should be approved, the  
7999 department will advise the applicant and the Executive Director of

8000 the Board of Tax Appeals of the timely written request for a  
8001 hearing on an objection to the application and a hearing will be  
8002 set before the Board of Tax Appeals on this objection. If prior  
8003 to the hearing, either the person requesting the hearing withdraws  
8004 his request or the applicant withdraws his application, the  
8005 hearing will be cancelled and the objection proceedings before the  
8006 Board of Tax Appeals on the application will be dismissed as moot.  
8007 In the case of such withdrawals, the Board of Tax Appeals is  
8008 authorized to assess to either or both parties any costs incurred  
8009 by it prior to such withdrawal. The Department of Revenue retains  
8010 authority to approve the proposed area or locality as a qualified  
8011 resort area where the person objecting to the application  
8012 withdraws his request for a hearing.

8013 (7) Any person having an interest in any alcoholic beverages  
8014 or raw materials which the Department of Revenue intends to  
8015 dispose of under Section 67-1-18 shall be given reasonable notice  
8016 of this proposed disposal, and upon such notice, this person may  
8017 request a hearing before the Board of Tax Appeals to establish his  
8018 right or claim to this property. This request for a hearing shall  
8019 be filed with the Board of Tax Appeals, with a copy sent to the  
8020 Department of Revenue, within fifteen (15) days from the date of  
8021 receipt of the notice provide above by the person filing the  
8022 request. If a request is not received by the Board of Tax Appeals  
8023 within this fifteen-day period, the department may order the  
8024 property disposed of in accordance with Section 67-1-18.

8025 (8) Upon receipt of a written request for hearing or appeal  
8026 as set out above, the executive director shall schedule a hearing  
8027 before the Board of Tax Appeals on this request or appeal. A  
8028 notice of the hearing shall be mailed to all persons or entities  
8029 having an interest in the matter being heard which shall always  
8030 include the person or entity filing the request or appeal for  
8031 which the hearing is being set, the applicant or holder of any  
8032 permit, approved manager status or qualified resort area status in  
8033 issue, any person who filed a written request for a hearing on an  
8034 objection to any application in issue and the Department of

8035 Revenue. This notice shall provide the date, time and location of  
8036 the hearing. Mailing to the attorney representing a person or  
8037 entity in the matter being heard shall be the same as mailing to  
8038 the person or entity the attorney represents. Failure of the  
8039 person or entity on whose request or appeal the matter was set for  
8040 hearing to appear personally or through his designated  
8041 representative at the hearing shall constitute an involuntary  
8042 withdrawal of his request or appeal. Upon such withdrawal, the  
8043 Board of Tax Appeals shall note on the record the failure of the  
8044 person or entity to appear at the hearing and shall dismiss the  
8045 request or appeal and remand the matter back to the Department of  
8046 Revenue for appropriate action.

8047 (9) At any hearing before the Board of Tax Appeals on an  
8048 appeal or hearing request as set out above, two (2) members of the  
8049 Board of Tax Appeals shall constitute a quorum. At the hearing,  
8050 the Board of Tax Appeals shall try the issues presented according  
8051 to law and the facts and pursuant to any guidelines established by  
8052 regulation. The rules of evidence shall be relaxed at the hearing  
8053 and the hearing shall be recorded by a court reporter. After  
8054 reaching a decision on the issues presented, the Board of Tax  
8055 Appeals shall enter an order setting forth its findings and  
8056 decision in the matter. A copy of the order of the Board of Tax  
8057 Appeals shall be mailed to the person or entity filing the request  
8058 or appeal which was heard, the applicant or holder of any permit,  
8059 approved manager status or qualified resort area status in issue,  
8060 any person who filed a written request for a hearing on an  
8061 objection to any application in issue and the Department of  
8062 Revenue to notify them of the findings and decision of the Board  
8063 of Tax Appeals.

8064 **SECTION 136.** Section 67-3-3, Mississippi Code of 1972, is  
8065 amended as follows:

8066 67-3-3. When used in this chapter, unless the context  
8067 indicates otherwise:

8068 (a) "Commissioner" means the Commissioner of Revenue of  
8069 the Department of Revenue of the State of Mississippi, and his  
8070 authorized agents and employees;

8071 (b) "Person" means one or more persons, a company, a  
8072 corporation, a partnership, a syndicate or an association;

8073 (c) "Manufacturer" and "retailer" include brewpubs  
8074 licensed pursuant to Article 3, Chapter 71, Title 27, Mississippi  
8075 Code of 1972, unless otherwise clearly provided; and

8076 (d) "Beer" means a malt beverage as defined in the  
8077 Federal Alcohol Administration Act and any rules and regulations  
8078 adopted pursuant to such act.

8079 **SECTION 137.** Section 67-7-5, Mississippi Code of 1972, is  
8080 amended as follows:

8081 67-7-5. As used in this chapter, the following words or  
8082 phrases, or the plural thereof, whenever they appear in this  
8083 chapter, unless the context clearly requires otherwise, shall have  
8084 the meaning ascribed to them in this section.

8085 (a) "Agreement" means any agreement between a  
8086 wholesaler and a supplier, whether oral or written, whereby a  
8087 wholesaler is granted the right to purchase and sell a brand or  
8088 brands of light wine or beer sold by a supplier.

8089 (b) "Ancillary business" means a business owned by the  
8090 wholesaler, by a substantial stockholder of a wholesaler, or by a  
8091 substantial partner of a wholesaler, the primary business of which  
8092 is directly related to the transporting, storing or marketing of  
8093 the brand or brands of light wine or beer of a supplier with whom  
8094 the wholesaler has an agreement; or a business owned by a  
8095 wholesaler, a substantial stockholder of a wholesaler.

8096 (c) "Commission" or "department" means the Department  
8097 of Revenue of the State of Mississippi.

8098 (d) "Commissioner" means the Commissioner of Revenue of  
8099 the Department of Revenue.

8100 (e) "Designated member" means the spouse, child,  
8101 grandchild, parent, brother or sister of a deceased individual who  
8102 owned an interest, including a controlling interest, in a

8103 wholesaler, or any person who inherits under the deceased  
8104 individual's will, or under the laws of intestate succession of  
8105 this state; or any person who or entity which has otherwise,  
8106 through a valid testamentary device by the deceased individual,  
8107 succeeded the deceased individual in the wholesaler's business, or  
8108 has succeeded to the deceased individual's ownership interest in  
8109 the wholesaler pursuant to a written contract or instrument which  
8110 has been previously approved by supplier; "designated member"  
8111 includes the appointed and qualified personal representative and  
8112 the testamentary trustee of a deceased individual owning an  
8113 ownership interest in a wholesaler, and it includes the person  
8114 appointed by a court as the guardian or conservator of the  
8115 property of an incapacitated individual owning an ownership  
8116 interest in a wholesaler.

8117 (f) "Establish" means to adjust or regulate, to provide  
8118 for and uphold.

8119 (g) "Good faith" means honesty in fact and observance  
8120 of reasonable commercial standards of fair dealing in the trade,  
8121 as defined in and interpreted under the Uniform Commercial Code.

8122 (h) "Reasonable qualifications" means the standard of  
8123 the reasonable criteria established and consistently used by the  
8124 respective supplier for similarly situated wholesalers that  
8125 entered into, continued or renewed an agreement with the supplier  
8126 during a period of twenty-four (24) months before the proposed  
8127 transfer of the wholesaler's business, or for similarly situated  
8128 wholesalers who have changed managers or designated managers,  
8129 under the agreement, during a period of twenty-four (24) months  
8130 before the proposed change in the manager or successor manager of  
8131 the wholesaler's business.

8132 (i) "Retaliatory action" means the refusal to continue  
8133 an agreement, or a material reduction in the quality of service or  
8134 quantity of products available to a wholesaler under an agreement,  
8135 which refusal or reduction is not made in good faith.

8136 (j) "Sales territory" means a primary area of sales  
8137 responsibility for the brand or brands of light wine or beer sold  
8138 by a supplier as designated by an agreement.

8139 (k) "Substantial stockholder or substantial partner"  
8140 means a stockholder of or partner in the wholesaler who owns an  
8141 interest of ten percent (10%) or more of the partnership or of the  
8142 capital stock of a corporate wholesaler.

8143 (l) "Supplier" means a manufacturer or importer of  
8144 light wine or beer as regulated by the department under Sections  
8145 67-3-1 through 67-3-73.

8146 (m) "Transfer of wholesaler's business" means the  
8147 voluntary sale, assignment or other transfer of ten percent (10%)  
8148 or more of control of the business or all or substantially all of  
8149 the assets of the wholesaler, or ten percent (10%) or more of  
8150 control of the capital stocks of the wholesaler, including without  
8151 limitation the sale or other transfer of capital stock or assets  
8152 by merger, consolidation or dissolution, or of the capital stock  
8153 of the parent corporation, or of the capital stock or beneficial  
8154 ownership of any other entity owning or controlling the  
8155 wholesaler.

8156 (n) "Wholesaler" means a wholesaler of light wine or  
8157 beer as regulated by the department under Sections 67-3-1 through  
8158 67-3-73.

8159 (o) "Similarly situated wholesalers" means wholesalers  
8160 of a supplier that are of a generally comparable size and operate  
8161 in markets in Mississippi and adjoining states with similar  
8162 demographic characteristics, including population size, density,  
8163 distribution and vital statistics, as well as reasonably similar  
8164 economic and geographic conditions.

8165 (p) "Light wine and/or beer" has the meaning ascribed  
8166 to such terms in Section 67-3-5.

8167 **SECTION 138.** Section 71-5-389, Mississippi Code of 1972, is  
8168 amended as follows:

8169           71-5-389. (1) For the purposes of this section, the  
8170 following terms shall have the respective meanings ascribed by  
8171 this section:

8172           (a) "Claimant agency" means the Mississippi Department  
8173 of Employment Security.

8174           (b) "Debtor" means any individual owing money or having  
8175 a delinquent account with any claimant agency, which obligation  
8176 has not been adjudicated satisfied by court order, set aside by  
8177 court order, or discharged in bankruptcy.

8178           (c) "Debt" means any sum due and owing any claimant  
8179 agency, including costs, court costs, fines, penalties and  
8180 interest which have accrued through contract, subrogation, tort,  
8181 operation of law, or any other legal theory regardless of whether  
8182 there is an outstanding judgment for that sum which is legally  
8183 collectible and for which a collection effort has been or is being  
8184 made.

8185           (d) "Department" or "Department of Revenue" means the  
8186 Department of Revenue of the State of Mississippi.

8187           (e) "Refund" means the Mississippi income tax refund  
8188 which the department determines to be due any individual taxpayer.

8189           (2) The collection remedy authorized by this section is in  
8190 addition to and is not substitution for any other remedy available  
8191 by law.

8192           (3) (a) A claimant agency may submit debts in excess of  
8193 Twenty-five Dollars (\$25.00) owed to it to the department for  
8194 collection through setoff, under the procedure established by this  
8195 section, except in cases where the validity of the debt is  
8196 legitimately in dispute, an alternate means of collection is  
8197 pending and believed to be adequate, or such collection would  
8198 result in a loss of federal funds or federal assistance.

8199           (b) Upon the request of a claimant agency, the  
8200 department shall set off any refund, as defined herein, against  
8201 the sum certified by the claimant agency as provided in this  
8202 section.

8203           (4) (a) Within the time frame specified by the department,  
8204 a claimant agency seeking to collect a debt through setoff shall  
8205 supply the information necessary to identify each debtor whose  
8206 refund is sought to be set off and certify the amount of debt or  
8207 debts owed by each such debtor.

8208           (b) If a debtor identified by a claimant agency is  
8209 determined by the department to be entitled to a refund of at  
8210 least Twenty-five Dollars (\$25.00), the department shall transfer  
8211 an amount equal to the refund owed, not to exceed the amount of  
8212 the claimed debt certified, to the claimant agency. The  
8213 Department of Revenue shall send the excess amount to the debtor  
8214 within a reasonable time after such excess is determined. At the  
8215 time of the transfer of funds to a claimant agency pursuant to  
8216 this paragraph (b), the Department of Revenue shall notify the  
8217 taxpayer or taxpayers whose refund is sought to be set off that  
8218 the transfer has been made. Such notice shall clearly set forth  
8219 the name of the debtor, the manner in which the debt arose, the  
8220 amount of the claimed debt, the transfer of funds to the claimant  
8221 agency pursuant to this paragraph (b) and the intention to set off  
8222 the refund against the debt, the amount of the refund in excess of  
8223 the claimed debt, the taxpayer's opportunity to give written  
8224 notice to contest the setoff within thirty (30) days of the date  
8225 of mailing of the notice, the name and mailing address of the  
8226 claimant agency to which the application for such a hearing must  
8227 be sent, and the fact that the failure to apply for such a  
8228 hearing, in writing, within the thirty-day period will be deemed a  
8229 waiver of the opportunity to contest the setoff. In the case of a  
8230 joint return or a joint refund, the notice shall also state the  
8231 name of the taxpayer named in the return, if any, against whom no  
8232 debt is claimed, the fact that a debt is not claimed against such  
8233 taxpayer, the fact that such taxpayer is entitled to receive a  
8234 refund if it is due him regardless of the debt asserted against  
8235 his spouse, and that in order to obtain a refund due him such  
8236 taxpayer must apply in writing for a hearing with the claimant  
8237 agency named in the notice within thirty (30) days of the date of

8238 the mailing of the notice. If a taxpayer fails to apply in  
8239 writing for such a hearing within thirty (30) days of the mailing  
8240 of such notice, he will have waived his opportunity to contest the  
8241 setoff.

8242 (c) Upon receipt of funds transferred from the  
8243 Department of Revenue pursuant to paragraph (b) of this  
8244 subsection, the claimant agency shall deposit and hold such funds  
8245 in an escrow account until a final determination of the validity  
8246 of the debt.

8247 (d) The claimant agency shall pay the Department of  
8248 Revenue a fee, not to exceed Seventeen Dollars (\$17.00) in each  
8249 case in which a tax refund is identified as being available for  
8250 offset. Such fees shall be deposited by the Department of Revenue  
8251 into a special fund hereby created in the State Treasury, out of  
8252 which the Legislature shall appropriate monies to defray expenses  
8253 of the Department of Revenue in employing personnel to administer  
8254 the provisions of this section.

8255 (5) (a) When the claimant agency receives a protest or an  
8256 application in writing from a taxpayer within thirty (30) days of  
8257 the notice issued by the Department of Revenue, the claimant  
8258 agency shall set a date to hear the protest and give notice to the  
8259 taxpayer by registered or certified mail of the date so set. The  
8260 time and place of such hearing shall be designated in such notice  
8261 and the date set shall not be less than fifteen (15) days from the  
8262 date of such notice. If, at the hearing, the sum asserted as due  
8263 and owing is found not to be correct, an adjustment to the claim  
8264 may be made. The claimant agency shall give notice to the debtor  
8265 of its final determination as provided in paragraph (c) of this  
8266 subsection.

8267 (b) No issues shall be reconsidered at the hearing  
8268 which have been previously litigated.

8269 (c) If any debtor is dissatisfied with the final  
8270 determination made at the hearing by the claimant agency, he may  
8271 appeal the final determination to the circuit court of the county  
8272 in which the main office of the claimant agency is located by

8273 filing notice of appeal with the administrative head of the  
8274 claimant agency and with the clerk of the circuit court of the  
8275 county in which the appeal shall be taken within thirty (30) days  
8276 from the date the notice of final determination was given by the  
8277 claimant agency.

8278 (6) (a) Upon final determination of the amount of the debt  
8279 due and owing by means of hearing or by the taxpayer's default  
8280 through failure to comply with timely request for review, the  
8281 claimant agency shall remove the amount of the debt due and owing  
8282 from the escrow account and credit such amount to the debtor's  
8283 obligation.

8284 (b) Upon transfer of the debt due and owing from the  
8285 escrow account to the credit of the debtor's account, the claimant  
8286 agency shall notify the debtor in writing of the finalization of  
8287 the setoff. Such notice shall include a final accounting if the  
8288 refund which was set off, including the amount of the refund to  
8289 which the debtor was entitled prior to the setoff, the amount of  
8290 the debt due and owing, the amount of the \* \* \* collection fee  
8291 paid to the Department of Revenue, the amount of the refund in  
8292 excess of the debt which was returned to the debtor by the  
8293 Department of Revenue, and the amount of the funds transferred to  
8294 the claimant agency in excess of the debt determined to be due and  
8295 owing at a hearing, if such a hearing was held. At such time, the  
8296 claimant agency shall refund to the debtor the amount of the  
8297 claimed debt originally certified and transferred to it by the  
8298 Department of Revenue in excess of the amount of debt finally  
8299 found to be due and owing.

8300 (7) (a) Notwithstanding the provision that prohibits  
8301 disclosure by the Department of Revenue of the contents of  
8302 taxpayer records or information and notwithstanding any other  
8303 confidentiality statute, the Department of Revenue may provide to  
8304 a claimant agency all information necessary to accomplish and  
8305 effectuate the intent of the section.

8306 (b) The information obtained by claimant agency from  
8307 the Department of Revenue in accordance with the provisions of

8308 this section shall retain its confidentiality and shall only be  
8309 used by a claimant agency in the pursuit of its debt collection  
8310 duties and practices; and any employee or prior employee of any  
8311 claimant agency who unlawfully discloses any such information for  
8312 any other purpose, except as specifically authorized by law, shall  
8313 be subject to the same penalties specified by law for unauthorized  
8314 confidential information by an agent or employee of the Department  
8315 of Revenue.

8316 **SECTION 139.** Section 75-23-5, Mississippi Code of 1972, is  
8317 amended as follows:

8318 75-23-5. The following words, terms and phrases, when used  
8319 in the Unfair Cigarette Sales Law, shall have the meaning ascribed  
8320 to them in this section except where the context clearly indicates  
8321 a different meaning:

8322 (a) "Person" shall mean and include any individual,  
8323 firm, association, company, partnership, corporation, joint stock  
8324 company, club, agency, syndicate, the State of Mississippi,  
8325 county, municipal corporation or other political subdivision of  
8326 this state, receiver, trustee, fiduciary, or trade association.

8327 (b) "Commission" or "department" shall mean the  
8328 Department of Revenue of the State of Mississippi.

8329 (c) "Cigarettes" shall mean and include any roll for  
8330 smoking made wholly or in part of tobacco, irrespective of size or  
8331 shape and whether or not such tobacco is flavored, adulterated or  
8332 mixed with any other ingredient, the wrapper or cover of which is  
8333 made of paper or any other substance or material, excepting  
8334 tobacco.

8335 (d) "Wholesaler" shall mean and include any person  
8336 qualified as a wholesaler with the Department of Revenue of  
8337 Mississippi and shall also mean and include any person other than  
8338 a buying pool as defined herein, wherever resident or located, who  
8339 brings or causes to be brought into this state unstamped  
8340 cigarettes purchased directly from the manufacturer thereof and  
8341 who maintains an established place of business where substantially  
8342 all of the business is the sale of cigarettes and related

8343 merchandise at wholesale to cigarette licensees and where at all  
8344 times a substantial stock of cigarettes and related merchandise is  
8345 available for resale; provided, that seventy-five percent (75%)  
8346 thereof are sold to retailers or other wholesalers not connected  
8347 with the wholesaler by reason of any business connection or  
8348 otherwise; and also any person retailing cigarettes to consumers,  
8349 provided, at least seventy-five percent (75%) of his purchases are  
8350 made directly from the manufacturers thereof; and also any person  
8351 in this state other than a buying pool as defined herein, who  
8352 purchases cigarettes, from any other person who purchases from a  
8353 manufacturer at least seventy-five percent (75%) of which are for  
8354 purposes of resale to retailers in this state not connected with  
8355 said wholesaler by reason of any business connection or otherwise  
8356 and who maintains an established place of business where  
8357 cigarettes and related merchandise are sold at wholesale to  
8358 persons licensed under this law, and where at all times a  
8359 substantial stock of cigarettes and related merchandise is  
8360 available to all retailers for resale; and also any person in this  
8361 state who acquires cigarettes solely for the purpose of resale in  
8362 cigarette vending machines; provided, such person operated thirty  
8363 (30) or more machines.

8364 (e) "Retailer" shall mean and include any person who is  
8365 engaged in this state in the business of selling cigarettes at  
8366 retail and includes any group of persons, cooperative  
8367 organizations, buying pools, and any other person or group of  
8368 retailers purchasing cigarettes on a cooperative basis from  
8369 licensed distributors or wholesalers. Any person placing a  
8370 cigarette vending machine at, on or in any premises shall be  
8371 deemed to be a retailer from each such vending machine.

8372 (f) "Buying pool" means and includes any combination,  
8373 corporation, association, affiliation or group of retail dealers  
8374 operating jointly in the purchase, sale, exchange, or barter of  
8375 cigarettes, the profits of which accrue directly or indirectly to  
8376 such retail dealers.

8377 (g) "Sale" or "sell" shall mean any transfer for a  
8378 consideration, exchange, barter, gift, offer for sale, advertising  
8379 for sale, soliciting an order for cigarettes and distribution in  
8380 any manner or by any means whatsoever.

8381 (h) "Sell at wholesale," "sale at wholesale" and  
8382 "wholesale sales" shall mean and include any sale made in the  
8383 ordinary course of trade or usual conduct of the wholesaler's  
8384 business to a retailer for the purpose of resale.

8385 (i) "Sell at retail," "sale at retail" or "retail  
8386 sales" shall mean and include any sale for consumption or use made  
8387 in the ordinary course of trade or usual conduct of the seller's  
8388 business.

8389 (j) "Basic cost of cigarettes" shall mean whichever of  
8390 the two (2) following amounts is lower, namely, (i) the invoice  
8391 cost of cigarettes to the wholesaler or retailer, as the case may  
8392 be, or (ii) the lowest replacement cost of cigarettes to the  
8393 wholesaler or retailer, as the case may be, within thirty (30)  
8394 days prior to the date of sale, in the quantity last purchased  
8395 (whether within or before the \* \* \* thirty-day period), less, in  
8396 either of the two (2) cases, all trade discounts except customary  
8397 discounts for cash, plus the full face value of any stamps or any  
8398 tax which may be required by any cigarette tax act of this state  
8399 or political subdivision thereof, now in effect or hereafter  
8400 enacted, if not already included in the invoice cost of the  
8401 cigarettes to the wholesaler or retailer, as the case may be.

8402 (k) (i) "Cost to wholesaler" shall mean the basic cost  
8403 of the cigarettes involved to the wholesaler plus the cost of  
8404 doing business by the wholesaler as evidenced by the standards and  
8405 methods of accounting regularly employed by him, and must include,  
8406 without limitation, labor costs (including salaries of executives  
8407 and officers), rent, depreciation, selling costs, maintenance of  
8408 equipment, delivery costs, all types of licenses, taxes, insurance  
8409 and advertising.

8410 (ii) In the absence of proof of a lesser or higher  
8411 cost of doing business by the wholesale dealer making the sale,

8412 the cost of doing business by the wholesale dealer shall be  
8413 presumed to be two percent (2%) of the basic cost of \* \* \*  
8414 cigarettes to the wholesale dealer, any fraction of a cent thus  
8415 computed shall be rounded off to the next highest cent, plus  
8416 cartage to the retail outlet, if performed or paid for by the  
8417 wholesale dealer, which cartage cost, in the absence of proof of a  
8418 lesser or higher cost, shall be presumed to be one-half of one  
8419 percent (1/2 of 1%) of the basic cost of the \* \* \* cigarettes to  
8420 the wholesale dealer, any fraction of a cent in computing the  
8421 amount of the cartage shall be rounded off to the next highest  
8422 cent.

8423           (1) (i) "Cost to the retailer" shall mean the basic  
8424 cost of the cigarettes involved to the retailer plus the cost of  
8425 doing business by the retailer as evidenced by the standards and  
8426 methods of accounting regularly employed by him and must include,  
8427 without limitation, labor (including salaries of executives and  
8428 officers), rent, depreciation, selling costs, maintenance of  
8429 equipment, delivery costs, all types of licenses, taxes, insurance  
8430 and advertising.

8431           (ii) In the absence of proof of a lesser or higher  
8432 cost of doing business by the retailer making the sale, the cost  
8433 of doing business by the \* \* \* retailer shall be presumed to be  
8434 six percent (6%) of the basic cost of cigarettes to the \* \* \*  
8435 retailer. Any fraction of a cent thus computed shall be rounded  
8436 off to the next highest cent.

8437           (iii) In the case of any retail dealer who in  
8438 connection with the \* \* \* retail dealer's purchase of any  
8439 cigarettes shall receive not only the discounts ordinarily allowed  
8440 upon purchases by a retail dealer but also in whole or in part the  
8441 discounts ordinarily allowed upon purchases by a wholesale dealer,  
8442 the cost of doing business by the \* \* \* retail dealer with respect  
8443 to the \* \* \* cigarettes shall be, in the absence of proof of a  
8444 lesser or higher cost of doing business by the \* \* \* retail  
8445 dealer, the sum of the cost of doing business by the retail dealer  
8446 and, to the extent that he shall have received the full discounts

8447 ordinarily allowed to a wholesale dealer, the cost of doing  
8448 business by a wholesale dealer as hereinabove defined in paragraph  
8449 (j)(ii) of this section.

8450 **SECTION 140.** Section 75-23-31, Mississippi Code of 1972, is  
8451 amended as follows:

8452 75-23-31. As used in this article:

8453 (a) "Commission" or "department" means the Mississippi  
8454 Department of Revenue.

8455 (b) "Cigarette" means any roll for smoking made wholly  
8456 or in part of tobacco, irrespective of size or shape and whether  
8457 such tobacco is flavored, adulterated or mixed with any other  
8458 ingredient, the wrapper or cover of which is made of paper or any  
8459 other substance or material except tobacco.

8460 (c) "Person" means any individual, firm, association,  
8461 agency, syndicate, the State of Mississippi, county, municipal  
8462 corporation or other political subdivision of this state,  
8463 receiver, trustee, fiduciary or trade association.

8464 **SECTION 141.** Section 75-76-5, Mississippi Code of 1972, is  
8465 amended as follows:

8466 75-76-5. As used in this chapter, unless the context  
8467 requires otherwise:

8468 (a) "Applicant" means any person who has applied for or  
8469 is about to apply for a state gaming license, registration or  
8470 finding of suitability under the provisions of this chapter or  
8471 approval of any act or transaction for which approval is required  
8472 or permitted under the provisions of this chapter.

8473 (b) "Application" means a request for the issuance of a  
8474 state gaming license, registration or finding of suitability under  
8475 the provisions of this chapter or for approval of any act or  
8476 transaction for which approval is required or permitted under the  
8477 provisions of this chapter but does not include any supplemental  
8478 forms or information that may be required with the application.

8479 (c) "Associated equipment" means any equipment or  
8480 mechanical, electromechanical or electronic contrivance, component  
8481 or machine used remotely or directly in connection with gaming or

8482 with any game, race book or sports pool that would not otherwise  
8483 be classified as a gaming device, including dice, playing cards,  
8484 links which connect to progressive slot machines, equipment which  
8485 affects the proper reporting of gross revenue, computerized  
8486 systems of betting at a race book or sports pool, computerized  
8487 systems for monitoring slot machines, and devices for weighing or  
8488 counting money.

8489 (d) "Chairman" \* \* \* means \* \* \* the Chairman of the  
8490 Mississippi Gaming Commission except when used in the term  
8491 "Chairman of the State Tax Commission." "Chairman of the State  
8492 Tax Commission" or "commissioner" means the Commissioner of  
8493 Revenue of the Department of Revenue.

8494 (e) "Commission" or "Mississippi Gaming  
8495 Commission" \* \* \* means the Mississippi Gaming Commission.

8496 (f) "Commission member" \* \* \* means a member of the  
8497 Mississippi Gaming Commission.

8498 (g) "Credit instrument" means a writing which evidences  
8499 a gaming debt owed to a person who holds a license at the time the  
8500 debt is created, and includes any writing taken in consolidation,  
8501 redemption or payment of a prior credit instrument.

8502 (h) "Enforcement division" means a particular division  
8503 supervised by the executive director that provides enforcement  
8504 functions.

8505 (i) "Establishment" means any premises wherein or  
8506 whereon any gaming is done.

8507 (j) "Executive director" \* \* \* means the Executive  
8508 Director of the Mississippi Gaming Commission.

8509 (k) Except as otherwise provided by law, "game," or  
8510 "gambling game" means any banking or percentage game played with  
8511 cards, with dice or with any mechanical, electromechanical or  
8512 electronic device or machine for money, property, checks, credit  
8513 or any representative of value, including, without limiting, the  
8514 generality of the foregoing, faro, monte, roulette, keno, fan-tan,  
8515 twenty-one, blackjack, seven-and-a-half, big injun, klondike,  
8516 craps, poker, chuck-a-luck (dai shu), wheel of fortune, chemin de

8517 fer, baccarat, pai gow, beat the banker, panguingui, slot machine,  
8518 or any other game or device approved by the commission. However,  
8519 "game" or "gambling game" shall not include bingo games or raffles  
8520 which are held pursuant to the provisions of Section 97-33-51.

8521 The commission shall not be required to recognize any game  
8522 hereunder with respect to which the commission determines it does  
8523 not have sufficient experience or expertise.

8524 (l) "Gaming" or "gambling" means to deal, operate,  
8525 carry on, conduct, maintain or expose for play any game as defined  
8526 in this chapter.

8527 (m) "Gaming device" means any mechanical,  
8528 electromechanical or electronic contrivance, component or machine  
8529 used in connection with gaming or any game which affects the  
8530 result of a wager by determining win or loss. The term includes a  
8531 system for processing information which can alter the normal  
8532 criteria of random selection, which affects the operation of any  
8533 game, or which determines the outcome of a game. The term does  
8534 not include a system or device which affects a game solely by  
8535 stopping its operation so that the outcome remains undetermined,  
8536 and does not include any antique coin machine as defined in  
8537 Section 27-27-12.

8538 (n) "Gaming employee" means any person connected  
8539 directly with the operation of a gaming establishment licensed to  
8540 conduct any game, including:

- 8541 (i) Boxmen;
- 8542 (ii) Cashiers;
- 8543 (iii) Change personnel;
- 8544 (iv) Counting room personnel;
- 8545 (v) Dealers;
- 8546 (vi) Floormen;
- 8547 (vii) Hosts or other persons empowered to extend  
8548 credit or complimentary services;
- 8549 (viii) Keno runners;
- 8550 (ix) Keno writers;
- 8551 (x) Machine mechanics;

- 8552 (xi) Security personnel;
- 8553 (xii) Shift or pit bosses;
- 8554 (xiii) Shills;
- 8555 (xiv) Supervisors or managers; and
- 8556 (xv) Ticket writers.

8557 The term "gaming employee" also includes employees of  
8558 manufacturers or distributors of gaming equipment within this  
8559 state whose duties are directly involved with the manufacture,  
8560 repair or distribution of gaming equipment.

8561 "Gaming employee" does not include bartenders, cocktail  
8562 waitresses or other persons engaged in preparing or serving food  
8563 or beverages unless acting in some other capacity.

8564 (o) "Gaming license" means any license issued by the  
8565 state which authorizes the person named therein to engage in  
8566 gaming.

8567 (p) "Gross revenue" means the total of all of the  
8568 following, less the total of all cash paid out as losses to  
8569 patrons and those amounts paid to purchase annuities to fund  
8570 losses paid to patrons over several years by independent financial  
8571 institutions:

- 8572 (i) Cash received as winnings;
- 8573 (ii) Cash received in payment for credit extended  
8574 by a licensee to a patron for purposes of gaming; and
- 8575 (iii) Compensation received for conducting any  
8576 game in which the licensee is not party to a wager.

8577 For the purposes of this definition, cash or the value of  
8578 noncash prizes awarded to patrons in a contest or tournament are  
8579 not losses.

8580 The term does not include:

- 8581 (i) Counterfeit money or tokens;
- 8582 (ii) Coins of other countries which are received  
8583 in gaming devices;
- 8584 (iii) Cash taken in fraudulent acts perpetrated  
8585 against a licensee for which the licensee is not reimbursed; or

8586 (iv) Cash received as entry fees for contests or  
8587 tournaments in which the patrons compete for prizes.

8588 (q) "Hearing examiner" means a member of the  
8589 Mississippi Gaming Commission or other person authorized by the  
8590 commission to conduct hearings.

8591 (r) "Investigation division" means a particular  
8592 division supervised by the executive director that provides  
8593 investigative functions.

8594 (s) "License" means a gaming license or a  
8595 manufacturer's, seller's or distributor's license.

8596 (t) "Licensee" means any person to whom a valid license  
8597 has been issued.

8598 (u) "License fees" means monies required by law to be  
8599 paid to obtain or continue a gaming license or a manufacturer's,  
8600 seller's or distributor's license.

8601 (v) "Licensed gaming establishment" means any premises  
8602 licensed pursuant to the provisions of this chapter wherein or  
8603 whereon gaming is done.

8604 (w) "Manufacturer's," "seller's" or "distributor's"  
8605 license means a license issued pursuant to Section 75-76-79.

8606 (x) "Navigable waters" shall have the meaning ascribed  
8607 to such term under Section 27-109-1.

8608 (y) "Operation" means the conduct of gaming.

8609 (z) "Party" means the Mississippi Gaming Commission and  
8610 any licensee or other person appearing of record in any proceeding  
8611 before the commission; or the Mississippi Gaming Commission and  
8612 any licensee or other person appearing of record in any proceeding  
8613 for judicial review of any action, decision or order of the  
8614 commission.

8615 (aa) "Person" includes any association, corporation,  
8616 firm, partnership, trust or other form of business association as  
8617 well as a natural person.

8618 (bb) "Premises" means land, together with all  
8619 buildings, improvements and personal property located thereon, and  
8620 includes all parts of any vessel or cruise vessel.

8621           (cc) "Race book" means the business of accepting wagers  
8622 upon the outcome of any event held at a track which uses the  
8623 pari-mutuel system of wagering.

8624           (dd) "Regulation" means a rule, standard, directive or  
8625 statement of general applicability which effectuates law or policy  
8626 or which describes the procedure or requirements for practicing  
8627 before the commission. The term includes a proposed regulation  
8628 and the amendment or repeal of a prior regulation but does not  
8629 include:

8630                   (i) A statement concerning only the internal  
8631 management of the commission and not affecting the rights or  
8632 procedures available to any licensee or other person;

8633                   (ii) A declaratory ruling;

8634                   (iii) An interagency memorandum;

8635                   (iv) The commission's decision in a contested case  
8636 or relating to an application for a license; or

8637                   (v) Any notice concerning the fees to be charged  
8638 which are necessary for the administration of this chapter.

8639           (ee) "Respondent" means any licensee or other person  
8640 against whom a complaint has been filed with the commission.

8641           (ff) "Slot machine" means any mechanical, electrical or  
8642 other device, contrivance or machine which, upon insertion of a  
8643 coin, token or similar object, or upon payment of any  
8644 consideration, is available to play or operate, the play or  
8645 operation of which, whether by reason of the skill of the operator  
8646 or application of the element of chance, or both, may deliver or  
8647 entitle the person playing or operating the machine to receive  
8648 cash, premiums, merchandise, tokens or anything of value, whether  
8649 the payoff is made automatically from the machine or in any other  
8650 manner. The term does not include any antique coin machine as  
8651 defined in Section 27-27-12.

8652           (gg) "Sports pool" means the business of accepting  
8653 wagers on sporting events, except for athletic events, by any  
8654 system or method of wagering other than the system known as the  
8655 "pari-mutuel method of wagering."

8656 (hh) "State Tax Commission" or "department" means the  
8657 Department of Revenue of the State of Mississippi.

8658 (ii) "Temporary work permit" means a work permit which  
8659 is valid only for a period not to exceed ninety (90) days from its  
8660 date of issue and which is not renewable.

8661 (jj) "Vessel" or "cruise vessel" shall have the  
8662 meanings ascribed to such terms under Section 27-109-1.

8663 (kk) "Work permit" means any card, certificate or  
8664 permit issued by the commission, whether denominated as a work  
8665 permit, registration card or otherwise, authorizing the employment  
8666 of the holder as a gaming employee. A document issued by any  
8667 governmental authority for any employment other than gaming is not  
8668 a valid work permit for the purposes of this chapter.

8669 (ll) "School or training institution" means any school  
8670 or training institution which is licensed by the commission to  
8671 teach or train gaming employees pursuant to Section 75-76-34.

8672 (mm) "Cheat" means to alter the selection of criteria  
8673 that determine:

8674 (i) The rules of a game; or

8675 (ii) The amount or frequency of payment in a game.

8676 **SECTION 142.** Section 75-76-83, Mississippi Code of 1972, is  
8677 amended as follows:

8678 75-76-83. Any person aggrieved by the final order of the  
8679 Board of Tax Appeals regarding any action taken by the  
8680 Commissioner of Revenue and/or the Department of Revenue under the  
8681 provisions of this chapter, including any person charged with any  
8682 tax, fee, interest, penalties and damages imposed by this chapter  
8683 and required to pay same, may appeal from such order as provided  
8684 in Section 27-77-7. \* \* \*

8685 **SECTION 143.** Sections 27-3-11, 27-3-21, 27-3-25, 27-3-27,  
8686 27-3-32, 27-3-55, 27-3-75 and 67-1-21, Mississippi Code of 1972,  
8687 are repealed.

8688 **SECTION 144.** Nothing in this act shall affect or defeat any  
8689 assessment, refund claim, request for waiver of a tax penalty, the  
8690 suspension, revocation, surrender, seizure or denial of permit,

8691 tag or title, the suspension, revocation or denial of a permit,  
8692 approved manager status, qualified resort area or forfeiture under  
8693 the Local Option Alcoholic Beverage Control Law, Section 67-1-1 et  
8694 seq., the administrative appeal or judicial appeal of any of the  
8695 foregoing acts or any other action taken by the Mississippi State  
8696 Tax Commission or by the Chairman of the Mississippi State Tax  
8697 Commission prior to the effective date of this act. The  
8698 provisions of the laws relating to the administrative appeal or  
8699 judicial review of such actions which were in effect prior to the  
8700 effective date of this act are expressly continued in full force,  
8701 effect and operation for the purpose of providing an  
8702 administrative appeal and/or judicial review, where previously  
8703 provided, of such actions, except to the extent that any matter is  
8704 pending on an administrative appeal before the three (3) member  
8705 Mississippi State Tax Commission on the effective date will after  
8706 the effective date of this act be heard and decided by the Board  
8707 of Tax Appeals as the successor of the Mississippi State Tax  
8708 Commission in regard to administrative appeals.

8709 **SECTION 145.** (1) There is created a study committee on the  
8710 matter of ad valorem taxation in Mississippi. The study committee  
8711 shall make and file a report of its findings and recommendations,  
8712 including any recommended legislation, with the Clerk of the House  
8713 of Representatives and the Secretary of the Senate not later than  
8714 December 1, 2010.

8715 (2) The study committee shall be composed of the following  
8716 fourteen (14) members:

8717 (a) The Chairman of the House Ways and Means Committee;

8718 (b) The Chairman of the Senate Finance Committee;

8719 (c) The Chairman of the House County Affairs Committee;

8720 (d) The Chairman of the Senate County Affairs

8721 Committee;

8722 (e) The Chairman of the House Municipalities Committee;

8723 (f) The Chairman of the Senate Municipalities

8724 Committee;

8725 (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

15 FOR A CRIMINAL CONVICTION UNDER THE INTERNAL REVENUE CODE; TO  
16 PROVIDE THAT THE SALARIES OF THE BOARD OF TAX APPEALS SHALL BE  
17 FIXED BY THE STATE PERSONNEL BOARD; TO PROVIDE FOR THE POWERS AND  
18 DUTIES OF THE BOARD OF TAX APPEALS; TO PROVIDE THAT THE CHAIRMAN  
19 OF THE BOARD OF TAX APPEALS SHALL APPOINT AN EXECUTIVE DIRECTOR  
20 WHO SHALL SERVE AT THE WILL AND PLEASURE OF THE CHAIRMAN AND MAY  
21 BE REMOVED UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE THAT THE  
22 EXECUTIVE DIRECTOR SHALL BE LICENSED TO PRACTICE LAW IN THIS STATE  
23 AND HAVE A FAMILIARITY WITH THE TAX APPEALS PROCESS; TO PROVIDE  
24 THAT THE SALARY OF THE EXECUTIVE DIRECTOR SHALL BE SET BY THE  
25 STATE PERSONNEL BOARD; TO PROVIDE THE POWERS AND DUTIES OF THE  
26 EXECUTIVE DIRECTOR; TO PROVIDE FOR THE MEETINGS OF THE BOARD OF  
27 TAX APPEALS; TO PROVIDE THAT, EXCEPT FOR THE DUTIES AND POWERS  
28 EXERCISED BY THE BOARD OF TAX APPEALS, THE COMMISSIONER OF REVENUE  
29 ACTING THROUGH THE DEPARTMENT OF REVENUE SHALL EXERCISE THOSE  
30 POWERS, DUTIES AND FUNCTIONS HERETOFORE VESTED IN THE MISSISSIPPI  
31 STATE TAX COMMISSION AND THE CHAIRMAN OF THE STATE TAX COMMISSION;  
32 TO PROVIDE THE TRANSITIONAL RULES FOR THIS CHANGE; TO AMEND  
33 SECTION 27-3-1, MISSISSIPPI CODE OF 1972, TO ESTABLISH THE  
34 DEPARTMENT OF REVENUE AND PROVIDE THAT THE HEAD OF THE DEPARTMENT  
35 SHALL BE THE COMMISSIONER OF REVENUE; TO PROVIDE THAT THE  
36 COMMISSIONER OF REVENUE SHALL BE APPOINTED BY THE GOVERNOR WITH  
37 THE ADVICE AND CONSENT OF THE SENATE FOR A SIX-YEAR TERM; TO  
38 PROVIDE THAT THE COMMISSIONER OF REVENUE MAY NOT BE REMOVED FROM  
39 OFFICE EXCEPT BY IMPEACHMENT OR AS PROVIDED UNDER SECTION 25-5-1,  
40 MISSISSIPPI CODE OF 1972, EXCEPT THAT THE COMMISSIONER MAY ALSO BE  
41 REMOVED FOR A CRIMINAL CONVICTION UNDER THE INTERNAL REVENUE CODE;  
42 TO AMEND SECTION 27-3-2, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
43 THE CHAIRMAN OF THE STATE TAX COMMISSION WHOSE TERM EXPIRES ON  
44 JULY 1, 2010, SHALL BE DEEMED TO BE THE INCUMBENT FOR THE OFFICE  
45 OF COMMISSIONER OF REVENUE AND SHALL SERVE AS THE COMMISSIONER OF  
46 REVENUE UNTIL THE PERSON APPOINTED BY THE GOVERNOR TO FILL THE  
47 POSITION HAS BEEN APPOINTED AND QUALIFIED; TO AMEND SECTION  
48 27-3-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE ANNUAL  
49 SALARY OF THE COMMISSIONER OF REVENUE SHALL BE FIXED BY THE STATE  
50 PERSONNEL BOARD; TO AMEND SECTION 27-3-31, MISSISSIPPI CODE OF  
51 1972, TO CLARIFY THE DUTIES OF THE COMMISSIONER OF REVENUE  
52 NECESSITATED BY THIS ACT; TO AMEND SECTION 27-3-61, MISSISSIPPI  
53 CODE OF 1972, TO AUTHORIZE THE RECORDS AND DOCUMENTS REQUIRED TO  
54 BE FILED AND PRESERVED BY THE DEPARTMENT OF REVENUE TO BE  
55 PRESERVED DIGITALLY AND/OR ELECTRONICALLY AND TO ALLOW THE  
56 DESTRUCTION OF PAPER COPIES OF RECORDS AND DOCUMENTS AFTER THEY  
57 HAVE BEEN PRESERVED DIGITALLY OR ELECTRONICALLY; TO AMEND SECTIONS  
58 27-7-51 AND 27-7-53, MISSISSIPPI CODE OF 1972, TO INCREASE TO 60  
59 DAYS FROM THE DATE OF NOTICE THE TIME WITHIN WHICH A TAXPAYER MAY  
60 PAY AN ASSESSMENT OF ADDITIONAL INCOME TAXES OR APPEAL THE  
61 ASSESSMENT; TO AMEND SECTIONS 27-9-43 AND 27-9-45, MISSISSIPPI  
62 CODE OF 1972, TO INCREASE TO 60 DAYS FROM THE DATE OF NOTICE THE  
63 TIME WITHIN WHICH A TAXPAYER MUST PAY A DEFICIENCY IN THE ESTATE  
64 TAX; TO AMEND SECTIONS 27-13-23 AND 27-13-25, MISSISSIPPI CODE OF  
65 1972, TO INCREASE TO 60 DAYS FROM THE DATE OF NOTICE THE TIME  
66 WITHIN WHICH A TAXPAYER MAY PAY AN ASSESSMENT OF ADDITIONAL  
67 CORPORATION FRANCHISE TAXES OR APPEAL THE ASSESSMENT; TO AMEND  
68 SECTION 27-15-205, MISSISSIPPI CODE OF 1972, TO EXTEND TO 60 DAYS  
69 AFTER THE DETERMINATION THAT ADDITIONAL PRIVILEGE TAX IS DUE, THE  
70 PERIOD OF TIME DURING WHICH THE ADDITIONAL TAX MAY BE PAID WITHOUT  
71 PENALTY; TO AMEND SECTIONS 27-35-163, MISSISSIPPI CODE OF 1972, TO  
72 AUTHORIZE THE DEPARTMENT OF REVENUE TO APPEAL ORDERS OF THE BOARD  
73 OF TAX APPEALS REGARDING ASSESSMENTS BY THE DEPARTMENT FOR AD  
74 VALOREM TAX PURPOSES; TO AMEND SECTIONS 27-35-309, 27-35-501 AND  
75 27-35-703, MISSISSIPPI CODE OF 1972, TO INCREASE TO 30 DAYS THE  
76 PERIOD OF TIME THAT ASSESSMENTS OF CERTAIN RAILROAD, AIRLINE AND  
77 OTHER PUBLIC SERVICE CORPORATIONS PROPERTY REMAIN OPEN IN THE  
78 OFFICE OF THE DEPARTMENT OF REVENUE AND TO PROVIDE THAT ANY  
79 OBJECTIONS SHALL BE IN WRITING AND FILED WITH THE BOARD OF TAX  
80 APPEALS WITHIN SUCH PERIOD; TO PROVIDE THAT A COPY OF THE WRITTEN  
81 OBJECTIONS MUST BE FILED WITH THE DEPARTMENT OF REVENUE; TO AMEND  
82 SECTIONS 27-55-23 AND 27-55-27, MISSISSIPPI CODE OF 1972, TO  
83 INCREASE TO 60 DAYS THE PERIOD OF TIME DURING WHICH CERTAIN  
84 DECISIONS OF THE DEPARTMENT OF REVENUE UNDER THE GASOLINE TAX LAW

85 MAY BE APPEALED TO THE BOARD OF REVIEW OF THE DEPARTMENT OF  
86 REVENUE; TO AMEND SECTION 27-57-19, MISSISSIPPI CODE OF 1972, TO  
87 INCREASE TO 60 DAYS THE PERIOD OF TIME DURING WHICH CERTAIN  
88 DECISIONS OF THE DEPARTMENT OF REVENUE UNDER THE LUBRICATING OIL  
89 TAX LAW MAY BE APPEALED TO THE BOARD OF REVIEW OF THE DEPARTMENT  
90 OF REVENUE; TO AMEND SECTIONS 27-65-35 AND 27-65-37, MISSISSIPPI  
91 CODE OF 1972, TO INCREASE TO 60 DAYS THE PERIOD OF TIME WITHIN  
92 WHICH A TAXPAYER MUST PAY CERTAIN ASSESSMENTS AND DAMAGES UNDER  
93 THE SALES TAX LAW; TO AMEND SECTIONS 27-77-1, 27-77-5, 27-77-7,  
94 27-77-9, 27-77-11, 27-77-12, 27-77-13, 27-77-15, 27-77-17 AND  
95 27-77-19, MISSISSIPPI CODE OF 1972, TO REVISE THE TIME WITHIN  
96 WHICH AN ORDER OF THE BOARD OF REVIEW OF THE DEPARTMENT OF REVENUE  
97 MAY BE APPEALED BY AN AGGRIEVED PARTY TO THE BOARD OF TAX APPEALS;  
98 TO PROVIDE THAT THE BOARD OF REVIEW RETAINS AUTHORITY TO CORRECT  
99 AN ORDER THAT IS BEING APPEALED AT ANY TIME PRIOR TO A DECISION BY  
100 THE BOARD OF TAX APPEALS; TO AUTHORIZE THE DEPARTMENT OF REVENUE  
101 TO APPEAL THE DECISIONS OF THE BOARD OF TAX APPEALS; TO PROVIDE  
102 THAT THE TIME WITHIN WHICH SUCH APPEALS MUST BE FILED IN THE  
103 CHANCERY COURT; TO PROVIDE THE TIME WITHIN WHICH THE RESPONDENT  
104 MAY FILE A CROSS-APPEAL; TO PROVIDE THAT IF BOTH PARTIES FILE A  
105 PETITION, THE APPEALS SHALL BE CONSOLIDATED IN THE CHANCERY COURT  
106 WHERE THE TAXPAYER FILED HIS PETITION; TO PROVIDE THAT A PETITION  
107 FILED BY A TAXPAYER THAT APPEALS AN ORDER OF THE BOARD OF TAX  
108 APPEALS AFFIRMING A TAX ASSESSMENT SHALL BE ACCOMPANIED BY A  
109 SURETY BOND IN A SUM HALF THE AMOUNT IN CONTROVERSY; TO REQUIRE  
110 THE TAXPAYER TO PAY ANY TAX INCLUDED IN AN ASSESSMENT THAT HE IS  
111 NOT CONTESTING; TO PROVIDE THAT IN AN ACTION RESULTING FROM AN  
112 ORDER OF THE BOARD OF TAX APPEALS INVOLVING A REFUND CLAIM DENIAL,  
113 THE DEPARTMENT OF REVENUE SHALL REFUND THE AMOUNT OF THE CLAIM  
114 THAT IS NOT CONTESTED; TO CLARIFY THE CONDUCT OF HEARINGS  
115 REGARDING THE SUSPENSION, SEIZURE OR REVOCATION OF CERTAIN  
116 PERMITS, LICENSE TAGS OR TITLES; TO PROVIDE FOR THE PAYMENT OF THE  
117 COST OF APPEALS; TO GRANT THE BOARD OF TAX APPEALS CERTAIN  
118 AUTHORITY TO ISSUE SUBPOENAS AND THE AUTHORITY TO INSTITUTE  
119 CERTAIN PROCEEDINGS TO ENFORCE SUCH SUBPOENAS; TO AMEND SECTION  
120 67-1-33, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERMS "GRATUITY,"  
121 "EMOLUMENT," "EMPLOYMENT" AND "PECUNIARY BENEFIT" WITH REGARD TO  
122 CERTAIN PROHIBITIONS IN THE LOCAL OPTION LAW REGARDING OFFICERS  
123 AND EMPLOYEES OF THE DEPARTMENT OF REVENUE; TO AMEND SECTION  
124 67-1-63, MISSISSIPPI CODE OF 1972, TO PROVIDE THE PERIOD OF TIME  
125 THAT A PERMITTEE UNDER THE LOCAL OPTION ALCOHOLIC BEVERAGE CONTROL  
126 LAW MAY CONTINUE TO OPERATE WHEN HIS APPLICATION FOR RENEWAL OF A  
127 PERMIT HAS BEEN DENIED FOR CERTAIN REASONS; TO PROVIDE THAT THE  
128 ISSUANCE OR RENEWAL OF A PERMIT BASED ON A DECISION OF THE BOARD  
129 OF TAX APPEALS DOES NOT BAR THE DEPARTMENT OF REVENUE FROM  
130 APPEALING THE DECISION; TO CREATE NEW CODE SECTION 67-1-72,  
131 MISSISSIPPI CODE OF 1972, TO PROVIDE THE MANNER OF APPEALING THE  
132 DECISIONS OF THE DEPARTMENT OF REVENUE MADE UNDER THE LOCAL OPTION  
133 ALCOHOLIC BEVERAGE CONTROL LAW TO THE BOARD OF TAX APPEALS; TO  
134 AMEND SECTIONS 1-1-11, 25-41-3, 27-3-3, 27-3-13, 27-3-15, 27-3-17,  
135 27-3-19, 27-3-23, 27-3-33, 27-3-35, 27-3-39, 27-3-41, 27-3-43,  
136 27-3-45, 27-3-47, 27-3-49, 27-3-51, 27-3-52, 27-3-53, 27-3-57,  
137 27-3-58, 27-3-59, 27-3-63, 27-3-65, 27-3-73, 27-3-79, 27-3-80,  
138 27-3-81, 27-3-83, 27-7-3, 27-7-45, 27-7-303, 27-7-503, 27-7-601,  
139 27-7-701, 27-9-3, 27-13-1, 27-15-3, 27-19-1, 27-19-3, 27-19-303,  
140 27-21-1, 27-25-3, 27-25-303, 27-25-501, 27-25-701, 27-33-11,  
141 27-33-37, 27-33-41, 27-35-81, 27-35-113, 27-35-115, 27-35-117,  
142 27-35-129, 27-35-311, 27-35-313, 27-35-325, 27-35-517, 27-35-701,  
143 27-41-69, 27-51-19, 27-51-45, 27-51-101, 27-55-1, 27-55-5,  
144 27-55-501, 27-55-505, 27-55-535, 27-57-1, 27-57-5, 27-59-1,  
145 27-59-3, 27-59-301, 27-59-303, 27-61-1, 27-61-3, 27-65-3,  
146 27-65-87, 27-65-89, 27-67-3, 27-68-3, 27-67-503, 27-69-3, 27-71-1,  
147 27-71-301, 63-21-3, 63-21-5, 63-21-75, 67-1-5, 67-1-19, 67-1-23,  
148 67-1-35, 67-1-37, 67-1-39, 67-1-71, 67-3-3, 67-7-5, 71-5-389,  
149 75-23-5, 75-23-31, 75-76-5 AND 75-76-83, MISSISSIPPI CODE OF 1972,  
150 IN CONFORMITY TO THE PROVISIONS OF THIS ACT; TO CREATE A STUDY  
151 COMMITTEE TO STUDY THE MATTER OF AD VALOREM TAXATION IN THIS STATE  
152 AND TO MAKE RECOMMENDATIONS THEREON TO THE LEGISLATURE; AND FOR  
153 RELATED PURPOSES.

HR03\SB2712A.J

Don Richardson  
Clerk of the House of Representatives