

By: Representatives Moody, McCoy

To: Ways and Means

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1379

1 AN ACT TO AMEND SECTION 27-7-309, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT ANY EMPLOYER HAVING AN AVERAGE MONTHLY WITHHOLDING  
3 TAX LIABILITY OF AT LEAST \$20,000.00 FOR THE PRECEDING TAXABLE  
4 YEAR SHALL PAY TO THE STATE TAX COMMISSION ON OR BEFORE JUNE 25,  
5 2003, AND ON OR BEFORE THE TWENTY-FIFTH DAY OF JUNE OF EACH  
6 SUCCEEDING YEAR THEREAFTER, AN AMOUNT EQUAL TO AT LEAST  
7 SEVENTY-FIVE PERCENT OF SUCH EMPLOYER'S ESTIMATED WITHHOLDING TAX  
8 LIABILITY FOR THE MONTH OF JUNE OF THE CURRENT TAXABLE YEAR; TO  
9 AMEND SECTION 27-65-33, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
10 ANY TAXPAYER REQUIRED TO COLLECT SALES TAXES AND HAVING AN AVERAGE  
11 MONTHLY SALES TAX LIABILITY OF AT LEAST \$20,000.00 FOR THE  
12 PRECEDING CALENDAR YEAR SHALL PAY TO THE STATE TAX COMMISSION ON  
13 OR BEFORE JUNE 25, 2003, AND ON OR BEFORE THE TWENTY-FIFTH DAY OF  
14 JUNE OF EACH SUCCEEDING YEAR THEREAFTER, AN AMOUNT EQUAL TO AT  
15 LEAST SEVENTY-FIVE PERCENT OF SUCH TAXPAYER'S ESTIMATED SALES TAX  
16 LIABILITY FOR THE MONTH OF JUNE OF THE CURRENT CALENDAR YEAR; TO  
17 AMEND SECTION 27-67-17, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
18 ANY TAXPAYER REQUIRED TO COLLECT USE TAXES AND HAVING AN AVERAGE  
19 MONTHLY USE TAX LIABILITY OF AT LEAST \$20,000.00 FOR THE PRECEDING  
20 CALENDAR YEAR SHALL PAY TO THE STATE TAX COMMISSION ON OR BEFORE  
21 JUNE 25, 2003, AND ON OR BEFORE THE TWENTY-FIFTH DAY OF JUNE OF  
22 EACH SUCCEEDING YEAR THEREAFTER, AN AMOUNT EQUAL TO AT LEAST  
23 SEVENTY-FIVE PERCENT OF SUCH TAXPAYER'S ESTIMATED USE TAX  
24 LIABILITY FOR THE MONTH OF JUNE OF THE CURRENT CALENDAR YEAR; TO  
25 PROVIDE THAT SUCH PAYMENTS OF ESTIMATED SALES TAX OR USE TAX  
26 LIABILITY BY A TAXPAYER SHALL NOT BE CONSIDERED TO BE COLLECTED  
27 FOR THE PURPOSES OF ANY SALES TAX OR USE TAX DIVERSIONS REQUIRED  
28 BY LAW UNTIL THE TAXPAYER FILES A RETURN FOR THE ACTUAL SALES  
29 TAXES OR USE TAXES COLLECTED DURING THE MONTH OF JUNE; TO AMEND  
30 SECTION 27-15-107, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT FOR  
31 THE PURPOSES OF FILING QUARTERLY REPORTS AND PAYMENTS OF INSURANCE  
32 PREMIUM TAX, FOR THE PERIOD OF APRIL 1 THROUGH JUNE 30, 2003, AND  
33 FOR THE PERIOD APRIL 1 THROUGH JUNE 30 OF EACH SUCCEEDING YEAR  
34 THEREAFTER, THE REPORT AND PAYMENT FOR APRIL AND MAY ARE DUE BY  
35 JUNE 30, AND THE REPORT AND PAYMENT FOR JUNE ARE DUE BY JULY 20;  
36 AND FOR RELATED PURPOSES.

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

38 **SECTION 1.** Section 27-7-309, Mississippi Code of 1972, is  
39 amended as follows:

40 27-7-309. (1) (a) Except as otherwise provided in this  
41 subsection, every employer required to deduct and withhold from  
42 wages under this article shall, for each calendar quarter, on or  
43 before the fifteenth day of the month following the close of such  
44 calendar quarter, file a withholding return as prescribed by the



45 commissioner and pay over to the commissioner the full amount  
46 required to be deducted and withheld from wages by such employer  
47 for the calendar quarter. Provided that the commissioner may, by  
48 regulation, provide that every such employer shall, on or before  
49 the fifteenth day of each month, pay over to the commissioner or a  
50 depository designated by the commissioner, the amount required to  
51 be deducted and withheld by such employer for the preceding month,  
52 if such amount is One Hundred Dollars (\$100.00) or more. Returns  
53 and payments placed in the mail must be postmarked by the due date  
54 in order to be timely filed, except when the due date falls on a  
55 weekend or holiday, returns and payments placed in the mail must  
56 be postmarked by the first working day following the due date in  
57 order to be considered timely filed.

58 (b) An employer having an average monthly withholding  
59 tax liability of at least Twenty Thousand Dollars (\$20,000.00) for  
60 the preceding calendar year shall pay to the State Tax Commission  
61 on or before June 25, 2003, and on or before the twenty-fifth day  
62 of June of each succeeding year thereafter, an amount equal to at  
63 least seventy-five percent (75%) of such employer's estimated  
64 withholding tax liability for the month of June of the current  
65 taxable year, or an amount equal to at least seventy-five percent  
66 (75%) of the employer's withholding tax liability for the month of  
67 June of the preceding taxable year. Payments required to be made  
68 under this paragraph (b) must be received by the State Tax  
69 Commission no later than June 25 in order to be considered timely  
70 made. An employer that fails to comply with the requirements of  
71 this paragraph (b) may be assessed a penalty in an amount equal to  
72 ten percent (10%) of the employer's actual withholding tax  
73 liability for the month of June for which the estimated payment  
74 was required to be made. This paragraph (b) shall not apply to  
75 any agency, department or instrumentality of the United States,  
76 any agency, department, institution, instrumentality or political  
77 subdivision of the State of Mississippi, or any agency,



78 department, institution or instrumentality of any political  
79 subdivision of the State of Mississippi.

80 (c) The commissioner may promulgate rules and  
81 regulations to require or permit filing periods of any duration,  
82 in lieu of monthly or quarterly filing periods, for any taxpayer  
83 or group thereof.

84 (2) Notwithstanding any of the other provisions of this  
85 section, all transient employers and all employers engaged in any  
86 business which is seasonal shall make return and pay over to the  
87 commissioner on a monthly basis, the full amounts required to be  
88 deducted and withheld from the wages by such employer for the  
89 calendar month. Such returns and payments to the commissioner by  
90 such employers shall be made on or before the fifteenth day of the  
91 month following the month for which such amounts were deducted and  
92 withheld from the wages of his employees. The commissioner shall  
93 have the authority to issue reasonable rules and regulations  
94 designating or classifying said transient and seasonal employers.

95 (3) If the commissioner, in any case, has justifiable reason  
96 to believe that the collection of funds required to be withheld by  
97 any employer as provided herein is in jeopardy, he may require the  
98 employer to file a return and pay such amount required to be  
99 withheld at any time.

100 (4) Every employer who fails to withhold or pay to the  
101 commissioner any sums required by this article to be withheld and  
102 paid, shall be personally and individually liable therefor, except  
103 as provided in Section 27-7-307; and any sum or sums withheld in  
104 accordance with the provisions of this article shall be deemed to  
105 be held in trust for the State of Mississippi and shall be  
106 recorded by the employer in a ledger account so as to clearly  
107 indicate the amount of tax withheld and that the amount is the  
108 property of the State of Mississippi.

109 (5) Once an employer has become liable to a quarterly return  
110 of withholding, he must continue to file a quarterly report, even



111 though no tax has been withheld, until such time as he notifies  
112 the commissioner, in writing, that he no longer has employees or  
113 that he is no longer liable for such quarterly returns.

114 (6) Once an employer has become liable to a monthly return  
115 of withholding, he must continue to file a monthly report, even  
116 though no tax has been withheld until such time as he notifies the  
117 commissioner, in writing, that he no longer has employees or that  
118 he is no longer liable for such monthly returns.

119 (7) Magnetic media reporting may be required in a manner to  
120 be determined by the commissioner.

121 **SECTION 2.** Section 27-65-33, Mississippi Code of 1972, is  
122 amended as follows:

123 27-65-33. Except as otherwise provided in this section, the  
124 taxes levied by this chapter shall be due and payable on or before  
125 the twentieth day of the month next succeeding the month in which  
126 the tax accrues, except as otherwise provided. Returns and  
127 payments placed in the mail must be postmarked by the due date in  
128 order to be considered timely filed, except when the due date  
129 falls on a weekend or holiday, returns and payments placed in the  
130 mail must be postmarked by the first working day following the due  
131 date in order to be considered timely filed. The taxpayer shall  
132 make a return showing the gross proceeds of sales or the gross  
133 income of the business, and any and all allowable deductions, or  
134 exempt sales, and compute the tax due for the period covered.

135 As compensation for collecting sales and use taxes, complying  
136 fully with the applicable statutes, filing returns and supplements  
137 thereto and paying all taxes by the twentieth of the month  
138 following the period covered, the taxpayer may discount and retain  
139 two percent (2%) of the liability on each return subject to the  
140 following limitations:

141 (a) The compensation or discount shall not apply to  
142 taxes levied under the provisions of Sections 27-65-19 and  
143 27-65-21, or on charges for ginning cotton under Section 27-65-23.



144 (b) The compensation or discount shall not apply to  
145 taxes collected by a county official or state agency.

146 (c) The compensation or discount shall not exceed Fifty  
147 Dollars (\$50.00) per month, or Six Hundred Dollars (\$600.00) per  
148 calendar year, per business location on each state sales tax  
149 return, or on each use tax return.

150 (d) The compensation or discount shall not apply to any  
151 wholesale tax, the rate of which is equal to or greater than the  
152 tax rate applicable to retail sales of the same property or  
153 service. The retailer of such items shall be entitled to the  
154 compensation based on the tax computed on retail sales before  
155 application of the credit for any tax paid to the wholesaler,  
156 jobber, or other person.

157 (e) The compensation or discount allowed and taken for  
158 any filing period may be reassessed and collected when an audit of  
159 a taxpayer's records reveals a tax deficiency for that period.

160 A taxpayer required to collect sales taxes under this chapter  
161 and having an average monthly sales tax liability of at least  
162 Twenty Thousand Dollars (\$20,000.00) for the preceding calendar  
163 year shall pay to the State Tax Commission on or before June 25,  
164 2003, and on or before the twenty-fifth day of June of each  
165 succeeding year thereafter, an amount equal to at least  
166 seventy-five percent (75%) of such taxpayer's estimated sales tax  
167 liability for the month of June of the current calendar year, or  
168 an amount equal to at least seventy-five percent (75%) of the  
169 taxpayer's sales tax liability for the month of June of the  
170 preceding calendar year. Payments required to be made under this  
171 paragraph must be received by the State Tax Commission no later  
172 than June 25 in order to be considered timely made. A taxpayer  
173 that fails to comply with the requirements of this paragraph may  
174 be assessed a penalty in an amount equal to ten percent (10%) of  
175 the taxpayer's actual sales tax liability for the month of June  
176 for which the estimated payment was required to be made. Payments



177 made by a taxpayer under this paragraph shall not be considered to  
178 be collected for the purposes of any sales tax diversions required  
179 by law until the taxpayer files a return for the actual sales  
180 taxes collected during the month of June. This paragraph shall  
181 not apply to any agency, department or instrumentality of the  
182 United States, any agency, department, institution,  
183 instrumentality or political subdivision of the State of  
184 Mississippi, or any agency, department, institution or  
185 instrumentality of any political subdivision of the State of  
186 Mississippi.

187 All returns shall be sworn to by the taxpayer, if made by an  
188 individual, or by the president, vice president, secretary or  
189 treasurer of a corporation, or authorized agent, if made on behalf  
190 of a corporation. If made on behalf of a partnership, joint  
191 venture, association, trust, estate, or in any other group or  
192 combination acting as a unit, any individual delegated by such  
193 firm shall swear to the return on behalf of the taxpayer. The  
194 commissioner may prescribe methods by which the taxpayer may swear  
195 to his return.

196 The commissioner may promulgate rules and regulations to  
197 require or permit filing periods of any duration, in lieu of  
198 monthly filing periods, for any taxpayer or group thereof.

199 The commissioner may require the execution and filing by the  
200 taxpayer with the commissioner of a good and solvent bond with  
201 some surety company authorized to do business in Mississippi as  
202 surety thereon in an amount double the aggregate tax liability by  
203 such taxpayer for any previous three (3) months' period within the  
204 last calendar year or estimated three (3) months' tax liability.  
205 Said bond is to be conditioned for the prompt payment of such  
206 taxes as may be due for each such return.

207 The commissioner, for good cause, may grant such reasonable  
208 additional time within which to make any return required under the  
209 provisions of this chapter as he may deem proper, but the time for



210 filing any return shall not be extended beyond the twentieth of  
211 the month next succeeding the regular due date of the return  
212 without the imposition of interest at the rate of one percent (1%)  
213 per month or fractional part of a month from the time the return  
214 was due until the tax is paid.

215 For persistent, willful, or recurring failure to make any  
216 return and pay the tax shown thereby to be due by the time  
217 specified, there shall be added to the amount of tax shown to be  
218 due ten percent (10%) damages, or interest at the rate of one  
219 percent (1%) per month, or both.

220 Any taxpayer may, upon making application therefor, obtain  
221 from the commissioner an extension of time for the payment of  
222 taxes due on credit sales until collections thereon have been  
223 made. When such extension is granted, the taxpayer shall  
224 thereafter include in each monthly or quarterly report all  
225 collections made during the preceding month or quarter, and shall  
226 pay the taxes due thereon at the time of filing such report. Such  
227 permission may be revoked or denied at the discretion of the  
228 commissioner when, in his opinion, a total sales basis will best  
229 reflect the taxable income or expedite examination of the  
230 taxpayer's records.

231 Any taxpayer reporting credit sales before collection thereof  
232 has been made may take credit on subsequent returns or reports for  
233 bad debts actually charged off, if such amounts charged off have  
234 previously been included in taxable gross income or taxable gross  
235 proceeds of sales, as the case may be, and the tax paid thereon.  
236 However, any amounts subsequently collected on accounts that have  
237 been charged off as bad debts shall be included in subsequent  
238 reports and the tax shall be paid thereon.

239 In cases where an extension of time has been granted by the  
240 commissioner for payment of taxes due on credit sales and the  
241 taxpayer thereafter discontinues the business, such taxpayer shall  
242 be required to file with the commissioner within ten (10) days, or



243 such further time as the commissioner may direct, from the date of  
244 the discontinuance of such business, a special report showing the  
245 amounts of any credit sales which have not been included in  
246 determining the measure of the tax previously paid and any other  
247 information with reference to credit sales as the commissioner may  
248 require. The commissioner shall thereupon investigate the facts  
249 with reference to credit sales and the condition of the accounts,  
250 and shall determine, from the best evidence available, the value  
251 of all open accounts, notes, or other evidence of debt arising  
252 from credit sales. The value of all notes, open accounts and  
253 other evidence of debt, as thus determined by the commissioner,  
254 shall be used in determining the amount of the tax for which such  
255 taxpayer shall be liable. When the amount of the tax shall have  
256 been ascertained, the taxpayer shall be required to pay the same  
257 within ten (10) days or such further time as the commissioner may  
258 allow, notwithstanding the fact that such note or accounts may  
259 still remain uncollected.

260 **SECTION 3.** Section 27-67-17, Mississippi Code of 1972, is  
261 amended as follows:

262 27-67-17. Except as otherwise provided in this section, the  
263 commissioner shall collect the tax imposed by this article, and  
264 every person subject to its provisions shall remit to the  
265 commissioner, on or before the twentieth day of each month, the  
266 amount of tax due by such person for the preceding calendar month.  
267 Returns and payments placed in the mail must be postmarked by the  
268 due date in order to be timely filed, except that when the due  
269 date falls on a weekend or holiday, returns and payments placed in  
270 the mail must be postmarked by the first working day following the  
271 due date in order to be considered timely filed. Every taxpayer  
272 shall file a return with his remittance, which return shall be  
273 prescribed by the commissioner and shall show for the calendar  
274 month preceding the tax payment date, the total sale or purchase  
275 price, or value of tangible personal property sold, used, stored





276 or consumed by him for benefit received or service performed, and  
277 such other information as the commissioner may deem pertinent and  
278 necessary for determining the amount of tax due thereunder.

279 The commissioner, in his discretion, may authorize in writing  
280 the filing of returns and the payment of tax on a quarterly basis  
281 by any person required or authorized to pay the tax imposed, such  
282 authority to be subject to revocation for good cause by the  
283 commissioner.

284 In instances where it is impractical to file returns and pay  
285 the tax monthly or quarterly, the commissioner may authorize the  
286 filing of semiannual or annual returns.

287 A taxpayer required to collect use taxes under this article  
288 and having an average monthly use tax liability of at least Twenty  
289 Thousand Dollars (\$20,000.00) for the preceding calendar year  
290 shall pay to the State Tax Commission on or before June 25, 2003,  
291 and on or before the twenty-fifth day of June of each succeeding  
292 year thereafter, an amount equal to at least seventy-five percent  
293 (75%) of such taxpayer's estimated use tax liability for the month  
294 of June of the current calendar year, or an amount equal to at  
295 least seventy-five percent (75%) of the taxpayer's use tax  
296 liability for the month of June of the preceding calendar year.  
297 Payments required to be made under this paragraph must be received  
298 by the State Tax Commission no later than June 25 in order to be  
299 considered timely made. A taxpayer that fails to comply with the  
300 requirements of this paragraph may be assessed a penalty in an  
301 amount equal to ten percent (10%) of the taxpayer's actual use tax  
302 liability for the month of June for which the estimated payment  
303 was required to be made. Payments made by a taxpayer under this  
304 paragraph shall not be considered to be collected for the purposes  
305 of any use tax diversions required by law until the taxpayer files  
306 a return for the actual use taxes collected during the month of  
307 June. This paragraph shall not apply to any agency, department or  
308 instrumentality of the United States, any agency, department,



309 institution, instrumentality or political subdivision of the State  
310 of Mississippi, or any agency, department, institution or  
311 instrumentality of any political subdivision of the State of  
312 Mississippi.

313 The commissioner, in his discretion, may authorize the  
314 computation of the tax on the basis of a formula in lieu of direct  
315 accounting of specific properties in instances where such method  
316 will expedite, simplify or provide a more equitable means of  
317 determining liability under this article. All formulas shall be  
318 subject to revocation for good cause by the commissioner.

319 **SECTION 4.** Section 27-15-107, Mississippi Code of 1972, is  
320 amended as follows:

321 27-15-107. Every insurance company liable for the tax under  
322 the provisions hereof shall make and file with the State Tax  
323 Commission a full and correct statement, under the oath of its  
324 president, secretary or other duly authorized officer at its home  
325 or head office in this country, of the gross amount of its premium  
326 receipts during the reporting period, and shall, at the time of  
327 filing such report, pay to the State Tax Commission the tax levied  
328 hereby upon the premium collections for said period, computed as  
329 provided in Sections 27-15-103 and 27-15-109.

330 Such report and payment are due as follows:

331 For the period July 1 through September 30, the report and  
332 payment are due by October 20;

333 For the period October 1 through December 31, the report and  
334 payment are due by February 20;

335 For the period January 1 through March 31, the report and  
336 payment are due by April 20;

337 For the period April 1 through June 30, the report and  
338 payment are due by July 20. However, for the period April 1  
339 through June 30, 2003, and for the period April 1 through June 30  
340 of each succeeding year thereafter, the report and payment for the



341 months of April and May are due by June 20, and the report and  
342 payment for the month of June are due by July 20.

343       On or before July 31, 1982, every insurance company liable  
344 for the payment of tax hereunder shall make and file with the  
345 State Tax Commission, as provided herein, a report of the gross  
346 amount of its premium receipts not heretofore reported for periods  
347 prior to July 1, 1982, and shall, at the time of filing such  
348 report, pay to the State Tax Commission the tax levied upon the  
349 premium collections for said periods computed as provided in  
350 Sections 27-15-103 and 27-15-109.

351       Every insurance company liable for the payment of tax  
352 hereunder shall file an annual reconciliation statement of taxes  
353 paid during the previous year. The annual reconciliation  
354 statement shall be in the form prescribed by the State Tax  
355 Commission and shall be filed with the State Tax Commission on or  
356 before February 20 following the close of each calendar year.

357       The State Tax Commission shall have the authority to  
358 promulgate rules and regulations, not inconsistent with this  
359 article, as it may deem necessary to enforce its provisions.

360       **SECTION 5.** This act shall take effect and be in force from  
361 and after July 1, 2002.

