

By: Senator(s) Smith

To: Finance

SENATE BILL NO. 2959

1 AN ACT TO AUTHORIZE AND DIRECT THE STATE TAX COMMISSION TO
 2 ENTER INTO THE STREAMLINED SALES AND USE TAX AGREEMENT WITH ONE OR
 3 MORE STATES TO SIMPLIFY AND MODERNIZE SALES AND USE TAX
 4 ADMINISTRATION IN ORDER TO SUBSTANTIALLY REDUCE THE BURDEN OF TAX
 5 COMPLIANCE FOR ALL SELLERS AND FOR ALL TYPES OF COMMERCE; TO
 6 AUTHORIZE THE STATE TAX COMMISSION TO ACT JOINTLY WITH OTHER
 7 STATES THAT ARE MEMBERS OF THE AGREEMENT TO ESTABLISH STANDARDS
 8 FOR CERTIFICATION OF CERTIFIED SERVICE PROVIDERS AND CERTIFIED
 9 AUTOMATED SYSTEMS AND ESTABLISH PERFORMANCE STANDARDS FOR
 10 MULTI-STATE SELLERS; TO PROVIDE THAT THE AGREEMENT MUST MEET
 11 CERTAIN MINIMUM STANDARDS BEFORE IT MAY BE ENTERED INTO BY THE
 12 STATE TAX COMMISSION; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** This act shall be known as and referred to as the
 15 "Uniform Sales and Use Tax Administration Act."

16 **SECTION 2.** As used in this act:

17 (a) "Agreement" means the Streamlined Sales and Use Tax
 18 Agreement.

19 (b) "Certified Automated System" means software
 20 certified jointly by the states that are signatories to the
 21 agreement to calculate the tax imposed by each jurisdiction on a
 22 transaction, determine the amount of tax to remit to the
 23 appropriate state, and maintain a record of the transaction.

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

27 (d) "Person" means an individual, trust, estate,
 28 fiduciary, partnership, limited liability company, limited
 29 liability partnership, corporation, or any other legal entity.

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



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

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

36 (h) "Use Tax" means the tax levied under Chapter 67,
37 Title 27, Mississippi Code of 1972.

38 **SECTION 3.** The Legislature finds that this state should
39 enter into an agreement with one or more states to simplify
40 and modernize sales and use tax administration in order to
41 substantially reduce the burden of tax compliance for all
42 sellers and for all types of commerce.

43 **SECTION 4.** The State Tax Commission is authorized and
44 directed to enter into the Streamlined Sales and Use Tax Agreement
45 with one or more states to simplify and modernize sales and use
46 tax administration in order to substantially reduce the burden of
47 tax compliance for all sellers and for all types of commerce. In
48 furtherance of the Agreement, the State Tax Commission is
49 authorized to act jointly with other states that are members of
50 the agreement to establish standards for certification of a
51 certified service provider and certified automated system and
52 establish performance standards for multi-state sellers.

53 The State Tax Commission is further authorized to take other
54 actions reasonably required to implement the provisions set forth
55 in this act. Other actions authorized by this section include, but
56 are not limited to, the adoption of rules and regulations and the
57 joint procurement, with other member states, of goods and services
58 in furtherance of the cooperative agreement.

59 The State Tax Commission or the its designee is authorized to
60 represent this state before the other states that are signatories
61 to the agreement.

62 **SECTION 5.** No provision of the agreement authorized by this
63 act in whole or part invalidates or amends any provision of the
64 law of this state. Adoption of the agreement by this state does



65 not amend or modify any law of this state. Implementation of any
66 condition of the agreement in this state, whether adopted before,
67 at, or after membership of this state in the agreement, must be by
68 the action of this state.

69 **SECTION 6.** The State Tax Commission shall not enter
70 into the Streamlined Sales and Use Tax Agreement unless the
71 agreement requires each state to abide by the following
72 requirements:

73 (a) The agreement must set restrictions to achieve over
74 time more uniform state rates through the following:

75 (i) Limiting the number of state rates.

76 (ii) Limiting the application of maximums on the
77 amount of state tax that is due on a transaction.

78 (iii) Limiting the application of thresholds on
79 the application of state tax.

80 (b) The agreement must establish uniform standards for
81 the following:

82 (i) The sourcing of transactions to taxing
83 jurisdictions.

84 (ii) The administration of exempt sales.

85 (iii) The allowances a seller can take for bad
86 debts.

87 (iv) Sales and use tax returns and remittances.

88 (c) The agreement must require states to develop and
89 adopt uniform definitions of sales and use tax terms. The
90 definitions must enable a state to preserve its ability to make
91 policy choices not inconsistent with the uniform definitions.

92 (d) The agreement must provide a central, electronic
93 registration system that allows a seller to register to collect
94 and remit sales and use taxes for all signatory states.

95 (e) The agreement must provide that registration with
96 the central registration system and the collection of sales and



97 use taxes in the signatory states will not be used as a factor in
98 determining whether the seller has nexus with a state for any tax.

99 (f) The agreement must provide for reduction of the
100 burdens of complying with local sales and use taxes through the
101 following:

102 (i) Restricting variances between the state and
103 local tax bases.

104 (ii) Requiring states to administer any sales and
105 use taxes levied by local jurisdictions within the state so that
106 sellers collecting and remitting these taxes will not have to
107 register or file returns with, remit funds to, or be subject to
108 independent audits from local taxing jurisdictions.

109 (iii) Restricting the frequency of changes in the
110 local sales and use tax rates and setting effective dates for the
111 application of local jurisdictional boundary changes to local
112 sales and use taxes.

113 (iv) Providing notice of changes in local sales
114 and use tax rates and of changes in the boundaries of local taxing
115 jurisdictions.

116 (i) The agreement must outline any monetary allowances
117 that are to be provided by the states to sellers or certified
118 service providers.

119 (j) The agreement must require each state to certify
120 compliance with the terms of the agreement prior to joining and to
121 maintain compliance, under the laws of the member state, with all
122 provisions of the agreement while a member.

123 (k) The agreement must require each state to adopt a
124 uniform policy for Certified Service Providers that protects the
125 privacy of consumers and maintains the confidentiality of tax
126 information.

127 (l) The agreement must provide for the appointment of
128 an advisory council of private sector representatives and an



129 advisory council of non-member state representatives to consult
130 with in the administration of the agreement.

131 **SECTION 7.** The agreement authorized by this act is an accord
132 among individual cooperating sovereigns in furtherance of their
133 governmental functions. The agreement provides a mechanism among
134 the member states to establish and maintain a cooperative,
135 simplified system for the application and administration of sales
136 and use taxes under the duly adopted law of each member state.

137 **SECTION 8.** (1) The agreement authorized by this act
138 binds and inures only to the benefit of this state and the
139 other member states. No person, other than a member state,
140 is an intended beneficiary of the agreement. Any benefit to
141 a person other than a state is established by the law of this
142 state and the other member states and not by the terms of the
143 agreement.

144 (2) Consistent with subsection (1) of this section, no
145 person shall have any cause of action or defense under the
146 agreement or by virtue of this state's approval of the
147 agreement. No person may challenge, in any action brought
148 under any provision of law, any action or inaction by any
149 department, agency or other instrumentality of this state, or
150 any political subdivision of this state on the ground that
151 the action or inaction is inconsistent with the agreement.

152 (3) No law of this state, or the application thereof,
153 may be declared invalid as to any person or circumstance on
154 the ground that the provision or application is inconsistent
155 with the agreement.

156 **SECTION 9.** (1) A Certified Service Provider is the agent of
157 a seller, with whom the Certified Service Provider has contracted,
158 for the collection and remittance of sales and use taxes. As the
159 seller's agent, the Certified Service Provider is liable for sales
160 and use tax due each member state on all sales transactions it
161 processes for the seller except as set out in this section. A



162 seller that contracts with a Certified Service Provider is not
163 liable to the state for sales or use tax due on transactions
164 processed by the Certified Service Provider unless the seller
165 misrepresented the type of items it sells or committed fraud. In
166 the absence of probable cause to believe that the seller has
167 committed fraud or made a material misrepresentation, the seller
168 is not subject to audit on the transactions processed by the
169 Certified Service Provider. A seller is subject to audit for
170 transactions not processed by the Certified Service Provider. The
171 member states acting jointly may perform a system check of the
172 seller and review the seller's procedures to determine if the
173 Certified Service Provider's system is functioning properly and
174 the extent to which the seller's transactions are being processed
175 by the Certified Service Provider.

176 (2) A person that provides a Certified Automated System is
177 responsible for the proper functioning of that system and is
178 liable to the state for underpayments of tax attributable to
179 errors in the functioning of the Certified Automated System. A
180 seller that uses a Certified Automated System remains responsible
181 and is liable to the state for reporting and remitting tax.

182 (3) A seller that has a proprietary system for
183 determining the amount of tax due on transactions and has
184 signed an agreement establishing a performance standard for
185 that system is liable for the failure of the system to meet
186 the performance standard.

187 **SECTION 10.** This act shall take effect and be in force from
188 and after its passage.

