

*****Adopted***
AMENDMENT No. 1 PROPOSED TO**

House Bill NO. 1379

By Senator(s) Committee

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

40 **SECTION 1.** Section 27-7-309, Mississippi Code of 1972, is
41 amended as follows:
42 27-7-309. (1) (a) Except as otherwise provided in this
43 subsection, every employer required to deduct and withhold from
44 wages under this article shall, for each calendar quarter, on or
45 before the fifteenth day of the month following the close of such
46 calendar quarter, file a withholding return as prescribed by the
47 commissioner and pay over to the commissioner the full amount
48 required to be deducted and withheld from wages by such employer
49 for the calendar quarter. Provided that the commissioner may, by
50 regulation, provide that every such employer shall, on or before
51 the fifteenth day of each month, pay over to the commissioner or a
52 depository designated by the commissioner, the amount required to
53 be deducted and withheld by such employer for the preceding month,
54 if such amount is One Hundred Dollars (\$100.00) or more. Returns
55 and payments placed in the mail must be postmarked by the due date
56 in order to be timely filed, except when the due date falls on a
57 weekend or holiday, returns and payments placed in the mail must
58 be postmarked by the first working day following the due date in
59 order to be considered timely filed.

60 (b) An employer having an average monthly withholding
61 tax liability of at least Twenty Thousand Dollars (\$20,000.00) for
62 the preceding calendar year shall pay to the State Tax Commission
63 on or before June 25, 2003, and on or before the twenty-fifth day
64 of June of each succeeding year thereafter, an amount equal to at
65 least seventy-five percent (75%) of such employer's estimated
66 withholding tax liability for the month of June of the current
67 taxable year, or an amount equal to at least seventy-five percent
68 (75%) of the employer's withholding tax liability for the month of
69 June of the preceding taxable year. Payments required to be made
70 under this paragraph (b) must be received by the State Tax
71 Commission no later than June 25 in order to be considered timely
72 made. An employer that fails to comply with the requirements of
73 this paragraph (b) may be assessed a penalty in an amount equal to
74 ten percent (10%) of the employer's actual withholding tax
75 liability for the month of June for which the estimated payment
76 was required to be made. This paragraph (b) shall not apply to
77 any agency, department or instrumentality of the United States,
78 any agency, department, institution, instrumentality or political
79 subdivision of the State of Mississippi, or any agency,
80 department, institution or instrumentality of any political
81 subdivision of the State of Mississippi. Payments made pursuant
82 to this paragraph (b) shall be deposited by the State Tax
83 Commission into the Budget Contingency Fund created under Section
84 27-103-301.

85 (c) The commissioner may promulgate rules and
86 regulations to require or permit filing periods of any duration,
87 in lieu of monthly or quarterly filing periods, for any taxpayer
88 or group thereof.

89 (2) Notwithstanding any of the other provisions of this
90 section, all transient employers and all employers engaged in any
91 business which is seasonal shall make return and pay over to the
92 commissioner on a monthly basis, the full amounts required to be
93 deducted and withheld from the wages by such employer for the
94 calendar month. Such returns and payments to the commissioner by

95 such employers shall be made on or before the fifteenth day of the
96 month following the month for which such amounts were deducted and
97 withheld from the wages of his employees. The commissioner shall
98 have the authority to issue reasonable rules and regulations
99 designating or classifying said transient and seasonal employers.

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

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

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

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

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

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

128 27-65-33. (1) Except as otherwise provided in this section,
129 the taxes levied by this chapter shall be due and payable on or

130 before the twentieth day of the month next succeeding the month in
131 which the tax accrues, except as otherwise provided. Returns and
132 payments placed in the mail must be postmarked by the due date in
133 order to be considered timely filed, except when the due date
134 falls on a weekend or holiday, returns and payments placed in the
135 mail must be postmarked by the first working day following the due
136 date in order to be considered timely filed. The taxpayer shall
137 make a return showing the gross proceeds of sales or the gross
138 income of the business, and any and all allowable deductions, or
139 exempt sales, and compute the tax due for the period covered.

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

146 (a) The compensation or discount shall not apply to
147 taxes levied under the provisions of Sections 27-65-19 and
148 27-65-21, or on charges for ginning cotton under Section 27-65-23.

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

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

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

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

165 (2) A taxpayer required to collect sales taxes under this
166 chapter and having an average monthly sales tax liability of at
167 least Twenty Thousand Dollars (\$20,000.00) for the preceding
168 calendar year shall pay to the State Tax Commission on or before
169 June 25, 2003, and on or before the twenty-fifth day of June of
170 each succeeding year thereafter, an amount equal to at least
171 seventy-five percent (75%) of such taxpayer's estimated sales tax
172 liability for the month of June of the current calendar year, or
173 an amount equal to at least seventy-five percent (75%) of the
174 taxpayer's sales tax liability for the month of June of the
175 preceding calendar year. Payments required to be made under this
176 subsection must be received by the State Tax Commission no later
177 than June 25 in order to be considered timely made. A taxpayer
178 that fails to comply with the requirements of this subsection may
179 be assessed a penalty in an amount equal to ten percent (10%) of
180 the taxpayer's actual sales tax liability for the month of June
181 for which the estimated payment was required to be made. Payments
182 made by a taxpayer under this subsection shall not be considered
183 to be collected for the purposes of any sales tax diversions
184 required by law until the taxpayer files a return for the actual
185 sales taxes collected during the month of June. This subsection
186 shall not apply to any agency, department or instrumentality of
187 the United States, any agency, department, institution,
188 instrumentality or political subdivision of the State of
189 Mississippi, or any agency, department, institution or
190 instrumentality of any political subdivision of the State of
191 Mississippi. Payments made pursuant to this subsection shall be
192 deposited into the Budget Contingency Fund created under Section
193 27-103-301.

194 (3) All returns shall be sworn to by the taxpayer, if made
195 by an individual, or by the president, vice president, secretary
196 or treasurer of a corporation, or authorized agent, if made on
197 behalf of a corporation. If made on behalf of a partnership,
198 joint venture, association, trust, estate, or in any other group
199 or combination acting as a unit, any individual delegated by such

200 firm shall swear to the return on behalf of the taxpayer. The
201 commissioner may prescribe methods by which the taxpayer may swear
202 to his return.

203 (4) The commissioner may promulgate rules and regulations to
204 require or permit filing periods of any duration, in lieu of
205 monthly filing periods, for any taxpayer or group thereof.

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

214 (6) The commissioner, for good cause, may grant such
215 reasonable additional time within which to make any return
216 required under the provisions of this chapter as he may deem
217 proper, but the time for filing any return shall not be extended
218 beyond the twentieth of the month next succeeding the regular due
219 date of the return without the imposition of interest at the rate
220 of one percent (1%) per month or fractional part of a month from
221 the time the return was due until the tax is paid.

222 (7) For persistent, willful, or recurring failure to make
223 any return and pay the tax shown thereby to be due by the time
224 specified, there shall be added to the amount of tax shown to be
225 due ten percent (10%) damages, or interest at the rate of one
226 percent (1%) per month, or both.

227 (8) Any taxpayer may, upon making application therefor,
228 obtain from the commissioner an extension of time for the payment
229 of taxes due on credit sales until collections thereon have been
230 made. When such extension is granted, the taxpayer shall
231 thereafter include in each monthly or quarterly report all
232 collections made during the preceding month or quarter, and shall
233 pay the taxes due thereon at the time of filing such report. Such
234 permission may be revoked or denied at the discretion of the

235 commissioner when, in his opinion, a total sales basis will best
236 reflect the taxable income or expedite examination of the
237 taxpayer's records.

238 (9) Any taxpayer reporting credit sales before collection
239 thereof has been made may take credit on subsequent returns or
240 reports for bad debts actually charged off, if such amounts
241 charged off have previously been included in taxable gross income
242 or taxable gross proceeds of sales, as the case may be, and the
243 tax paid thereon. However, any amounts subsequently collected on
244 accounts that have been charged off as bad debts shall be included
245 in subsequent reports and the tax shall be paid thereon.

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

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

269 27-67-17. (1) Except as otherwise provided in this section,

270 the commissioner shall collect the tax imposed by this article,
271 and every person subject to its provisions shall remit to the
272 commissioner, on or before the twentieth day of each month, the
273 amount of tax due by such person for the preceding calendar month.

274 Returns and payments placed in the mail must be postmarked by the
275 due date in order to be timely filed, except that when the due
276 date falls on a weekend or holiday, returns and payments placed in
277 the mail must be postmarked by the first working day following the
278 due date in order to be considered timely filed. Every taxpayer
279 shall file a return with his remittance, which return shall be
280 prescribed by the commissioner and shall show for the calendar
281 month preceding the tax payment date, the total sale or purchase
282 price, or value of tangible personal property sold, used, stored
283 or consumed by him for benefit received or service performed, and
284 such other information as the commissioner may deem pertinent and
285 necessary for determining the amount of tax due thereunder.

286 (2) The commissioner, in his discretion, may authorize in
287 writing the filing of returns and the payment of tax on a
288 quarterly basis by any person required or authorized to pay the
289 tax imposed, such authority to be subject to revocation for good
290 cause by the commissioner.

291 (3) In instances where it is impractical to file returns and
292 pay the tax monthly or quarterly, the commissioner may authorize
293 the filing of semiannual or annual returns.

294 (4) A taxpayer required to collect use taxes under this
295 article and having an average monthly use tax liability of at
296 least Twenty Thousand Dollars (\$20,000.00) for the preceding
297 calendar year shall pay to the State Tax Commission on or before
298 June 25, 2003, and on or before the twenty-fifth day of June of
299 each succeeding year thereafter, an amount equal to at least
300 seventy-five percent (75%) of such taxpayer's estimated use tax
301 liability for the month of June of the current calendar year, or
302 an amount equal to at least seventy-five percent (75%) of the
303 taxpayer's use tax liability for the month of June of the
304 preceding calendar year. Payments required to be made under this

305 subsection must be received by the State Tax Commission no later
306 than June 25 in order to be considered timely made. A taxpayer
307 that fails to comply with the requirements of this subsection may
308 be assessed a penalty in an amount equal to ten percent (10%) of
309 the taxpayer's actual use tax liability for the month of June for
310 which the estimated payment was required to be made. Payments
311 made by a taxpayer under this subsection shall not be considered
312 to be collected for the purposes of any use tax diversions
313 required by law until the taxpayer files a return for the actual
314 use taxes collected during the month of June. This subsection
315 shall not apply to any agency, department or instrumentality of
316 the United States, any agency, department, institution,
317 instrumentality or political subdivision of the State of
318 Mississippi, or any agency, department, institution or
319 instrumentality of any political subdivision of the State of
320 Mississippi. Payments made pursuant to this subsection shall be
321 deposited by the State Tax Commission into the Budget Contingency
322 Fund created under Section 27-103-301.

323 (5) The commissioner, in his discretion, may authorize the
324 computation of the tax on the basis of a formula in lieu of direct
325 accounting of specific properties in instances where such method
326 will expedite, simplify or provide a more equitable means of
327 determining liability under this article. All formulas shall be
328 subject to revocation for good cause by the commissioner.

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

331 27-15-107. Every insurance company liable for the tax under
332 the provisions hereof shall make and file with the State Tax
333 Commission a full and correct statement, under the oath of its
334 president, secretary or other duly authorized officer at its home
335 or head office in this country, of the gross amount of its premium
336 receipts during the reporting period, and shall, at the time of
337 filing such report, pay to the State Tax Commission the tax levied
338 hereby upon the premium collections for said period, computed as
339 provided in Sections 27-15-103 and 27-15-109.

340 Such report and payment are due as follows:

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

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

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

347 For the period April 1 through June 30, the report and
348 payment are due by July 20. However, for the period April 1
349 through June 30, 2003, and for the period April 1 through June 30
350 of each succeeding year thereafter, the report and payment for the
351 months of April and May are due by June 20, and the report and
352 payment for the month of June are due by July 20. Such payments,
353 after diversion, shall be deposited by the State Tax Commission
354 into the Budget Contingency Fund created under Section 27-103-301.

355 On or before July 31, 1982, every insurance company liable
356 for the payment of tax hereunder shall make and file with the
357 State Tax Commission, as provided herein, a report of the gross
358 amount of its premium receipts not heretofore reported for periods
359 prior to July 1, 1982, and shall, at the time of filing such
360 report, pay to the State Tax Commission the tax levied upon the
361 premium collections for said periods computed as provided in
362 Sections 27-15-103 and 27-15-109.

363 Every insurance company liable for the payment of tax
364 hereunder shall file an annual reconciliation statement of taxes
365 paid during the previous year. The annual reconciliation
366 statement shall be in the form prescribed by the State Tax
367 Commission and shall be filed with the State Tax Commission on or
368 before February 20 following the close of each calendar year.

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

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

Further, amend by striking the title in its entirety and

inserting in lieu thereof the following:

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 TO PROVIDE THAT PAYMENTS MADE PURSUANT TO THIS ACT SHALL BE
37 DEPOSITED INTO THE BUDGET CONTINGENCY FUND; AND FOR RELATED
38 PURPOSES.