

By: Senator(s) Smith

To: Finance

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2089

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 may enter  
39 into an agreement with one or more states to simplify and  
40 modernize sales and use tax administration in order to  
41 substantially reduce the burden of tax compliance for all sellers  
42 and for all types of commerce.

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

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

74 (i) Limiting the number of state rates.

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

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

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

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

83 (ii) The administration of exempt sales.

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

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

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

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

94 (e) The agreement must provide that registration with  
95 the central registration system and the collection of sales and  
96 use taxes in the signatory states will not be used as a factor in  
97 determining whether the seller has nexus with a state for any tax.



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

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

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

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

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

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

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

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

126                   (j) The agreement must provide for the appointment of  
127 an advisory council of private sector representatives and an  
128 advisory council of nonmember state representatives to consult  
129 with in the administration of the agreement.



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

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

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

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

154           **SECTION 9.** (1) A Certified Service Provider is the agent of  
155 a seller, with whom the Certified Service Provider has contracted,  
156 for the collection and remittance of sales and use taxes. As the  
157 seller's agent, the Certified Service Provider is liable for sales  
158 and use tax due each member state on all sales transactions it  
159 processes for the seller except as set out in this section. A  
160 seller that contracts with a Certified Service Provider is not  
161 liable to the state for sales or use tax due on transactions  
162 processed by the Certified Service Provider unless the seller



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

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

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

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

