

**Adopted  
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**House Bill No. 1139**

**BY: Committee**

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

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

25           27-7-309. (1) (a) Except as otherwise provided in this  
26 subsection, every employer required to deduct and withhold from  
27 wages under this article shall, for each calendar quarter, on or  
28 before the fifteenth day of the month following the close of such  
29 calendar quarter, file a withholding return as prescribed by the  
30 commissioner and pay over to the commissioner the full amount  
31 required to be deducted and withheld from wages by such employer  
32 for the calendar quarter. Provided that the commissioner may, by



33 regulation, provide that every such employer shall, on or before  
34 the fifteenth day of each month, pay over to the commissioner or a  
35 depository designated by the commissioner, the amount required to  
36 be deducted and withheld by such employer for the preceding month,  
37 if such amount is One Hundred Dollars (\$100.00) or more. Returns  
38 and payments placed in the mail must be postmarked by the due date  
39 in order to be timely filed, except when the due date falls on a  
40 weekend or holiday, returns and payments placed in the mail must  
41 be postmarked by the first working day following the due date in  
42 order to be considered timely filed.

43 (b) An employer having an average monthly withholding  
44 tax liability of at least Fifty Thousand Dollars (\$50,000.00) for  
45 the preceding calendar year shall pay to the Department of Revenue  
46 on or before June 25, 2014, and on or before the twenty-fifth day  
47 of June of each succeeding year thereafter through June 30, 2021,  
48 an amount equal to at least seventy-five percent (75%) of such  
49 employer's estimated withholding tax liability for the month of  
50 June of the current taxable year, or an amount equal to at least  
51 seventy-five percent (75%) of the employer's withholding tax  
52 liability for the month of June of the preceding taxable year.  
53 From and after July 1, 2021, through June 30, 2022, the payment  
54 required on or before the twenty-fifth day of June shall be equal  
55 to at least fifty percent (50%) of such employer's estimated  
56 withholding tax liability for the month of June of the current  
57 taxable year, or an amount equal to at least fifty percent (50%)



58 of the employer's withholding tax liability for the month of June  
59 of the preceding taxable year. From and after July 1, 2022,  
60 through June 30, 2023, the payment required on or before the  
61 twenty-fifth day of June shall be equal to at least twenty-five  
62 percent (25%) of such employer's estimated withholding tax  
63 liability for the month of June of the current taxable year, or an  
64 amount equal to at least twenty-five percent (25%) of the  
65 employer's withholding tax liability for the month of June of the  
66 preceding taxable year. From and after July 1, 2024, no payment  
67 shall be required on or before the twenty-fifth day of June, but  
68 payment for the month of June shall be the same as for the other  
69 months of the year.

70       Payments required to be made before July 1, 2024, under this  
71 paragraph must be received by the Department of Revenue no later  
72 than June 25 in order to be considered timely made. An employer  
73 that fails to comply with the requirements of this paragraph may  
74 be assessed a penalty in an amount equal to ten percent (10%) of  
75 the difference between any amount the taxpayer pays pursuant to  
76 this paragraph and the employer's actual withholding tax liability  
77 for the month of June for which the estimated payment was required  
78 to be made. This paragraph shall not apply to any agency,  
79 department or instrumentality of the United States, any agency,  
80 department, institution, instrumentality or political subdivision  
81 of the State of Mississippi, or any agency, department,  
82 institution or instrumentality of any political subdivision of the



83 State of Mississippi. Payments made pursuant to this paragraph  
84 for the month of June, less One Hundred Thousand Dollars  
85 (\$100,000.00) thereof to be retained by the Department of Revenue  
86 each year to defray the costs of collection, shall be deposited by  
87 the Department of Revenue into the State General Fund.

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

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

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



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

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

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

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

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

131 27-65-33. (1) (a) Except as otherwise provided in this  
132 section, the taxes levied by this chapter shall be due and payable



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

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

150 (i) The compensation or discount shall not apply  
151 to taxes levied under the provisions of Sections 27-65-19 and  
152 27-65-21, or on charges for ginning cotton under Section 27-65-23.

153 (ii) The compensation or discount shall not apply  
154 to taxes collected by a county official or state agency.

155 (iii) The compensation or discount shall not  
156 exceed Fifty Dollars (\$50.00) per month, or Six Hundred Dollars



157 (\$600.00) per calendar year, per business location on each state  
158 sales tax return, or on each use tax return.

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

166 (v) The compensation or discount allowed and taken  
167 for any filing period may be reassessed and collected when an  
168 audit of a taxpayer's records reveals a tax deficiency for that  
169 period.

170 (c) As compensation for collecting any tax imposed  
171 under the authority of a local and private law of the State of  
172 Mississippi which is collected and paid to the Department of  
173 Revenue in the same or similar manner that state sales taxes are  
174 collected and paid, complying fully with such applicable law,  
175 filing returns and supplements thereto and paying all taxes by the  
176 twentieth of the month following the period covered, the taxpayer  
177 may discount and retain two percent (2%) of the liability on each  
178 return subject to the following limitations:

179 (i) The compensation or discount shall not apply  
180 to taxes collected by a county official or state agency.



181                   (ii) The compensation or discount shall not exceed  
182 Fifty Dollars (\$50.00) per month, or Six Hundred Dollars (\$600.00)  
183 per calendar year, per business location on each tax return.

184                   (iii) The compensation or discount allowed and  
185 taken for any filing period may be reassessed and collected when  
186 an audit of a taxpayer's records reveals a tax deficiency for that  
187 period.

188           (2) A taxpayer required to collect sales taxes under this  
189 chapter and having an average monthly sales tax liability of at  
190 least Fifty Thousand Dollars (\$50,000.00) for the preceding  
191 calendar year shall pay to the Department of Revenue on or before  
192 June 25, 2014, and on or before the twenty-fifth day of June of  
193 each succeeding year thereafter through June 30, 2021, an amount  
194 equal to at least seventy-five percent (75%) of such taxpayer's  
195 estimated sales tax liability for the month of June of the current  
196 calendar year, or an amount equal to at least seventy-five percent  
197 (75%) of the taxpayer's sales tax liability for the month of June  
198 of the preceding calendar year. From and after July 1, 2021,  
199 through June 30, 2022, the payment required on or before the  
200 twenty-fifth day of June shall be equal to at least fifty percent  
201 (50%) of such employer's estimated sales tax liability for the  
202 month of June of the current taxable year, or an amount equal to  
203 at least fifty percent (50%) of the employer's sales tax liability  
204 for the month of June of the preceding taxable year. From and  
205 after July 1, 2022, through June 30, 2023, the payment required on





206 or before the twenty-fifth day of June shall be equal to at least  
207 twenty-five percent (25%) of such employer's estimated sales tax  
208 liability for the month of June of the current taxable year, or an  
209 amount equal to at least twenty-five percent (25%) of the  
210 employer's sales tax liability for the month of June of the  
211 preceding taxable year. From and after July 1, 2024, no payment  
212 shall be required on or before the twenty-fifth day of June, but  
213 payment for the month of June shall be the same as for the other  
214 months of the year.

215       For the purposes of calculating a taxpayer's estimated sales  
216 tax liability for the month of June of the current calendar year,  
217 the taxpayer does not have to include taxes due on credit sales  
218 for which the taxpayer has not received payment before June 20.  
219 Payments required to be made before July 1, 2024, under this  
220 subsection must be received by the Department of Revenue no later  
221 than June 25 in order to be considered timely made. A taxpayer  
222 that fails to comply with the requirements of this subsection may  
223 be assessed a penalty in an amount equal to ten percent (10%) of  
224 the difference between any amount the taxpayer pays pursuant to  
225 this subsection and the taxpayer's actual sales tax liability for  
226 the month of June for which the estimated payment was required to  
227 be made. Payments made by a taxpayer under this subsection shall  
228 not be considered to be collected for the purposes of any sales  
229 tax diversions required by law until the taxpayer files a return  
230 for the actual sales taxes collected during the month of June.



231 This subsection shall not apply to any agency, department or  
232 instrumentality of the United States, any agency, department,  
233 institution, instrumentality or political subdivision of the State  
234 of Mississippi, or any agency, department, institution or  
235 instrumentality of any political subdivision of the State of  
236 Mississippi.

237 (3) All returns shall be sworn to by the taxpayer, if made  
238 by an individual, or by the president, vice president, secretary  
239 or treasurer of a corporation, or authorized agent, if made on  
240 behalf of a corporation. If made on behalf of a partnership,  
241 joint venture, association, trust, estate, or in any other group  
242 or combination acting as a unit, any individual delegated by such  
243 firm shall swear to the return on behalf of the taxpayer. The  
244 commissioner may prescribe methods by which the taxpayer may swear  
245 to his return.

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

249 (5) The commissioner may require the execution and filing by  
250 the taxpayer with the commissioner of a good and solvent bond with  
251 some surety company authorized to do business in Mississippi as  
252 surety thereon in an amount double the aggregate tax liability by  
253 such taxpayer for any previous three-month period within the last  
254 calendar year or estimated three (3) months' tax liability. The



255 bond is to be conditioned for the prompt payment of such taxes as  
256 may be due for each such return.

257 (6) The commissioner, for good cause, may grant such  
258 reasonable additional time within which to make any return  
259 required under the provisions of this chapter as he may deem  
260 proper, but the time for filing any return shall not be extended  
261 beyond the twentieth of the month next succeeding the regular due  
262 date of the return without the imposition of interest at the rate  
263 of one-half of one percent ( $1/2$  of 1%) per month or fractional  
264 part of a month from the time the return was due until the tax is  
265 paid.

266 (7) For persistent, willful or recurring failure to make any  
267 return and pay the tax shown thereby to be due by the time  
268 specified, there shall be added to the amount of tax shown to be  
269 due ten percent (10%) damages, or interest at the rate of one-half  
270 of one percent ( $1/2$  of 1%) per month, or both.

271 (8) Any taxpayer may, upon making application therefor,  
272 obtain from the commissioner an extension of time for the payment  
273 of taxes due on credit sales until collections thereon have been  
274 made. When such extension is granted, the taxpayer shall  
275 thereafter include in each monthly or quarterly report all  
276 collections made during the preceding month or quarter, and shall  
277 pay the taxes due thereon at the time of filing such report. Such  
278 permission may be revoked or denied at the discretion of the  
279 commissioner when, in his opinion, a total sales basis will best



280 reflect the taxable income or expedite examination of the  
281 taxpayer's records.

282 (9) Any taxpayer reporting credit sales before collection  
283 thereof has been made may take credit on subsequent returns or  
284 reports for bad debts actually charged off, if such amounts  
285 charged off have previously been included in taxable gross income  
286 or taxable gross proceeds of sales, as the case may be, and the  
287 tax paid thereon. However, any amounts subsequently collected on  
288 accounts that have been charged off as bad debts shall be included  
289 in subsequent reports and the tax shall be paid thereon.

290 (10) In cases where an extension of time has been granted by  
291 the commissioner for payment of taxes due on credit sales and the  
292 taxpayer thereafter discontinues the business, such taxpayer shall  
293 be required to file with the commissioner within ten (10) days, or  
294 such further time as the commissioner may direct, from the date of  
295 the discontinuance of such business, a special report showing the  
296 amounts of any credit sales which have not been included in  
297 determining the measure of the tax previously paid and any other  
298 information with reference to credit sales as the commissioner may  
299 require. The commissioner shall thereupon investigate the facts  
300 with reference to credit sales and the condition of the accounts,  
301 and shall determine, from the best evidence available, the value  
302 of all open accounts, notes or other evidence of debt arising from  
303 credit sales. The value of all notes, open accounts and other  
304 evidence of debt, as thus determined by the commissioner, shall be



305 used in determining the amount of the tax for which such taxpayer  
306 shall be liable. When the amount of the tax shall have been  
307 ascertained, the taxpayer shall be required to pay the same within  
308 ten (10) days or such further time as the commissioner may allow,  
309 notwithstanding the fact that such note or accounts may still  
310 remain uncollected.

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

313 27-67-17. (1) Except as otherwise provided in this section,  
314 the commissioner shall collect the tax imposed by this article,  
315 and every person subject to its provisions shall remit to the  
316 commissioner, on or before the twentieth day of each month, the  
317 amount of tax due by such person for the preceding calendar month.  
318 Returns and payments placed in the mail must be postmarked by the  
319 due date in order to be timely filed, except that when the due  
320 date falls on a weekend or holiday, returns and payments placed in  
321 the mail must be postmarked by the first working day following the  
322 due date in order to be considered timely filed. Every taxpayer  
323 shall file a return with his remittance, which return shall be  
324 prescribed by the commissioner and shall show for the calendar  
325 month preceding the tax payment date, the total sale or purchase  
326 price, or value of tangible personal property or specified digital  
327 products sold, used, stored or consumed by him for benefit  
328 received or service performed, and such other information as the



329 commissioner may deem pertinent and necessary for determining the  
330 amount of tax due thereunder.

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

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

339 (4) A taxpayer required to collect use taxes under this  
340 article and having an average monthly use tax liability of at  
341 least Fifty Thousand Dollars (\$50,000.00) for the preceding  
342 calendar year shall pay to the Department of Revenue on or before  
343 June 25, 2014, and on or before the twenty-fifth day of June of  
344 each succeeding year thereafter through June 30, 2021, an amount  
345 equal to at least seventy-five percent (75%) of such taxpayer's  
346 estimated use tax liability for the month of June of the current  
347 calendar year, or an amount equal to at least seventy-five percent  
348 (75%) of the taxpayer's use tax liability for the month of June of  
349 the preceding calendar year. From and after July 1, 2021, through  
350 June 30, 2022, the payment required on or before the twenty-fifth  
351 day of June shall be equal to at least fifty percent (50%) of such  
352 employer's estimated use tax liability for the month of June of  
353 the current taxable year, or an amount equal to at least fifty



354 percent (50%) of the employer's use tax liability for the month of  
355 June of the preceding taxable year. From and after July 1, 2022,  
356 through June 30, 2023, the payment required on or before the  
357 twenty-fifth day of June shall be equal to at least twenty-five  
358 percent (25%) of such employer's estimated use tax liability for  
359 the month of June of the current taxable year, or an amount equal  
360 to at least twenty-five percent (25%) of the employer's use tax  
361 liability for the month of June of the preceding taxable year.  
362 From and after July 1, 2024, no payment shall be required on or  
363 before the twenty-fifth day of June, but payment for the month of  
364 June shall be the same as for the other months of the year.

365       Payments required to be made before July 1, 2024, under this  
366 subsection must be received by the Department of Revenue no later  
367 than June 25 in order to be considered timely made. A taxpayer  
368 that fails to comply with the requirements of this subsection may  
369 be assessed a penalty in an amount equal to ten percent (10%) of  
370 the difference between any amount the taxpayer pays pursuant to  
371 this subsection and the taxpayer's actual use tax liability for  
372 the month of June for which the estimated payment was required to  
373 be made. Payments made by a taxpayer under this subsection shall  
374 not be considered to be collected for the purposes of any use tax  
375 diversions required by law until the taxpayer files a return for  
376 the actual use taxes collected during the month of June. This  
377 subsection shall not apply to any agency, department or  
378 instrumentality of the United States, any agency, department,



379 institution, instrumentality or political subdivision of the State  
380 of Mississippi, or any agency, department, institution or  
381 instrumentality of any political subdivision of the State of  
382 Mississippi.

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

389 **SECTION 4.** This act shall take effect and be in force from  
390 and after July 1, 2021, and shall stand repealed on June 30, 2021.

**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 PHASE OUT, BY JULY 1, 2024, THE REQUIREMENT THAT EMPLOYERS WITH  
3 AN AVERAGE MONTHLY WITHHOLDING TAX LIABILITY OF AT LEAST  
4 \$50,000.00 FOR THE PRECEDING CALENDAR YEAR REMIT, ON OR BEFORE  
5 JUNE 25, AT LEAST 75% OF THEIR ESTIMATED JUNE WITHHOLDING TAX  
6 LIABILITY FOR THE CURRENT TAXABLE YEAR OR AT LEAST 75% OF THEIR  
7 JUNE WITHHOLDING TAX LIABILITY FOR THE PRECEDING TAXABLE YEAR; TO  
8 AMEND SECTION 27-65-33, MISSISSIPPI CODE OF 1972, TO PHASE OUT, BY  
9 JULY 1, 2024, THE REQUIREMENT THAT TAXPAYERS WITH AN AVERAGE  
10 MONTHLY SALES TAX LIABILITY OF AT LEAST \$50,000.00 FOR THE  
11 PRECEDING CALENDAR YEAR REMIT, ON OR BEFORE JUNE 25, AT LEAST 75%  
12 OF THEIR ESTIMATED JUNE SALES TAX LIABILITY FOR THE CURRENT  
13 TAXABLE YEAR OR AT LEAST 75% OF THEIR JUNE SALES TAX LIABILITY FOR  
14 THE PRECEDING TAXABLE YEAR; TO AMEND SECTION 27-67-17, MISSISSIPPI  
15 CODE OF 1972, TO PHASE OUT, BY JULY 1, 2024, THE REQUIREMENT THAT  
16 EMPLOYERS WITH AN AVERAGE MONTHLY USE TAX LIABILITY OF AT LEAST  
17 \$50,000.00 FOR THE PRECEDING CALENDAR YEAR REMIT, ON OR BEFORE  
18 JUNE 25, AT LEAST 75% OF THEIR ESTIMATED JUNE USE TAX LIABILITY  
19 FOR THE CURRENT TAXABLE YEAR OR AT LEAST 75% OF THEIR JUNE USE TAX





20 LIABILITY FOR THE PRECEDING TAXABLE YEAR; AND FOR RELATED  
21 PURPOSES.

