

By: Representative Mayo

To: Ways and Means

HOUSE BILL NO. 423

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF A  
2 MUNICIPALITY TO IMPOSE A SPECIAL SALES TAX OF NOT MORE THAN ONE  
3 PERCENT ON THE GROSS PROCEEDS OF ALL SALES OR THE GROSS INCOME OF  
4 BUSINESSES IN THE MUNICIPALITY DERIVED FROM ACTIVITIES TAXED AT  
5 THE RATE OF SEVEN PERCENT OR MORE UNDER THE MISSISSIPPI SALES TAX  
6 LAW; TO PROVIDE THAT THE SPECIAL SALES TAX SHALL NOT BE LEVIED  
7 UNLESS AUTHORIZED BY AT LEAST THREE-FIFTHS OF THE VOTES CAST AT AN  
8 ELECTION CALLED AND HELD FOR SUCH PURPOSE; TO PROVIDE THAT THE  
9 GOVERNING AUTHORITIES OF A MUNICIPALITY LEVYING A SPECIAL SALES  
10 TAX SHALL USE 75% OF THE PROCEEDS OF THE SPECIAL SALES TAX  
11 RECEIVED DURING A FISCAL YEAR AS REVENUE IN ITS PROPOSED BUDGET  
12 FOR THE NEXT FISCAL YEAR AND SHALL REDUCE THE AD VALOREM TAX  
13 REVENUE IN THE PROPOSED BUDGET BY AN AMOUNT EQUAL TO SUCH SPECIAL  
14 SALES TAX PROCEEDS; TO PROVIDE THAT 25% OF THE PROCEEDS OF THE  
15 SPECIAL TAX RECEIVED DURING A FISCAL YEAR SHALL REMAIN IN A  
16 SEPARATE SPECIAL FUND; TO PROVIDE THAT IF THE PROCEEDS OF THE  
17 SPECIAL SALES TAX RECEIVED DURING A FISCAL YEAR IS LESS THAN THE  
18 AMOUNT OF SUCH PROCEEDS RECEIVED DURING THE PREVIOUS FISCAL YEAR,  
19 A MUNICIPALITY MAY USE A PORTION OF THE MONIES REMAINING IN THE  
20 SPECIAL FUND TO SUPPLEMENT THE AMOUNT OF SPECIAL SALES TAX  
21 PROCEEDS INCLUDED IN THE PROPOSED BUDGET FOR THE NEXT FISCAL YEAR  
22 IN ORDER TO PROVIDE THAT THE SUCH AMOUNT IS THE SAME AS FOR THE  
23 PREVIOUS FISCAL YEAR; TO PROVIDE THAT A MUNICIPALITY LEVYING A  
24 SPECIAL SALES TAX MAY NOT INCREASE AD VALOREM TAX REVENUES FOR THE  
25 NEXT FISCAL YEAR BY MORE THAN SEVEN PERCENT UNLESS AUTHORIZED BY  
26 AT LEAST THREE-FIFTHS OF THE VOTES CAST AT AN ELECTION CALLED AND  
27 HELD FOR SUCH PURPOSE; TO AMEND SECTIONS 27-39-320 AND 27-39-321,  
28 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED  
29 PURPOSES.

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

31 SECTION 1. The governing authorities of any municipality may  
32 impose upon all persons as a privilege for engaging or continuing  
33 in business or doing business within such municipality, a special  
34 sales tax at the rate of not more than one percent (1%) of the  
35 gross proceeds of sales or gross income of the business, as the  
36 case may be, derived from any of the activities taxed at the rate  
37 of seven percent (7%) or more under the Mississippi Sales Tax Law,  
38 Section 27-65-1 et seq., as provided hereinafter. The tax levied  
39 by this section shall apply to every person making sales, delivery  
40 or installations of tangible personal property or services within



41 any municipality which has adopted the levy herein authorized but  
42 shall not apply to sales exempted by Sections 27-65-19, 27-65-101,  
43 27-65-103, 27-65-105, 27-65-107, 27-65-109 and 27-65-111.

44 SECTION 2. (1) The tax levy authorized herein shall not be  
45 made unless authorized by at least three-fifths (3/5) of the votes  
46 cast at an election to be called and held for that purpose.  
47 Notice of such election shall be given, the election shall be held  
48 and the result thereof determined, as far as is practicable, in  
49 the same manner as other elections are held in the municipality.  
50 At such election, all qualified electors of the municipality may  
51 vote. The ballots used at such election shall have printed  
52 thereon a brief description of the sales tax, the amount of the  
53 sales tax levy, a description of the purposes for which the tax  
54 revenue may be used and the words "FOR THE LOCAL SALES TAX" and  
55 "AGAINST THE LOCAL SALES TAX" and the voter shall vote by placing  
56 a cross (X) or check mark (Y) opposite his choice on the  
57 proposition. When the results of the election have been canvassed  
58 by the election commissioners of the municipality and certified by  
59 them to the governing authorities, it shall be the duty of such  
60 governing authorities to determine and adjudicate whether at least  
61 three-fifths (3/5) of the qualified electors who voted in such  
62 election voted in favor of the tax. If the election results in  
63 favor of the levy, the governing authorities may adopt a  
64 resolution declaring the levy and collection of the tax provided  
65 in Sections 1 through 3 of this act and set the first day of the  
66 first month of the municipality's fiscal year commencing after the  
67 date of such adoption as the effective date of the tax levy. A  
68 certified copy of this resolution together with the result of the  
69 election shall be furnished to the State Tax Commission not less  
70 than thirty (30) days before the effective date of the levy.

71 SECTION 3. (1) The special sales tax authorized by Sections  
72 1 through 3 of this act shall be collected by the State Tax  
73 Commission, shall be accounted for separately from the amount of



74 sales tax collected for the state in the municipality and shall be  
75 paid to the municipality in which collected. Payments to the  
76 municipalities shall be made by the State Tax Commission on or  
77 before the fifteenth day of the month following the month in which  
78 the tax was collected.

79 (2) (a) The proceeds of the special sales tax shall be  
80 placed into a special fund separate and apart from the municipal  
81 general fund and any other funds of the municipality, and shall be  
82 expended by the municipality as provided in this subsection (2).

83 (b) The governing authorities of a municipality shall  
84 use seventy-five percent (75%) of the proceeds of the special  
85 sales tax received during a fiscal year as revenue in its proposed  
86 budget for the next fiscal year and shall reduce the ad valorem  
87 tax revenue in the proposed budget by an amount equal to such  
88 special sales tax proceeds. Twenty-five percent (25%) of the  
89 proceeds of the special tax received for a fiscal year shall  
90 remain in the special fund. However, if the amount of proceeds of  
91 the special sales tax received during a fiscal year is less than  
92 the amount of such proceeds received during the previous fiscal  
93 year, the governing authorities of the municipality may use a  
94 portion of the proceeds remaining in the special fund to  
95 supplement the amount of sales tax proceeds included in the  
96 proposed budget for the next fiscal year in order to provide that  
97 such amount is the same as that for the previous fiscal year.

98 (3) All provisions of the Mississippi Sales Tax Law  
99 applicable to filing of returns, discounts to the taxpayer,  
100 remittances to the State Tax Commission, enforced collection,  
101 rights of taxpayers, recovery of improper taxes, refunds of  
102 overpaid taxes or other provisions of law providing for imposition  
103 and collection of the state sales tax shall apply to the special  
104 sales tax authorized by Sections 1 through 3 of this act, except  
105 where there is a conflict, in which case the provisions of  
106 Sections 1 through 3 of this act shall control. Any damages,



107 penalties or interest collected for the nonpayment of taxes  
108 imposed hereunder, or for noncompliance with the provisions of  
109 Sections 1 through 3 of this act, shall be paid to the  
110 municipality in which such damages were collected on the same  
111 basis and in the same manner as the tax proceeds. Any overpayment  
112 of tax for any reason that has been disbursed to any municipality  
113 or any payment of the tax to any municipality in error may be  
114 adjusted by the State Tax Commission on any subsequent payment to  
115 the municipality involved pursuant to the provisions of the  
116 Mississippi Sales Tax Law. The State Tax Commission may, from  
117 time to time, make such rules and regulations not inconsistent  
118 with Sections 1 through 3 of this act as may be deemed necessary  
119 to carry out the provisions of Sections 1 through 3 of this act,  
120 and such rules and regulations shall have the full force and  
121 effect of law.

122 SECTION 4. Section 27-39-320, Mississippi Code of 1972, is  
123 amended as follows:

124 27-39-320. (1) The Legislature finds and determines that  
125 legislation requiring a specific levy or requiring consent of some  
126 other governing body to reduce the levy was intended to raise a  
127 certain amount of revenue for specific purposes. Upon this  
128 determination and notwithstanding the provisions of any statute  
129 which requires a definite levy to be made or which requires that a  
130 levy may not be reduced except by the consent of some other  
131 governing authority, the amount of such levy shall be deemed to be  
132 an amount necessary to produce the revenues received in the next  
133 preceding year plus, at the option of the taxing authority, an  
134 increase not to exceed ten percent (10%) of such revenues.  
135 However, in the case of a municipality levying a special sales tax  
136 under Sections 1 through 3 of House Bill No. , 2001 Regular  
137 Session, the increase may not exceed seven percent (7%) of such  
138 revenues.



139 (2) In any county where there is located a nuclear  
140 generating power plant on which a tax is assessed under Section  
141 27-35-309(3), such required levy and revenue produced thereby may  
142 be reduced by the levying authority in an amount in proportion to  
143 a reduction in the base revenue of any such county from the  
144 previous year. Such reduction shall be allowed only if the  
145 reduction in base revenue equals or exceeds five percent (5%).  
146 "Base revenue" shall mean the revenue received by the county from  
147 the ad valorem tax levy plus the revenue received by the county  
148 from the tax assessed under Section 27-35-309(3) and authorized to  
149 be used for any purposes for which a county is authorized by law  
150 to levy an ad valorem tax. For purposes of determining if the  
151 reduction equals or exceeds five percent (5%), a levy of millage  
152 equal to the prior year's millage shall be hypothetically applied  
153 to the current year's ad valorem tax base to determine the amount  
154 of revenue to be generated from the ad valorem tax levy. For the  
155 purposes of this section, the portion of base revenue used to fund  
156 the purpose for which a specific levy is required shall be deemed  
157 to be the total receipts from ad valorem taxes for such purpose.  
158 This paragraph shall apply to taxes levied for the 1987 fiscal  
159 year and for each fiscal year thereafter. If the Mississippi  
160 Supreme Court or another court finally adjudicates that the tax  
161 levied under Section 27-35-309(3) is unconstitutional, then this  
162 paragraph shall stand repealed.

163 (3) With respect to ad valorem taxes levied on or after  
164 October 1, 1980, no county or municipality shall levy those mills  
165 heretofore required by law to be levied to an extent that such  
166 levy shall produce more than the total receipts produced from such  
167 levy in the next preceding year, plus, at the option of the taxing  
168 authority, an increase not to exceed ten percent (10%) of such  
169 receipts. However, in the case of a municipality levying a  
170 special sales tax under Sections 1 through 3 of House Bill No.  
171 \_\_\_\_\_ , 2001 Regular Session, the increase may not exceed seven



172 percent (7%) of such receipts. Such total receipts shall be  
173 deemed to include the total avails of such levy either collected  
174 from the property owner or by reimbursement by the state. The  
175 revenues produced from any newly constructed properties or any  
176 existing properties added to the tax rolls or any properties  
177 previously exempt which were not assessed in the next preceding  
178 year may be excluded from the limitation set forth herein.

179 (4) The ten percent (10%) increase limitation prescribed in  
180 this section may be increased by an additional amount by the board  
181 of supervisors of any county if the aggregate receipts from all  
182 county levies to which this section and Sections 27-39-305 and  
183 27-39-321 apply do not exceed one hundred ten percent (110%) of  
184 the aggregate receipts from all such levies during any one (1) of  
185 the immediately preceding three (3) fiscal years, as determined by  
186 the board of supervisors.

187 (5) The limitations set forth in this section shall apply to  
188 the mandatory tax levied by Section 27-39-329.

189 SECTION 5. Section 27-39-321, Mississippi Code of 1972, is  
190 amended as follows:

191 27-39-321. (1) With respect to ad valorem taxes levied for  
192 each fiscal year, no political subdivision may levy ad valorem  
193 taxes in any fiscal year which would render in total receipts from  
194 all levies an amount more than the receipts from that source  
195 during any one (1) of the immediately preceding three (3) fiscal  
196 years, as determined by the levying governing authority, plus, at  
197 the option of the taxing authority, an increase not to exceed ten  
198 percent (10%) of such receipts. However, in the case of a  
199 municipality levying a special sales tax under Sections 1 through  
200 3 of House Bill No. , 2001 Regular Session, the increase may  
201 not exceed seven percent (7%) of such receipts. The additional  
202 revenue from the ad valorem tax on any newly constructed  
203 properties or any existing properties added to the tax rolls or  
204 any properties previously exempt, which were not assessed in the



205 next preceding year and cost incurred and paid in the next  
206 preceding year in connection with reappraisal may be excluded from  
207 the ten percent (10%) increase limitation or seven percent (7%)  
208 limitation, as the case may be, set forth herein. Taxes levied  
209 for school district purposes under any statute and taxes levied  
210 for the maintenance and/or construction of roads and bridges under  
211 Section 27-39-305 shall be excluded from the ten percent (10%)  
212 increase limitation or seven percent (7%) limitation, as the case  
213 may be, set forth herein. Taxes levied for payment of principal  
214 of and interest on general obligation bonds issued heretofore or  
215 hereafter shall be excluded from \* \* \* increase limitation set  
216 forth herein. Any additional millage levied to fund any new  
217 program mandated by the Legislature shall be excluded from the  
218 limitation for the first year of the levy and included within such  
219 limitation in any year thereafter. The limitation imposed under  
220 this paragraph shall not apply to those mandatory levies  
221 enumerated in Sections 27-39-320 and 27-39-329.

222 (2) The limitation of this section may be increased only as  
223 provided in subsection (3) or (4) of this section or when the  
224 governing body of a political subdivision has determined the need  
225 for additional revenues, adopts a resolution declaring its  
226 intention so to do and has held an election on the question of  
227 raising the limitation prescribed in this section. The notice  
228 calling for an election shall state the purposes for which the  
229 additional revenues shall be used, the amount of the tax levy to  
230 be imposed for such purposes and period of time for which such tax  
231 levy shall be made; however, such tax levy shall not be made for  
232 more than five (5) successive years. The limitation may be  
233 increased under this subsection only if the proposed increase is  
234 approved by a majority of those voting. However, in the case of a  
235 municipality levying a special sales tax under Sections 1 through  
236 3 of House Bill No. , 2001 Regular Session, the limitation may  
237 be increased under this subsection only if the proposed increase



238 is approved by at least three-fifths (3/5) of those voting.  
239 Subject to specific provisions of this paragraph to the contrary,  
240 the publication of notice and manner of holding the election shall  
241 be as prescribed by law for the holding of elections for the  
242 issuance of bonds by the political subdivision. However, in the  
243 case of a municipality levying a special sales tax under Sections  
244 1 through 3 of House Bill No. \_\_\_\_\_, 2001 Regular Session, the  
245 election shall be mandatory. Revenues derived from any taxes  
246 levied pursuant to such election shall be excluded from the tax  
247 base for the purpose of determining aggregate receipts for which  
248 the ten percent (10%) increase limitation or seven percent (7%)  
249 limitation, as the case may be, applies.

250 (3) As an alternative to the procedure provided in  
251 subsection (2) of this section, the ten percent (10%) increase  
252 limitation prescribed in this section may be increased by an  
253 additional amount by the board of supervisors of any county  
254 without an election thereon if the aggregate receipts from all  
255 county levies to which this section and Sections 27-39-305 and  
256 27-39-320 apply do not exceed one hundred ten percent (110%) of  
257 the aggregate receipts from all such levies during any one (1) of  
258 the immediately preceding three (3) fiscal years, as determined by  
259 the board of supervisors.

260 (4) As an alternative to the procedure provided in  
261 subsections (2) and (3) of this section, the board of supervisors  
262 of any county or the governing authorities of any municipality  
263 may, without an election thereon, increase the ad valorem tax levy  
264 to which this section applies by the greater of:

265 (a) An ad valorem tax levy that does not result in an  
266 aggregate levy to which this section applies in excess of twenty  
267 (20) mills; or

268 (b) An ad valorem tax levy that is not in excess of any  
269 aggregate levy to which this section applies in any one (1) of the  
270 immediately preceding ten (10) fiscal years.





271 This subsection (4) shall not apply to a municipality levying a  
272 special sales tax under Sections 1 through 3 of House Bill No. ,  
273 2001 Regular Session.

274 (5) In any county where there is located a nuclear  
275 generating power plant on which a tax is assessed under Section  
276 27-35-309(3), the term "total receipts" as used in this section  
277 shall be the portion of the "base revenue" as defined in Section  
278 27-39-320 which is used for General Fund purposes.

279 (6) If a shortfall occurs in revenues from sources other  
280 than ad valorem taxes and oil and gas severance taxes budgeted for  
281 the county or municipal general fund during the 1987 fiscal year,  
282 then the county or municipality, as the case may be, may levy a  
283 special ad valorem tax for the 1988 fiscal year in an amount the  
284 avails of which shall not exceed such shortfall; provided,  
285 however, that the aggregate receipts from all ad valorem levies  
286 for the county or municipal general fund for the 1988 fiscal year  
287 shall not exceed the aggregate receipts from this source for the  
288 immediately preceding fiscal year plus an increase not to exceed  
289 twenty percent (20%).

290 (7) If a shortfall occurs in revenues from oil and gas  
291 severance taxes budgeted for the county or municipal general fund  
292 during the 1987 fiscal year, then the county or municipality, as  
293 the case may be, may levy a special ad valorem tax for the 1988  
294 fiscal year in an amount the avails of which shall not exceed such  
295 shortfall. The avails of such special ad valorem tax shall not be  
296 included within the ten percent (10%) increase limitation. The ad  
297 valorem taxes levied to offset the shortfall shall be deemed to be  
298 ad valorem tax receipts produced in the 1988 fiscal year for the  
299 purposes of determining the limitation on receipts for the  
300 succeeding fiscal years.

301 SECTION 6. The Attorney General of the State of Mississippi  
302 shall submit this act, immediately upon approval by the Governor,  
303 or upon approval by the Legislature subsequent to a veto, to the



304 Attorney General of the United States or to the United States  
305 District Court for the District of Columbia in accordance with the  
306 provisions of the Voting Rights Act of 1965, as amended and  
307 extended.

308 SECTION 7. This act shall take effect and be in force from  
309 and after the date it is effectuated under Section 5 of the Voting  
310 Rights Act of 1965, as amended and extended.

