To: Finance

MISSISSIPPI LEGISLATURE                        REGULAR SESSION 2001
By: Senator(s) Harden, Horhn

SENATE BILL NO. 3046

AN ACT TO AUTHORIZE THE GOVERNING AUTHORITY OF ANY MUNICIPALITY TO IMPOSE A SPECIAL SALES TAX OF NOT MORE THAN 1% ON THE GROSS PROCEEDS OF ALL SALES OR THE GROSS INCOME OF BUSINESSES IN THE MUNICIPALITY DERIVED FROM ACTIVITIES TAXED AT THE RATE OF 7% OR MORE UNDER THE MISSISSIPPI SALES TAX LAW; TO PROVIDE THAT THE SPECIAL SALES TAX SHALL NOT BE LEVIED UNLESS AUTHORIZED BY AT LEAST THREE-FIFTHS OF THE VOTES CAST AT AN ELECTION CALLED AND HELD FOR SUCH PURPOSE; TO AUTHORIZE A MUNICIPALITY TO INCUR AN INDEBTEDNESS IN AN AMOUNT NOT GREATER THAN AN AMOUNT WHOSE DEBT SERVICE IS CAPABLE OF BEING FUNDED BY THE PROCEEDS OF THE SPECIAL SALES TAX; TO PROVIDE THAT THE SPECIAL SALES TAX REVENUE COLLECTED PURSUANT TO SUCH A TAX SHALL BE USED AND EXPENDED BY THE MUNICIPALITY ONLY TO FUND THE CONSTRUCTION OF CERTAIN TRANSPORTATION INFRASTRUCTURE PROJECTS AND/OR OTHER CAPITAL PROJECTS; TO PROVIDE FOR THE DISCONTINUANCE OF THE SPECIAL SALES TAX UPON COMPLETION OF THE FUNDING OF THE CONSTRUCTION FOR WHICH THE TAX WAS LEVIED; TO AMEND SECTION 21-33-303, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

SECTION 1. The governing authority of any municipality may impose upon all persons as a privilege for engaging or continuing in business or doing business within such municipality, a special sales tax at the rate of not more than one percent (1%) of the gross proceeds of sales or gross income of the business, as the case may be, derived from any of the activities taxed at the rate of seven percent (7%) or more under the Mississippi Sales Tax Law, Section 27-65-1 et seq., as provided in Sections 1 through 4 of this act. The tax levied by this section shall apply to every person making sales, delivery or installations of tangible personal property or services within any municipality which has adopted the levy herein authorized but shall not apply to sales exempted by Sections 27-65-19, 27-65-101, 27-65-103, 27-65-105, 27-65-107, 27-65-109 and 27-65-111 of the Mississippi Sales Tax.
Law. The proceeds of such tax may be utilized for specific
transportation infrastructures or other capital projects as
provided in Section 1 through 4 of this act.

SECTION 2. (1) The governing authority of the municipality
shall specify in the resolution ordering the election required by
subsection (2) of this section, the specific transportation
infrastructure projects or other capital projects, or both, that
the revenue collected pursuant to the tax levy may be used and
expended to construct.

(2) The tax levy authorized herein shall not be made unless
authorized by at least three-fifths (3/5) of the votes cast at an
election to be called and held for that purpose. Notice of such
election shall be given, the election shall be held and the result
thereof determined, as far as is practicable, in the same manner
as other elections are held in the municipality. At such
election, all qualified electors of the municipality may vote.
The ballots used at such election shall have printed thereon a
brief description of the sales tax, the amount of the sales tax
levy, a description of the specific transportation infrastructure
projects or other capital projects, or both, that the tax revenue
may be used and expended to construct and the words "FOR THE LOCAL
SALES TAX" and "AGAINST THE LOCAL SALES TAX" and the voter shall
vote by placing a cross (X) or check mark (✓) opposite his choice
on the proposition. When the results of the election have been
canvassed by the election commissioners of the municipality and
certified by them to the governing authority, it shall be the duty
of the governing authority to determine and adjudicate whether at
least three-fifths (3/5) of the qualified electors who voted in
such election voted in favor of the tax. If the election results
in favor of the levy, the governing authority shall adopt a
resolution declaring the levy and collection of the tax provided
in Sections 1 through 4 of this act and shall set the first day of
the second month following the date of such adoption as the
effective date of the tax levy. A certified copy of this
resolution together with the result of the election shall be
furnished to the State Tax Commission not less than thirty (30)
days prior to the effective date of the levy.

SECTION 3. (1) The special sales tax authorized by Sections
1 through 4 of this act shall be collected by the State Tax
Commission, shall be accounted for separately from the amount of
sales tax collected for the state in the municipality and shall be
paid to the municipality in which collected. Payments to the
municipalities shall be made by the State Tax Commission on or
before the fifteenth day of the month following the month in which
the tax was collected.

(2) The proceeds of the special sales tax shall be placed
into a separate fund apart from the municipal general fund and any
other funds of the municipality, and shall be expended by the
municipality solely for the purpose of paying any indebtedness or
other obligation the municipality may incur for the transportation
infrastructure project or other capital projects, or both,
specified in the resolution ordering the election.

(3) All provisions of the Mississippi Sales Tax Law
applicable to filing of returns, discounts to the taxpayer,
remittances to the State Tax Commission, enforced collection,
rights of taxpayers, recovery of improper taxes, refunds of
overpaid taxes or other provisions of law providing for imposition
and collection of the state sales tax shall apply to the special
sales tax authorized by Sections 1 through 4 of this act, except
where there is a conflict, in which case the provisions of
Sections 1 through 4 of this act shall control. Any damages,
penalties or interest collected for the nonpayment of taxes
imposed hereunder, or for noncompliance with the provisions of
Sections 1 through 4 of this act, shall be paid to the
municipality in which such damages were collected on the same
basis and in the same manner as the tax proceeds. Any overpayment
of tax for any reason that has been disbursed to any municipality
or any payment of the tax to any municipality in error may be
adjusted by the State Tax Commission on any subsequent payment to
the municipality involved pursuant to the provisions of the
Mississippi Sales Tax Law. The State Tax Commission may, from
time to time, make such rules and regulations not inconsistent
with Sections 1 through 4 of this act as may be deemed necessary
to carry out its provisions, and such rules and regulations shall
have the full force and effect of law.

(4) The special sales tax shall be discontinued by the
governing authority of the municipality on the first day of the
month immediately succeeding the date any indebtedness incurred
pursuant to this act, including interest, is retired, or in the
event the municipality incurs no indebtedness, the first day of
the month after all obligations for the construction of the
transportation infrastructure projects or other capital projects,
or both, have been paid. Any amount remaining in the separate
fund containing the proceeds of the special tax not necessary to
retire the debt or pay any other obligations, shall be transferred
to the municipal general fund.

SECTION 4. The governing authority of any municipality that
levies a special sales tax pursuant to Sections 1 through 4 of
this act may incur indebtedness of the municipality in an
aggregate principal amount that is not in excess of an amount
whose debt service is capable of being funded by the proceeds of
the special sales tax levied pursuant to Sections 1 through 4 of
this act. The indebtedness authorized by this section shall not
be considered when computing any limitation of indebtedness of the
municipality established by law.

SECTION 5. Section 21-33-303, Mississippi Code of 1972, is
amended as follows:

21-33-303. No municipality shall hereafter issue bonds
secured by a pledge of its full faith and credit for the purposes
authorized by law in an amount which, when added to the then
outstanding bonded indebtedness of such municipality, shall exceed
either (a) fifteen percent (15%) of the assessed value of the
taxable property within such municipality, according to the last
completed assessment for taxation, or (b) ten percent (10%) of the
assessment upon which taxes were levied for its fiscal year ending
September 30, 1984, whichever is greater. In computing such
indebtedness, there may be deducted all bonds or other evidences
of indebtedness, heretofore or hereafter issued, for school,
water, sewerage systems, gas, and light and power purposes and for
the construction of special improvements primarily chargeable to
the property benefited, or for the purpose of paying the
municipality's proportion of any betterment program, a portion of
which is primarily chargeable to the property benefited. However,
in no case shall any municipality contract any indebtedness which,
when added to all of the outstanding general obligation
indebtedness, both bonded and floating, shall exceed either (a)
twenty percent (20%) of the assessed value of all taxable property
within such municipality according to the last completed
assessment for taxation or (b) fifteen percent (15%) of the
assessment upon which taxes were levied for its fiscal year ending
September 30, 1984, whichever is greater. Nothing herein
contained shall be construed to apply to contract obligations in
any form heretofore or hereafter incurred by any municipality
which are subject to annual appropriations therefor, or to bonds
heretofore issued by any municipality for school purposes, or to
contract obligations in any form heretofore or hereafter incurred
by any municipality which are payable exclusively from the
revenues of any municipally-owned utility, or to bonds issued by
any municipality under the provisions of Sections 57-1-1 through
57-1-51, or to any special assessment improvement bonds issued by
any municipality under the provisions of Sections 21-41-1 through

All bonds issued prior to July 1, 1990, pursuant to this chapter by any municipality for the purpose of the constructing, replacing, renovating or improving wastewater collection and treatment facilities in order to comply with an administrative order of the Mississippi Department of Natural Resources issued pursuant to the Federal Water Pollution Control Act and amendments thereto, are hereby exempt from the limitation imposed by this section if the governing body of the municipality adopts an order, resolution or ordinance to the effect that the rates paid by the users of such facilities shall be increased to the extent necessary to provide sufficient funds for the payment of the principal of and interest on such bonds as each respectively becomes due and payable as well as the necessary expenses in connection with the operation and maintenance of such facilities.

SECTION 6. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

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