

By: Senator(s) Jordan

To: Finance

SENATE BILL NO. 3185

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF ANY  
 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 AUTHORIZE A  
 9 MUNICIPALITY TO INCUR INDEBTEDNESS IN AN AMOUNT NOT GREATER THAN  
 10 AN AMOUNT FOR WHICH DEBT SERVICE IS CAPABLE OF BEING FUNDED BY THE  
 11 PROCEEDS OF THE SPECIAL SALES TAX; TO PROVIDE THAT THE SPECIAL  
 12 SALES TAX REVENUE COLLECTED PURSUANT TO SUCH A TAX SHALL BE USED  
 13 AND EXPENDED BY THE MUNICIPALITY ONLY TO FUND THE CONSTRUCTION OF  
 14 CERTAIN TRANSPORTATION INFRASTRUCTURE PROJECTS AND/OR OTHER  
 15 CAPITAL PROJECTS; TO PROVIDE FOR THE DISCONTINUANCE OF THE SPECIAL  
 16 SALES TAX UPON COMPLETION OF THE FUNDING OF THE CONSTRUCTION FOR  
 17 WHICH THE TAX WAS LEVIED; TO AMEND SECTION 21-33-303, MISSISSIPPI  
 18 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

20 **SECTION 1.** The governing authorities of any municipality may  
 21 impose upon all persons as a privilege for engaging or continuing  
 22 in business or doing business within such municipality, a special  
 23 sales tax at the rate of not more than one percent (1%) of the  
 24 gross proceeds of sales or gross income of the business, as the  
 25 case may be, derived from any of the activities taxed at the rate  
 26 of seven percent (7%) or more under the Mississippi Sales Tax Law,  
 27 Section 27-65-1 et seq., as provided hereinafter. The tax levied  
 28 under this section shall apply to every person making sales,  
 29 delivery or installations of tangible personal property or  
 30 services within any municipality which has adopted the levy herein  
 31 authorized but shall not apply to sales exempted by Sections  
 32 27-65-19, 27-65-101, 27-65-103, 27-65-105, 27-65-107, 27-65-109  
 33 and 27-65-111 of the Mississippi Sales Tax Law.

34 **SECTION 2.** (1) The governing authorities of the  
 35 municipality shall specify in the resolution ordering the election



36 required by subsection (2) of this section, the specific  
37 transportation infrastructure projects or other capital projects,  
38 or both, that the revenue collected pursuant to the tax levy may  
39 be used and expended to construct.

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



68           **SECTION 3.** (1) The special sales tax authorized by Sections  
69 1 through 3 of this act shall be collected by the State Tax  
70 Commission, shall be accounted for separately from the amount of  
71 sales tax collected for the state in the municipality and shall be  
72 paid to the municipality in which collected. Payments to the  
73 municipalities shall be made by the State Tax Commission on or  
74 before the fifteenth day of the month following the month in which  
75 the tax was collected.

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

83           (3) All provisions of the Mississippi Sales Tax Law  
84 applicable to filing of returns, discounts to the taxpayer,  
85 remittances to the State Tax Commission, enforced collection,  
86 rights of taxpayers, recovery of improper taxes, refunds of  
87 overpaid taxes or other provisions of law providing for imposition  
88 and collection of the state sales tax shall apply to the special  
89 sales tax authorized by Sections 1 through 3 of this act, except  
90 where there is a conflict, in which case the provisions of  
91 Sections 1 through 3 of this act shall control. Any damages,  
92 penalties or interest collected for the nonpayment of taxes  
93 imposed under Sections 1 through 3 of this act, or for  
94 noncompliance with the provisions of Sections 1 through 3 of this  
95 act, shall be paid to the municipality in which such damages were  
96 collected on the same basis and in the same manner as the tax  
97 proceeds. Any overpayment of tax for any reason that has been  
98 disbursed to any municipality or any payment of the tax to any  
99 municipality in error may be adjusted by the State Tax Commission  
100 on any subsequent payment to the municipality involved pursuant to



101 the provisions of the Mississippi Sales Tax Law. The State Tax  
102 Commission may, from time to time, make such rules and regulations  
103 not inconsistent with Sections 1 through 3 of this act as may be  
104 deemed necessary to carry out the provisions of Sections 1 through  
105 3 of this act, and such rules and regulations shall have the full  
106 force and effect of law.

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

118 **SECTION 4.** The governing authorities of any municipality  
119 that levies a special sales tax pursuant to Sections 1 through 3  
120 of this act may incur indebtedness of the municipality in an  
121 aggregate principal amount that is not in excess of an amount for  
122 which debt service is capable of being funded by the proceeds of  
123 the special sales tax levied pursuant to Sections 1 through 3 of  
124 this act. The indebtedness authorized by this section shall not  
125 be considered when computing any limitation of indebtedness of the  
126 municipality established by law.

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

129 21-33-303. No municipality shall hereafter issue bonds  
130 secured by a pledge of its full faith and credit for the purposes  
131 authorized by law in an amount which, when added to the then  
132 outstanding bonded indebtedness of such municipality, shall exceed  
133 either (a) fifteen percent (15%) of the assessed value of the



134 taxable property within such municipality, according to the last  
135 completed assessment for taxation, or (b) ten percent (10%) of the  
136 assessment upon which taxes were levied for its fiscal year ending  
137 September 30, 1984, whichever is greater. In computing such  
138 indebtedness, there may be deducted all bonds or other evidences  
139 of indebtedness, heretofore or hereafter issued, for school,  
140 water, sewerage systems, gas, and light and power purposes and for  
141 the construction of special improvements primarily chargeable to  
142 the property benefited, or for the purpose of paying the  
143 municipality's proportion of any betterment program, a portion of  
144 which is primarily chargeable to the property benefited. However,  
145 in no case shall any municipality contract any indebtedness which,  
146 when added to all of the outstanding general obligation  
147 indebtedness, both bonded and floating, shall exceed either (a)  
148 twenty percent (20%) of the assessed value of all taxable property  
149 within such municipality according to the last completed  
150 assessment for taxation or (b) fifteen percent (15%) of the  
151 assessment upon which taxes were levied for its fiscal year ending  
152 September 30, 1984, whichever is greater. Nothing herein  
153 contained shall be construed to apply to contract obligations in  
154 any form heretofore or hereafter incurred by any municipality  
155 which are subject to annual appropriations therefor, or to bonds  
156 heretofore issued by any municipality for school purposes, or to  
157 contract obligations in any form heretofore or hereafter incurred  
158 by any municipality which are payable exclusively from the  
159 revenues of any municipally-owned utility, or to bonds issued by  
160 any municipality under the provisions of Sections 57-1-1 through  
161 57-1-51, or to any special assessment improvement bonds issued by  
162 any municipality under the provisions of Sections 21-41-1 through  
163 21-41-53, or to any indebtedness incurred under Section 55-23-8,  
164 or to any indebtedness incurred under Section 4 of Senate Bill No.  
165 3185, 2002 Regular Session.



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

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

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

