HOUSE BILL NO. 1470

AN ACT TO AUTHORIZED THE BOARD OF SUPERVISORS OF ANY COUNTY, WITH THE CONSENT OF THE GOVERNING AUTHORITIES OF EACH MUNICIPALITY LOCATED THEREIN, TO LEVY A SPECIAL SALES TAX OF ONE PERCENT UPON ALL SALES AND SERVICES WITHIN THE COUNTY AND IN ANY MUNICIPALITY LOCATED THEREIN, WHICH SALES AND SERVICES ARE SUBJECT TO THE GENERAL RATE OF SALES TAX; TO PROVIDE FOR AN ELECTION ON THE QUESTION OF LEVYING SUCH TAX; TO REQUIRE THAT RESIDENTS OF THE COUNTY BE PROVIDED WITH NOTICE OF THE PROJECT OR PROJECTS FOR WHICH THE PROCEEDS OF THE SPECIAL SALES TAX WILL BE USED, THE COST OF SUCH PROJECT OR PROJECTS AND A STATEMENT THAT THE TAX, IF APPROVED AT AN ELECTION, WILL BE REPEALED NOT LATER THAN SEVEN YEARS AFTER THE DATE OF ITS IMPOSITION; TO PROVIDE THAT THE TAX SHALL BE COLLECTED BY THE STATE TAX COMMISSION; TO PROVIDE THAT THE TAX AUTHORIZED IN THIS ACT SHALL BE REPEALED NOT LATER THAN SEVEN YEARS AFTER THE DATE IT IS INITIALLY IMPOSED AND THAT AFTER THE REPEAL OF THE TAX, A COUNTY MAY NOT SUBSEQUENTLY LEVY ANOTHER SUCH TAX FOR AT LEAST THREE YEARS AFTER THE REPEAL OF THE PREVIOUS TAX; TO PROVIDE THAT IF ANY PROCEEDS OF THE TAX REMAIN AFTER COMPLETION OF THE PROJECT OR PROJECTS FOR WHICH THE PROCEEDS ARE USED, SUCH REMAINING TAX PROCEEDS SHALL BE USED TO REDUCE THE COUNTY AD VALOREM TAXES; TO AMEND SECTIONS 27-39-303, 27-39-317 AND 27-65-75, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) Subject to the provisions of subsection (2) of this section, the board of supervisors of any county may levy, assess and collect a special sales tax, in addition to all other taxes now imposed, at the rate of one percent (1%) upon all sales and services within the county and in any municipality located within the county, which sales and services are subject to the general state sales tax rate of seven percent (7%).

(2) (a) Before the tax authorized in subsection (1) of this section may be imposed, the board of supervisors of the county must adopt a resolution declaring the intention to levy the tax and providing that if the governing authorities of each municipality located in the county adopt a resolution supporting the proposed special sales tax, then a referendum will be held on
the question of levying such tax. The resolution of the board of supervisors and the governing authorities must contain a detailed description of the project or projects for which the proceeds of the tax shall be used, the cost of such project or projects and a statement that the tax, if approved at an election, will be repealed not later than seven (7) years after the date of its imposition. If the requirements of this subsection (2) are met, then an election on the question of levy and assessment of such tax shall be called and held as herein provided. Notice of such election shall be signed by the clerk of the board of supervisors and shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published or having a general circulation in the county. The first publication of such notice shall be made not less than twenty-one (21) days before the date fixed for the election and the last publication shall be made not more than seven (7) days before such date.

(b) The election on the question of the levy of the tax authorized in this section shall be held, as far as is practicable, in the same manner as other elections are held in counties. At the election, all qualified electors of the county may vote, and the ballots used at such election shall have printed thereon a statement of the amount and purpose of the proposed tax levy including a description of the project or projects for which the proceeds of the tax shall be used and the cost of such project or projects, and the words "FOR THE SPECIAL SALES TAX," and "AGAINST THE SPECIAL SALES TAX," and the voters shall vote by placing a cross (X) or check (√) opposite their choice on the proposition. When the results of the election on the question of the levy of the tax have been canvassed by the election commissioners of the county and certified by them to the board of supervisors, the county may levy the tax if a majority of the qualified electors who vote in the election vote in favor of the tax.
(3) (a) Persons liable for the tax imposed under this section shall add the amount of tax to the sales price or gross proceeds of sales, and in addition thereto, shall collect, insofar as practicable, the amount of the tax due by him from the person receiving the services at the time of payment therefor.

(b) The tax shall be collected by and paid to the State Tax Commission on a form prescribed by the State Tax Commission, in the same manner that state sales taxes are computed, collected and paid; and the full enforcement provisions and all other provisions of Chapter 65, Title 27, Mississippi Code of 1972, shall apply as necessary to the implementation and administration of this section.

(c) The proceeds of the tax shall be paid to the board of supervisors of the county on or before the fifteenth day of the month following the month in which collected by the State Tax Commission.

(d) The proceeds of the tax shall not be considered by the county as general fund revenue and shall be placed into a separate special fund apart from the county general fund and any other funds of the county, and such special fund shall be maintained and administered jointly in the name of the county and each municipality located in the county. Monies in such special fund shall be used solely for the purposes stated in the resolutions of the board of supervisors and governing authorities as described in subsection (2)(a) of this section.

(4) The tax levy authorized in this section shall be repealed not later than seven (7) years after the date it is initially imposed. After the repeal of the tax levy, a county may not subsequently levy another such tax for at least three (3) years after the repeal date of the previous tax.

(5) If any proceeds of the tax remain after completion of the project or projects for which the proceeds are used, then the
remaining tax proceeds shall be used to reduce the ad valorem taxes levied by the county.

SECTION 2. Section 27-39-303, Mississippi Code of 1972, is amended as follows:

27-39-303. Subject to the provisions of this section, the board of supervisors of any county is hereby empowered to levy ad valorem taxes on taxable property in the respective counties in any one (1) year, as shown by the assessment roll containing assessments of property made as of January 1 of the year, and the assessment of motor vehicles as made according to the provisions of the Motor Vehicle Ad Valorem Tax Law of 1958 (Section 27-51-1 et seq.) for all general county purposes, exclusive only of levies for roads and bridges and schools at the rate necessary to fund such purposes. The board of supervisors of any county levying the special sales tax authorized in Section 1 of House Bill No. 1470, 2003 Regular Session, shall use any excess proceeds of such tax to reduce the ad valorem taxes levied by the county as provided in Section 1(5) of House Bill No. 1470, 2003 Regular Session.

The board of supervisors of any county is further empowered to expend the proceeds of this levy for any purpose authorized for any other levy which the board of supervisors is authorized to make, excluding the levy for roads and bridges, and the board may authorize general fund expenditures for school purposes when necessary to meet the minimum local ad valorem tax effort required by Section 37-57-1, Mississippi Code of 1972.

The board of supervisors of any county is further empowered to distribute from the county general fund a portion of the county's share of payments made by the Tennessee Valley Authority to the state in lieu of taxes (a) to the school districts of said county and (b) for construction on the roads and bridges of said county in an amount which bears the same proportion to the total amount of the county's share as the millage for the school fund and road and bridge fund bears to the total millage levied by the
county. In the event said in lieu payments are expended for
capital improvements, said payments shall not be subject to the
increase limitations specified in Section 27-39-321 or 37-57-107,

amended as follows:

27-39-317. Subject to the provisions of this section, the
board of supervisors of each county shall, at its regular meeting
in September of each year, levy the county ad valorem taxes for
the fiscal year, and shall, by order, fix the tax rate, or levy,
for the county, for the road districts, if any, and for the school
districts, if any, and for any other taxing districts; and the
rates, or levies, for the county and for any district shall be
expressed in mills or a decimal fraction of a mill. Said tax
rates, or levies, shall determine the ad valorem taxes to be
collected upon each dollar of valuation, upon the assessment rolls
of the county, including the assessment of motor vehicles as
provided by the Motor Vehicle Ad Valorem Tax Law of 1958, Section
27-51-1 et seq., for county taxes; and upon each dollar of
valuation for the respective districts, as shown upon the
assessment rolls of the county, including the assessment of motor
vehicles as provided by the Motor Vehicle Ad Valorem Tax Law of
1958, Section 27-51-1 et seq.; except as to such values as shall
be exempt, in whole or in part, from certain tax rates or levies.
If the rate or levy for the county is an increase from the
previous fiscal year, then the proposed rate or levy shall be
advertised in accordance with Sections 27-39-203 and 27-39-205.
If the board of supervisors of any county shall not levy the
county taxes and the district taxes at its regular September
meeting, the board shall levy the same on or before September 15
at an adjourned or special meeting, or thereafter, provided,
however, that if such levy be not made on or before the fifteenth
day of September then the tax collector or State Tax Commission
may issue road and bridge privilege tax license plates for motor
vehicles as defined in the Motor Vehicle Ad Valorem Tax Law of
1958, Section 27-51-1 et seq., without collecting or requiring
proof of payment of county ad valorem taxes, and may continue to
so issue such plates until such levy is duly certified to him, and
for twenty-four (24) hours thereafter.

Notwithstanding the requirements of this section, in the
event the State Tax Commission orders the county to make an
adjustment to the tax roll pursuant to Section 27-35-113, the
county shall have a period of thirty (30) days from the date of
the commission's final determination to adjust the millage in
order to collect the same dollar amount of taxes as originally
levied by the board.

In making the levy of taxes, the board of supervisors shall
specify, in its order, the levy for each purpose, as follows:

(a) For general county purposes (current expense and
maintenance taxes), as authorized by Section 27-39-303.

(b) For roads and bridges, as authorized by Section
27-39-305.

(c) For schools, including the countywide minimum
education program levy and the levy for each school district
including special municipal separate school districts, but not
including other municipal separate school districts, and for an
agricultural high school, county high school or junior college
(current expense and maintenance taxes), as authorized by Chapter
57, Title 37, Mississippi Code of 1972, and any other applicable
statute. The levy for schools shall apply to the assessed value
of property in the respective school districts, including special
municipal separate school districts, but not including other
municipal separate school districts, and a distinct and separate
levy shall be made for each school district, and the purpose for
each levy shall be stated.
(d) For road bonds and the interest thereon, separately for countywide bonds and for the bonds of each road district.

(e) For school bonds and the interest thereon, separately for countywide bonds and for the bonds of each school district.

(f) For countywide bonds, and the interest thereon, other than for road bonds and school bonds.

(g) For loans, notes or any other obligation, and the interest thereon, if permitted by the law.

(h) For any other purpose for which a levy is lawfully made.

The order shall state all of the purposes for which the general county levy is made, using the administrative items suggested by the State Department of Audit of Mississippi under the county budget law in its uniform system of accounts for counties, but the rate or levy for any item or purpose need not be shown; and if a countywide levy is made for any general or special purpose under the provisions of any law other than Section 27-39-303, each such levy shall be separately stated.

During the month of February of each year, if the order or resolution of the board of trustees of any school district of said county or partly in said county, is filed with it requesting the levying of ad valorem taxes for the support and maintenance of such school district for the following fiscal year, then the board of supervisors of every such county in the state shall notify, in writing, within thirty (30) days, the county superintendent of education of such county, the levy or levies it intends to make for the support and maintenance of such school districts of such county at its regular meeting in September following, and the county superintendent of education and the trustees of all such school districts shall be authorized to use such expressed intention of the board of supervisors in computing the support and maintenance budget or budgets of such school district or districts.
for the ensuing fiscal school year. The board of supervisors of any county levying the special sales tax authorized in Section 1 of House Bill No. 1470, 2003 Regular Session, shall use any excess proceeds of such tax to reduce the ad valorem taxes levied by the county as provided in Section 1(5) of House Bill No. 1470, 2003 Regular Session.

SECTION 4. Section 27-65-75, Mississippi Code of 1972, is amended as follows:

27-65-75. On or before the fifteenth day of each month, the revenue collected under the provisions of this chapter during the preceding month shall be paid and distributed as follows:

(1) On or before August 15, 1992, and each succeeding month thereafter through July 15, 1993, eighteen percent (18%) of the total sales tax revenue collected during the preceding month under the provisions of this chapter, except that collected under the provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on business activities within a municipal corporation shall be allocated for distribution to such municipality and paid to such municipal corporation. On or before August 15, 1993, and each succeeding month thereafter, eighteen and one-half percent (18-1/2%) of the total sales tax revenue collected during the preceding month under the provisions of this chapter, except that collected under the provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on business activities within a municipal corporation shall be allocated for distribution to such municipality and paid to such municipal corporation.

A municipal corporation, for the purpose of distributing the tax under this subsection, shall mean and include all incorporated cities, towns and villages.

Monies allocated for distribution and credited to a municipal corporation under this subsection may be pledged as security for any loan received by the municipal corporation for the purpose of capital improvements as authorized under Section 57-1-303, or
loans as authorized under Section 57-44-7, or water systems
improvements as authorized under Section 41-3-16.

In any county having a county seat which is not an
incorporated municipality, the distribution provided hereunder
shall be made as though the county seat was an incorporated
municipality; however, the distribution to such municipality shall
be paid to the county treasury wherein the municipality is located
and such funds shall be used for road, bridge and street
construction or maintenance therein.

(2) On or before September 15, 1987, and each succeeding
month thereafter, from the revenue collected under this chapter
during the preceding month One Million One Hundred Twenty-five
Thousand Dollars ($1,125,000.00) shall be allocated for
distribution to municipal corporations as defined under subsection
(1) of this section in the proportion that the number of gallons
of gasoline and diesel fuel sold by distributors to consumers and
retailers in each such municipality during the preceding fiscal
year bears to the total gallons of gasoline and diesel fuel sold
by distributors to consumers and retailers in municipalities
statewide during the preceding fiscal year. The State Tax
Commission shall require all distributors of gasoline and diesel
fuel to report to the commission monthly the total number of
gallons of gasoline and diesel fuel sold by them to consumers and
retailers in each municipality during the preceding month. The
State Tax Commission shall have the authority to promulgate such
rules and regulations as is necessary to determine the number of
gallons of gasoline and diesel fuel sold by distributors to
consumers and retailers in each municipality. In determining the
percentage allocation of funds under this subsection for the
fiscal year beginning July 1, 1987, and ending June 30, 1988, the
State Tax Commission may consider gallons of gasoline and diesel
fuel sold for a period of less than one (1) fiscal year. For the
purposes of this subsection, the term "fiscal year" means the fiscal year beginning July 1 of a year.

(3) On or before September 15, 1987, and on or before the fifteenth day of each succeeding month, until the date specified in Section 65-39-35, the proceeds derived from contractors' taxes levied under Section 27-65-21 on contracts for the construction or reconstruction of highways designated under the highway program created under Section 65-3-97 shall, except as otherwise provided in Section 31-17-127, be deposited into the State Treasury to the credit of the State Highway Fund to be used to fund such highway program. The Mississippi Department of Transportation shall provide to the State Tax Commission such information as is necessary to determine the amount of proceeds to be distributed under this subsection.

(4) On or before August 15, 1994, and on or before the fifteenth day of each succeeding month through July 15, 1999, from the proceeds of gasoline, diesel fuel or kerosene taxes as provided in Section 27-5-101(a)(ii) 1, Four Million Dollars ($4,000,000.00) shall be deposited in the State Treasury to the credit of a special fund designated as the "State Aid Road Fund," created by Section 65-9-17. On or before August 15, 1999, and on or before the fifteenth day of each succeeding month, from the total amount of the proceeds of gasoline, diesel fuel or kerosene taxes apportioned by Section 27-5-101(a)(ii) 1, Four Million Dollars ($4,000,000.00) or an amount equal to twenty-three and one-fourth percent (23.25%) of such funds, whichever is the greater amount, shall be deposited in the State Treasury to the credit of the "State Aid Road Fund," created by Section 65-9-17. Such funds shall be pledged to pay the principal of and interest on state aid road bonds heretofore issued under Sections 19-9-51 through 19-9-77, in lieu of and in substitution for the funds heretofore allocated to counties under this section. Such funds may not be pledged for the payment of any state aid road bonds.
issued after April 1, 1981; however, this prohibition against the
pledging of any such funds for the payment of bonds shall not
apply to any bonds for which intent to issue such bonds has been
published, for the first time, as provided by law prior to March
29, 1981. From the amount of taxes paid into the special fund
pursuant to this subsection and subsection (9) of this section,
there shall be first deducted and paid the amount necessary to pay
the expenses of the Office of State Aid Road Construction, as
authorized by the Legislature for all other general and special
fund agencies. The remainder of the fund shall be allocated
monthly to the several counties in accordance with the following
formula:

(a) One-third (1/3) shall be allocated to all counties
in equal shares;
(b) One-third (1/3) shall be allocated to counties
based on the proportion that the total number of rural road miles
in a county bears to the total number of rural road miles in all
counties of the state; and
(c) One-third (1/3) shall be allocated to counties
based on the proportion that the rural population of the county
bears to the total rural population in all counties of the state,
according to the latest federal decennial census.

For the purposes of this subsection, the term "gasoline,
diesel fuel or kerosene taxes" means such taxes as defined in
paragraph (f) of Section 27-5-101.

The amount of funds allocated to any county under this
subsection for any fiscal year after fiscal year 1994 shall not be
less than the amount allocated to such county for fiscal year
1994. Monies allocated to a county from the State Aid Road Fund
for fiscal year 1995 or any fiscal year thereafter that exceed the
amount of funds allocated to that county from the State Aid Road
Fund for fiscal year 1994, first must be expended by the county
for replacement or rehabilitation of bridges on the state aid road
system that have a sufficiency rating of less than twenty-five 
(25), according to National Bridge Inspection standards before 
such monies may be approved for expenditure by the State Aid Road 
Engineer on other projects that qualify for the use of state aid 
road funds.

Any reference in the general laws of this state or the 
Mississippi Code of 1972 to Section 27-5-105 shall mean and be 
construed to refer and apply to subsection (4) of Section 
27-65-75.

(5) One Million Six Hundred Sixty-six Thousand Six Hundred 
Sixty-six Dollars ($1,666,666.00) each month shall be paid into 
the special fund known as the "State Public School Building Fund" 
created and existing under the provisions of Sections 37-47-1 
through 37-47-67. Such payments into said fund are to be made on 
the last day of each succeeding month hereafter.

(6) An amount each month beginning August 15, 1983, through 
November 15, 1986, as specified in Section 6 of Chapter 542, Laws 
of 1983, shall be paid into the special fund known as the 
Correctional Facilities Construction Fund created in Section 6 of 
Chapter 542, Laws of 1983.

(7) On or before August 15, 1992, and each succeeding month 
thereafter through July 15, 2000, two and two hundred sixty-six 
one-thousandths percent (2.266%) of the total sales tax revenue 
collected during the preceding month under the provisions of this 
chapter, except that collected under the provisions of Section 
27-65-17(2) shall be deposited by the commission into the School 
Ad Valorem Tax Reduction Fund created pursuant to Section 
37-61-35. On or before August 15, 2000, and each succeeding month 
thereafter, two and two hundred sixty-six one-thousandths percent 
(2.266%) of the total sales tax revenue collected during the 
predicting month under the provisions of this chapter, except that 
collected under the provisions of Section 27-65-17(2), shall be 
deposited into the School Ad Valorem Tax Reduction Fund created
under Section 37-61-35 until such time that the total amount
deposited into the fund during a fiscal year equals Forty-two
Million Dollars ($42,000,000.00). Thereafter, the amounts
diverted under this subsection (7) during the fiscal year in
excess of Forty-two Million Dollars ($42,000,000.00) shall be
deposited into the Education Enhancement Fund created under
Section 37-61-33 for appropriation by the Legislature as other
education needs and shall not be subject to the percentage
appropriation requirements set forth in Section 37-61-33.

(8) On or before August 15, 1992, and each succeeding month
thereafter, nine and seventy-three one-thousandths percent
(9.073%) of the total sales tax revenue collected during the
preceding month under the provisions of this chapter, except that
collected under the provisions of Section 27-65-17(2) shall be
deposited into the Education Enhancement Fund created pursuant to
Section 37-61-33.

(9) On or before August 15, 1994, and each succeeding month
thereafter, from the revenue collected under this chapter during
the preceding month, Two Hundred Fifty Thousand Dollars
($250,000.00) shall be paid into the State Aid Road Fund.

(10) On or before August 15, 1994, and each succeeding month
thereafter through August 15, 1995, from the revenue collected
under this chapter during the preceding month, Two Million Dollars
($2,000,000.00) shall be deposited into the Motor Vehicle Ad
Valorem Tax Reduction Fund established in Section 27-51-105.

(11) Notwithstanding any other provision of this section to
the contrary, on or before February 15, 1995, and each succeeding
month thereafter, the sales tax revenue collected during the
preceding month under the provisions of Section 27-65-17(2) and
the corresponding levy in Section 27-65-23 on the rental or lease
of private carriers of passengers and light carriers of property
as defined in Section 27-51-101 shall be deposited, without
(12) Notwithstanding any other provision of this section to the contrary, on or before August 15, 1995, and each succeeding month thereafter, the sales tax revenue collected during the preceding month under the provisions of Section 27-65-17(1) on retail sales of private carriers of passengers and light carriers of property, as defined in Section 27-51-101 and the corresponding levy in Section 27-65-23 on the rental or lease of these vehicles, shall be deposited, after diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund established in Section 27-51-105.

(13) On or before July 15, 1994, and on or before the fifteenth day of each succeeding month thereafter, that portion of the avails of the tax imposed in Section 27-65-22, which is derived from activities held on the Mississippi state fairgrounds complex, shall be paid into a special fund hereby created in the State Treasury and shall be expended pursuant to legislative appropriations solely to defray the costs of repairs and renovation at such Trade Mart and Coliseum.

(14) On or before August 15, 1998, and each succeeding month thereafter through July 15, 2005, that portion of the avails of the tax imposed in Section 27-65-23 which is derived from sales by cotton compresses or cotton warehouses and which would otherwise be paid into the General Fund, shall be deposited in an amount not to exceed Two Million Dollars ($2,000,000.00) into the special fund created pursuant to Section 69-37-39.

(15) Notwithstanding any other provision of this section to the contrary, on or before September 15, 2000, and each succeeding month thereafter, the sales tax revenue collected during the preceding month under the provisions of Section 27-65-19(1)(f) and (g)(i)2, shall be deposited, without diversion, into the Telecommunications Ad Valorem Tax Reduction Fund established in Section 27-38-7.
(16) On or before August 15, 2000, and each succeeding month thereafter, the sales tax revenue collected during the preceding month under the provisions of this chapter on the gross proceeds of sales of a project as defined in Section 57-30-1 shall be deposited, after all diversions except the diversion provided for in subsection (1) of this section, into the Sales Tax Incentive Fund created in Section 57-30-3.

(17) Notwithstanding any other provision of this section to the contrary, on or before April 15, 2002, and each succeeding month thereafter, the sales tax revenue collected during the preceding month under Section 27-65-23 on sales of parking services of parking garages and lots at airports shall be deposited, without diversion, into the special fund created pursuant to Section 27-5-101(d).

(18) Notwithstanding any other provision of this section to the contrary, the revenue collected from the special sales tax authorized under Section 1 of House Bill No. 1470, 2003 Regular Session, shall be allocated for distribution and distributed as provided in Section 1 of House Bill No. 1470, 2003 Regular Session.

(19) The remainder of the amounts collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the General Fund.

(20) It shall be the duty of the municipal officials of any municipality which expands its limits, or of any community which incorporates as a municipality, to notify the commissioner of such action thirty (30) days before the effective date. Failure to so notify the commissioner shall cause such municipality to forfeit the revenue which it would have been entitled to receive during this period of time when the commissioner had no knowledge of the action. If any funds have been erroneously disbursed to any municipality or any overpayment of tax is recovered by the taxpayer, the commissioner may make correction and adjust the
error or overpayment with such municipality by withholding the necessary funds from any subsequent payment to be made to the municipality.

SECTION 5. 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 6. 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.