

By: Representative Busby

To: Ways and Means

HOUSE BILL NO. 1564

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF ANY
2 MUNICIPALITY TO IMPOSE A SPECIAL TAX NOT TO EXCEED THREE PERCENT
3 ON THE GROSS PROCEEDS OF ALL SALES OR GROSS INCOME ON BUSINESSES
4 IN THE MUNICIPALITY DERIVED FROM ACTIVITIES TAXED AT THE RATE OF
5 SEVEN PERCENT OR MORE UNDER THE MISSISSIPPI SALES TAX LAW; TO
6 PROVIDE THAT THE SPECIAL SALES TAX SHALL NOT BE LEVIED UNLESS
7 AUTHORIZED BY AT LEAST THREE-FIFTHS OF THE VOTES CAST AT A
8 REFERENDUM CALLED AND HELD FOR SUCH PURPOSE; TO PROVIDE THAT A
9 MUNICIPALITY LEVYING A SPECIAL TAX UNDER THIS ACT MUST USE FIFTY
10 PERCENT OF THE PROCEEDS FROM THE TAX TO PROPORTIONATELY DECREASE
11 THE AD VALOREM TAX LEVIES OF THE MUNICIPALITY; TO AUTHORIZE THE
12 BOARD OF SUPERVISORS OF ANY COUNTY TO IMPOSE A SPECIAL TAX NOT TO
13 EXCEED THREE PERCENT ON THE GROSS PROCEEDS OF ALL SALES OR GROSS
14 INCOME ON BUSINESSES IN THE COUNTY OUTSIDE THE CORPORATE
15 BOUNDARIES OF ANY MUNICIPALITY WITHIN SUCH COUNTY DERIVED FROM
16 ACTIVITIES TAXED AT THE RATE OF SEVEN PERCENT OR MORE UNDER THE
17 MISSISSIPPI SALES TAX LAW; TO PROVIDE THAT THE SPECIAL SALES TAX
18 SHALL NOT BE LEVIED UNLESS AUTHORIZED BY AT LEAST THREE-FIFTHS OF
19 THE VOTES CAST AT A REFERENDUM CALLED AND HELD FOR SUCH PURPOSE;
20 TO PROVIDE THAT A COUNTY LEVYING A SPECIAL TAX UNDER THIS ACT MUST
21 USE FIFTY PERCENT OF THE PROCEEDS FROM THE TAX TO PROPORTIONATELY
22 DECREASE THE AD VALOREM TAX LEVIES OF THE COUNTY; AND FOR RELATED
23 PURPOSES.

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

25 **SECTION 1.** (1) Subject to the provisions of this section,
26 the governing authorities of any municipality may impose upon all
27 persons as a privilege for engaging or continuing in business or
28 doing business within such municipality, a special sales tax at



29 the rate of not more than three percent (3%) of the gross proceeds
30 of sales or gross income of the business, as the case may be,
31 derived from any of the activities taxed at the rate of seven
32 percent (7%) or more under the Mississippi Sales Tax Law, Section
33 27-65-1 et seq. The tax levied under this section shall apply to
34 every person making sales, delivery or installations of tangible
35 personal property or services within any municipality which has
36 adopted the levy authorized in this section but shall not apply to
37 sales exempted by Sections 27-65-19, 27-65-101, 27-65-103,
38 27-65-105, 27-65-107, 27-65-109 and 27-65-111 of the Mississippi
39 Sales Tax Law.

40 (2) Before any tax authorized under this section may be
41 imposed, the governing authorities of the municipality shall adopt
42 a resolution declaring its intention to levy the tax, setting
43 forth the amount of the tax to be imposed, the purposes for which
44 the revenue collected pursuant to the tax levy may be used and
45 expended, the date upon which the tax shall become effective and
46 calling for a referendum to be held on the question. The date of
47 the referendum shall be set in the resolution. Notice of the
48 referendum shall be published once each week for at least three

49 (3) consecutive weeks in a newspaper published or having a general
50 circulation in the municipality, with the first publication of the
51 notice to be made not less than twenty-one (21) days before the
52 date fixed in the resolution for the referendum and the last
53 publication to be made not more than seven (7) days before the



54 referendum. At the referendum, all qualified electors of the
55 municipality may vote. The ballots used at the referendum shall
56 have printed thereon a brief description of the sales tax, the
57 amount of the sales tax levy, a description of the purposes for
58 which the tax revenue may be used and expended and the words "FOR
59 THE LOCAL SALES TAX" and "AGAINST THE LOCAL SALES TAX" and the
60 voter shall vote by placing a cross (X) or check mark (✓) opposite
61 his choice on the proposition. When the results of the referendum
62 have been canvassed by the election commissioners of the
63 municipality and certified by them to the governing authorities,
64 it shall be the duty of the governing authorities to determine and
65 adjudicate whether at least three-fifths (3/5) of the qualified
66 electors who voted in the referendum voted in favor of the tax.
67 If at least three-fifths (3/5) of the qualified electors who voted
68 in the referendum voted in favor of the tax, the governing
69 authorities shall adopt a resolution declaring the levy and
70 collection of the tax provided in this section and shall set the
71 first day of the second month following the date of such adoption
72 as the effective date of the tax levy. A certified copy of this
73 resolution, together with the result of the referendum, shall be
74 furnished to the Department of Revenue not less than thirty (30)
75 days before the effective date of the levy.

76 (3) (a) The special sales tax authorized by this section
77 shall be collected by the Department of Revenue, shall be
78 accounted for separately from the amount of sales tax collected



79 for the state in the municipality and shall be paid to the
80 municipality in which collected. The Department of Revenue may
81 retain three percent (3%) of the proceeds of the tax for the
82 purpose of defraying the costs incurred by the department in the
83 collection of the tax. Payments to the municipality shall be made
84 by the Department of Revenue on or before the fifteenth day of the
85 month following the month in which the tax was collected.

86 (b) The proceeds of the special sales tax shall be
87 placed into a separate fund apart from the municipal general fund
88 and any other funds of the municipality. Fifty percent (50%) of
89 the proceeds of the special sales tax shall be used and expended
90 by the municipality to proportionately decrease the ad valorem tax
91 levies of the municipality and the remainder of the proceeds may
92 be used and expended by the municipality for any purposes for
93 which the municipality is authorized by law to use and expend
94 funds.

95 (c) All provisions of the Mississippi Sales Tax Law
96 applicable to filing of returns, discounts to the taxpayer,
97 remittances to the Department of Revenue, enforced collection,
98 rights of taxpayers, recovery of improper taxes, refunds of
99 overpaid taxes or other provisions of law providing for imposition
100 and collection of the state sales tax shall apply to the special
101 sales tax authorized by this section, except where there is a
102 conflict, in which case the provisions of this section shall
103 control. Any damages, penalties or interest collected for the



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

117 (d) If a municipality imposing a special sales tax under
118 this section expands its corporate boundaries, the governing
119 authorities of the municipality may not impose the special sales
120 tax in the annexed area unless the tax is approved at a referendum
121 conducted, as far as is practicable, in the manner provided in
122 subsection (2) of this section, except that only qualified
123 electors in the annexed area may vote in the referendum. However,
124 if a municipality imposing a special sales tax under this section
125 expands its corporate boundaries into a county that is imposing a
126 special sales tax under Section 2 of this act, the governing
127 authorities of the municipality may not impose the special sales



tax in the annexed area for as long as such county is imposing a special sales tax under Section 2 of this act.

(e) If a municipality imposing a special sales tax under this section contracts its corporate boundaries, the special sales tax shall continue to be imposed in the area that was in the corporate boundaries of the municipality before the contraction of such boundaries.

SECTION 2. (1) Subject to the provisions of this section, the board of supervisors of any county may impose upon all persons as a privilege for engaging or continuing in business or doing business within such county but outside the corporate boundaries of any municipality within such county, a special sales tax at the rate of not more than three percent (3%) 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. The tax levied under this section shall apply to every person making sales, delivery or installations of tangible personal property or services within any county which has adopted the levy authorized in this section 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.

(2) Before any tax authorized under this section may be imposed, the board of supervisors of the county shall adopt a



153 resolution declaring its intention to levy the tax, setting forth
154 the amount of the tax to be imposed, the purposes for which the
155 revenue collected pursuant to the tax levy may be used and
156 expended, the date upon which the tax shall become effective and
157 calling for a referendum to be held on the question. The date of
158 the referendum shall be set in the resolution. Notice of the
159 referendum shall be published once each week for at least three
160 (3) consecutive weeks in a newspaper published or having a general
161 circulation in the county, with the first publication of the
162 notice to be made not less than twenty-one (21) days before the
163 date fixed in the resolution for the referendum and the last
164 publication to be made not more than seven (7) days before the
165 referendum. At the referendum, all qualified electors of the
166 county may vote. The ballots used at the referendum shall have
167 printed thereon a brief description of the sales tax, the amount
168 of the sales tax levy, a description of the purposes for which the
169 tax revenue may be used and expended and the words "FOR THE LOCAL
170 SALES TAX" and "AGAINST THE LOCAL SALES TAX" and the voter shall
171 vote by placing a cross (X) or check mark (✓) opposite his choice
172 on the proposition. When the results of the referendum have been
173 canvassed by the election commissioners of the county and
174 certified by them to the board of supervisors, it shall be the
175 duty of the board of supervisors to determine and adjudicate
176 whether at least three-fifths (3/5) of the qualified electors who
177 voted in the referendum voted in favor of the tax. If at least



three-fifths (3/5) of the qualified electors who voted in the referendum voted in favor of the tax, the board of supervisors shall adopt a resolution declaring the levy and collection of the tax provided in this section 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 referendum, shall be furnished to the Department of Revenue not less than thirty (30) days before the effective date of the levy.

(3) (a) The special sales tax authorized by this section shall be collected by the Department of Revenue, shall be accounted for separately from the amount of sales tax collected for the state in the county and shall be paid to the county in which collected. The Department of Revenue may retain three percent (3%) of the proceeds of the tax for the purpose of defraying the costs incurred by the department in the collection of the tax. Payments to the county shall be made by the Department of Revenue on or before the fifteenth day of the month following the month in which the tax was collected.

(b) The proceeds of the special sales tax shall be placed into a separate fund apart from the county general fund and any other funds of the county. Fifty percent (50%) of the proceeds of the special sales tax shall be used and expended by the county to proportionately decrease the ad valorem tax levies of the county and the remainder of the proceeds may be used and



expended by the county for any purposes for which the county is authorized by law to use and expend funds.

(c) All provisions of the Mississippi Sales Tax Law applicable to filing of returns, discounts to the taxpayer, remittances to the Department of Revenue, 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 this section, except where there is a conflict, in which case the provisions of this section shall control. Any damages, penalties or interest collected for the nonpayment of taxes imposed under this section, or for noncompliance with the provisions of this section, shall be paid to the county in which such damages, penalties or interest 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 county or any payment of the tax to any county in error may be adjusted by the Department of Revenue on any subsequent payment to the county involved pursuant to the provisions of the Mississippi Sales Tax Law. The Department of Revenue may, from time to time, make such rules and regulations not inconsistent with this section as may be deemed necessary to carry out the provisions of this section, and such rules and regulations shall have the full force and effect of law.



227 (d) If the board of supervisors of a county imposes a
228 special sales tax under this section and a municipality annexes a
229 part of the county, the special sales tax shall continue to be
230 imposed in the annexed area until the board of supervisors
231 discontinues the tax.

232 (e) If the board of supervisors of a county imposes a
233 special sales tax under this section, and a municipality within
234 the county that is not imposing a special sales tax under Section
235 1 of this act contracts its municipal corporate boundaries, the
236 board of supervisors of the county may not impose a special sales
237 tax in the de-annexed area unless the tax is approved at a
238 referendum conducted, as far as is practicable, in the manner
239 provided in subsection (2) of this section, except that only
240 qualified electors in the de-annexed area may vote in such
241 referendum.

242 **SECTION 3.** This act shall take effect and be in force from
243 and after July 1, 2020.

