

By: Representative Lamar

To: Ways and Means

HOUSE BILL NO. 1168

1 AN ACT TO AMEND SECTION 27-65-241, MISSISSIPPI CODE OF 1972,
 2 WHICH AUTHORIZES THE LEVY OF A MUNICIPAL SPECIAL SALES TAX IN
 3 CERTAIN MUNICIPALITIES, TO PROVIDE THAT FOR A MUNICIPALITY THAT IS
 4 LEVYING A TAX UNDER THIS SECTION ON JULY 1, 2023, ALL REVENUE
 5 COLLECTED BY THE MUNICIPALITY AFTER JULY 1, 2023, SHALL BE USED
 6 SOLELY TO PAY THE COST OF REPAIRS, UPGRADES AND IMPROVEMENTS TO
 7 THE MUNICIPALITY'S WATER SYSTEM AND RELATED INFRASTRUCTURE; TO
 8 PROVIDE THAT IF A MUNICIPALITY LEVYING A TAX UNDER THIS SECTION
 9 FAILS TO COMPLY WITH CERTAIN AUDIT OR REPORTING REQUIREMENTS AND
 10 DOES NOT REMEDY THE NONCOMPLIANCE WITHIN THIRTY DAYS AFTER
 11 RECEIVING WRITTEN NOTICE OF NONCOMPLIANCE, THE DEPARTMENT OF
 12 REVENUE SHALL WITHHOLD PAYMENTS OTHERWISE PAYABLE TO THE
 13 MUNICIPALITY UNDER THIS SECTION UNTIL THE DEPARTMENT RECEIVES
 14 WRITTEN NOTICE THAT THE MUNICIPALITY HAS COMPLIED WITH SUCH
 15 REQUIREMENTS; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** Section 27-65-241, Mississippi Code of 1972, is
 18 amended as follows:

19 27-65-241. (1) As used in this section, the following terms
 20 shall have the meanings ascribed to them in this section unless
 21 otherwise clearly indicated by the context in which they are used:

22 (a) "Hotel" or "motel" means and includes a place of
 23 lodging that at any one time will accommodate transient guests on
 24 a daily or weekly basis and that is known to the trade as such.



25 Such terms shall not include a place of lodging with ten (10) or
26 less rental units.

27 (b) "Municipality" means any municipality in the State
28 of Mississippi with a population of one hundred fifty thousand
29 (150,000) or more according to the most recent federal decennial
30 census.

31 (c) "Restaurant" means and includes all places where
32 prepared food is sold and whose annual gross proceeds of sales or
33 gross income for the preceding calendar year equals or exceeds One
34 Hundred Thousand Dollars (\$100,000.00). The term "restaurant"
35 shall not include any nonprofit organization that is exempt from
36 federal income taxation under Section 501(c)(3) of the Internal
37 Revenue Code. For the purpose of calculating gross proceeds of
38 sales or gross income, the sales or income of all establishments
39 owned, operated or controlled by the same person, persons or
40 corporation shall be aggregated.

41 (2) (a) Subject to the provisions of this section, the
42 governing authorities of a municipality may impose upon all
43 persons as a privilege for engaging or continuing in business or
44 doing business within such municipality, a special sales tax at
45 the rate of not more than one percent (1%) of the gross proceeds
46 of sales or gross income of the business, as the case may be,
47 derived from any of the activities taxed at the rate of seven
48 percent (7%) or more under the Mississippi Sales Tax Law, Section
49 27-65-1 et seq.



50 (b) The tax levied under this section shall apply to
51 every person making sales of tangible personal property or
52 services within the municipality but shall not apply to:

53 (i) Sales exempted by Sections 27-65-19,
54 27-65-101, 27-65-103, 27-65-105, 27-65-107, 27-65-109 and
55 27-65-111 of the Mississippi Sales Tax Law;

56 (ii) Gross proceeds of sales or gross income of
57 restaurants derived from the sale of food and beverages;

58 (iii) Gross proceeds of sales or gross income of
59 hotels and motels derived from the sale of hotel rooms and motel
60 rooms for lodging purposes;

61 (iv) Retail sales of food for human consumption
62 not purchased with food stamps issued by the United States
63 Department of Agriculture, or other federal agency, but which
64 would be exempt under Section 27-65-111(o) from the taxes imposed
65 by this chapter if the food items were purchased with food stamps;

66 (v) Gross income of businesses engaging or
67 continuing in the business of TV cable systems, subscription TV
68 services, and other similar activities, including, but not limited
69 to, cable Internet services;

70 (vi) Wholesale sales of food and drink for human
71 consumption sold to full service vending machine operators; and

72 (vii) Wholesale sales of light wine, light spirit
73 product, beer and alcoholic beverages.



74 (3) (a) Before any tax authorized under this section may be
75 imposed, the governing authorities of the municipality shall adopt
76 a resolution declaring its intention to levy the tax, setting
77 forth the amount of the tax to be imposed, the purposes for which
78 the revenue collected pursuant to the tax levy may be used and
79 expended, the date upon which the tax shall become effective, the
80 date upon which the tax shall be repealed, and calling for an
81 election to be held on the question. The date of the election
82 shall be set in the resolution. Notice of the election shall be
83 published once each week for at least three (3) consecutive weeks
84 in a newspaper published or having a general circulation in the
85 municipality, with the first publication of the notice to be made
86 not less than twenty-one (21) days before the date fixed in the
87 resolution for the election and the last publication to be made
88 not more than seven (7) days before the election. At the
89 election, all qualified electors of the municipality may vote.
90 The ballots used at the election shall have printed thereon a
91 brief description of the sales tax, the amount of the sales tax
92 levy, a description of the purposes for which the tax revenue may
93 be used and expended and the words "FOR THE LOCAL SALES TAX" and
94 "AGAINST THE LOCAL SALES TAX" and the voter shall vote by placing
95 a cross (X) or check mark (√) opposite his choice on the
96 proposition. When the results of the election have been canvassed
97 by the election commissioners of the municipality and certified by
98 them to the governing authorities, it shall be the duty of such



99 governing authorities to determine and adjudicate whether at least
100 three-fifths (3/5) of the qualified electors who voted in the
101 election voted in favor of the tax. If at least three-fifths
102 (3/5) of the qualified electors who voted in the election voted in
103 favor of the tax, the governing authorities shall adopt a
104 resolution declaring the levy and collection of the tax provided
105 in this section and shall set the first day of the second month
106 following the date of such adoption as the effective date of the
107 tax levy. A certified copy of this resolution, together with the
108 result of the election, shall be furnished to the Department of
109 Revenue not less than thirty (30) days before the effective date
110 of the levy.

111 (b) A municipality shall not hold more than two (2)
112 elections under this subsection.

113 (4) Except as otherwise provided in this section, the
114 revenue collected pursuant to the tax levy imposed under this
115 section may be expended to pay the cost of road and street repair,
116 reconstruction and resurfacing projects based on traffic patterns,
117 need and usage, and to pay the costs of water, sewer and drainage
118 projects in accordance with a master plan adopted by the * * *
119 commission established pursuant to subsection (7). For a
120 municipality that is levying a tax under this section on July 1,
121 2023, all revenue collected by the municipality after July 1,
122 2023, shall be used solely to pay the cost of repairs, upgrades
123 and improvements to the municipality's water system and related



124 infrastructure, regardless of whether such projects are part of
125 the commission's master plan on July 1, 2023.

126 (5) (a) The special sales tax authorized by this section
127 shall be collected by the Department of Revenue, shall be
128 accounted for separately from the amount of sales tax collected
129 for the state in the municipality and shall be paid to the
130 municipality. The Department of Revenue may retain one percent
131 (1%) of the proceeds of such tax for the purpose of defraying the
132 costs incurred by the department in the collection of the tax.
133 Payments to the municipality shall be made by the Department of
134 Revenue on or before the fifteenth day of the month following the
135 month in which the tax was collected. However, if a municipality
136 fails to comply with the audit, reporting and/or report filing
137 requirements of paragraph (b) of this subsection and does not
138 remedy such noncompliance within thirty (30) days after receiving
139 written notice of noncompliance, the Department of Revenue shall
140 withhold payments otherwise payable to the municipality under this
141 paragraph (a) until the department receives written notice that
142 the municipality has complied with such requirements.

143 (b) The proceeds of the special sales tax shall be
144 placed into a special municipal fund apart from the municipal
145 general fund and any other funds of the municipality, and shall be
146 expended by the municipality solely for the purposes authorized in
147 subsection (4) of this section. The records reflecting the
148 receipts and expenditures of the revenue from the special sales



149 tax shall be audited annually by an independent certified public
150 accountant. The accountant shall make a report of his findings to
151 the governing authorities of the municipality and file a copy of
152 his report with the Secretary of the Senate and the Clerk of the
153 House of Representatives. The audit shall be made and completed
154 as soon as practical after the close of the fiscal year of the
155 municipality, and expenses of the audit shall be paid from the
156 funds derived by the municipality pursuant to this section.

157 (c) All provisions of the Mississippi Sales Tax Law
158 applicable to filing of returns, discounts to the taxpayer,
159 remittances to the Department of Revenue, enforced collection,
160 rights of taxpayers, recovery of improper taxes, refunds of
161 overpaid taxes or other provisions of law providing for imposition
162 and collection of the state sales tax shall apply to the special
163 sales tax authorized by this section, except where there is a
164 conflict, in which case the provisions of this section shall
165 control. Any damages, penalties or interest collected for the
166 nonpayment of taxes imposed under this section, or for
167 noncompliance with the provisions of this section, shall be paid
168 to the municipality on the same basis and in the same manner as
169 the tax proceeds. Any overpayment of tax for any reason that has
170 been disbursed to a municipality or any payment of the tax to a
171 municipality in error may be adjusted by the Department of Revenue
172 on any subsequent payment to the municipality pursuant to the
173 provisions of the Mississippi Sales Tax Law. The Department of



174 Revenue may, from time to time, make such rules and regulations
175 not inconsistent with this section as may be deemed necessary to
176 carry out the provisions of this section, and such rules and
177 regulations shall have the full force and effect of law.

178 (6) If a municipality expands its corporate boundaries, the
179 governing authorities of the municipality may not impose the
180 special sales tax in the annexed area unless the tax is approved
181 at an election conducted, as far as is practicable, in the manner
182 provided in subsection (3) of this section, except that only
183 qualified electors in the annexed area may vote in the election.

184 (7) (a) Any municipality that levies the special sales tax
185 authorized under this section shall establish a commission as
186 provided for in this section. Except as otherwise provided in
187 this section, expenditures of revenue from the special sales tax
188 authorized by this section shall be in accordance with a master
189 plan adopted by the commission pursuant to this subsection.

190 (b) The commission shall be composed of ten (10) voting
191 members who shall be known as commissioners appointed as follows:

192 (i) Four (4) members representing the business
193 community in the municipality appointed by the local chamber of
194 commerce for initial terms of one (1), two (2), four (4) and five
195 (5) years respectively. The members appointed pursuant to this
196 paragraph shall be persons who represent businesses located within
197 the city limits of the municipality.



198 (ii) Three (3) members shall be appointed at large
199 by the mayor of the municipality, with the advice and consent of
200 the legislative body of the municipality, for initial terms of two
201 (2), three (3) and four (4) years respectively. All appointments
202 made by the mayor pursuant to this paragraph shall be residents of
203 the municipality.

204 (iii) One (1) member shall be appointed at large
205 by the Governor for an initial term of four (4) years. All
206 appointments made by the Governor pursuant to this paragraph shall
207 be residents of the municipality.

208 (iv) One (1) member shall be appointed at large by
209 the Lieutenant Governor for an initial term of four (4) years.
210 All appointments made by the Lieutenant Governor pursuant to this
211 paragraph shall be residents of the municipality.

212 (v) One (1) member shall be appointed at large by
213 the Speaker of the House of Representatives for a term of four (4)
214 years. All appointments made by the Speaker of the House of
215 Representatives pursuant to this paragraph shall be residents of
216 the municipality.

217 (c) The terms of all appointments made subsequent to
218 the initial appointment shall be made for five (5) years. Any
219 vacancy which may occur shall be filled in the same manner as the
220 original appointment and shall be made for the unexpired term.
221 Each member of the commission shall serve until his successor is
222 appointed and qualified.



223 (d) The mayor of the municipality shall designate a
224 chairman of the commission from among the membership of the
225 commission. The vice chairman and secretary shall be elected by
226 the commission from among the membership of the commission for a
227 term of two (2) years. The vice chairman and secretary may be
228 reelected, and the chairman may be reappointed.

229 (e) The commissioners shall serve without compensation.

230 (f) Any commissioner shall be disqualified and shall be
231 removed from office for either of the following reasons:

232 (i) Conviction of a felony in any state court or
233 in federal court; or

234 (ii) Failure to attend three (3) consecutive
235 meetings without just cause.

236 If a commissioner is removed for any of the above reasons,
237 the vacancy shall be filled in the manner prescribed in this
238 section and shall be made for the unexpired term.

239 (g) A quorum shall consist of six (6) voting members of
240 the commission. The commission shall adopt such rules and
241 regulations as may govern the time and place for holding meetings,
242 regular and special.

243 (h) The commission shall, with input from the
244 municipality, establish a master plan for road and street repair,
245 reconstruction and resurfacing projects based on traffic patterns,
246 need and usage, and for water, sewer and drainage projects.

247 Except as otherwise provided in this section, expenditures of the



248 revenue from the tax authorized to be imposed pursuant to this
249 section shall be made at the discretion of the governing
250 authorities of the municipality if the expenditures comply with
251 the master plan. The commission shall monitor the compliance of
252 the municipality with the master plan.

253 (8) (a) Subject to the provisions of this section, the
254 governing authorities of any municipality that levies the special
255 sales tax authorized under this section are authorized to incur
256 debt, including bonds, notes or other evidences of indebtedness,
257 for the purpose of paying the costs of road and street repair,
258 reconstruction and resurfacing projects based on traffic patterns,
259 need and usage, and to pay the costs of water, sewer and drainage
260 projects in accordance with a master plan adopted by the
261 commission established pursuant to subsection (7) of this section.
262 Subject to the provisions of this section, any bonds or notes
263 issued to pay such costs may be secured by the proceeds of the
264 special sales tax levied pursuant to this section or may be
265 general obligations of the municipality and shall satisfy the
266 requirements for the issuance of debt provided by Sections
267 21-33-313 through 21-33-323.

268 (b) The governing authorities of any municipality that
269 is levying the special sales tax authorized under this section on
270 July 1, 2023, are authorized to incur debt, including bonds, notes
271 or other evidences of indebtedness, for the purpose of paying the
272 costs of repairs, upgrades and improvements to the municipality's



273 water system and related infrastructure, regardless of whether
274 such projects are part of the commission's master plan on July 1,
275 2023. Any bonds or notes issued to pay such costs may be secured
276 by the proceeds of the special sales tax levied pursuant to this
277 section or may be general obligations of the municipality and
278 shall satisfy the requirements for the issuance of debt provided
279 by Sections 21-33-313 through 21-33-323.

280 (9) This section shall stand repealed from and after July 1,
281 2035.

282 **SECTION 2.** This act shall take effect and be in force from
283 and after July 1, 2023.

