

By: Representative Lamar

To: Ways and Means

HOUSE BILL NO. 1168  
(As Sent to Governor)

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 IF A MUNICIPALITY LEVYING  
4 A TAX UNDER THIS SECTION FAILS TO COMPLY WITH CERTAIN AUDIT OR  
5 REPORTING REQUIREMENTS AND DOES NOT REMEDY THE NONCOMPLIANCE  
6 WITHIN THIRTY DAYS AFTER RECEIVING WRITTEN NOTICE OF  
7 NONCOMPLIANCE, THE DEPARTMENT OF REVENUE SHALL WITHHOLD PAYMENTS  
8 OTHERWISE PAYABLE TO THE MUNICIPALITY UNDER THIS SECTION UNTIL THE  
9 DEPARTMENT RECEIVES WRITTEN NOTICE THAT THE MUNICIPALITY HAS  
10 COMPLIED WITH SUCH REQUIREMENTS; TO PROVIDE A MONTHLY REPORTING  
11 REQUIREMENT TO THE MEMBERS OF THE COMMISSION; TO REQUIRE CERTAIN  
12 EXPENDITURES FROM THE SPECIAL MUNICIPAL FUND TO BE REIMBURSED TO  
13 SUCH FUND; AND FOR RELATED PURPOSES.

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

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

17 27-65-241. (1) As used in this section, the following terms  
18 shall have the meanings ascribed to them in this section unless  
19 otherwise clearly indicated by the context in which they are used:

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



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

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

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

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



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

51                   (i) Sales exempted by Sections 27-65-19,  
52 27-65-101, 27-65-103, 27-65-105, 27-65-107, 27-65-109 and  
53 27-65-111 of the Mississippi Sales Tax Law;

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

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

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

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

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

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



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



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

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

111 (4) The revenue collected pursuant to the tax levy imposed  
112 under this section may be expended to pay the cost of road and  
113 street repair, reconstruction and resurfacing projects based on  
114 traffic patterns, need and usage, and to pay the costs of water,  
115 sewer and drainage projects in accordance with a master plan  
116 adopted by the \* \* \* commission established pursuant to subsection  
117 (7).

118 (5) (a) The special sales tax authorized by this section  
119 shall be collected by the Department of Revenue, shall be  
120 accounted for separately from the amount of sales tax collected  
121 for the state in the municipality and shall be paid to the



122 municipality. The Department of Revenue may retain one percent  
123 (1%) of the proceeds of such tax for the purpose of defraying the  
124 costs incurred by the department in the collection of the tax.  
125 Payments to the municipality shall be made by the Department of  
126 Revenue on or before the fifteenth day of the month following the  
127 month in which the tax was collected. However, if a municipality  
128 fails to comply with the audit, reporting and/or report filing  
129 requirements of paragraph (b) of this subsection and does not  
130 remedy such noncompliance within thirty (30) days after receiving  
131 written notice of noncompliance, the Department of Revenue shall  
132 withhold payments otherwise payable to the municipality under this  
133 paragraph (a) until the department receives written notice that  
134 the municipality has complied with such requirements.

135 (b) The proceeds of the special sales tax shall be  
136 placed into a special municipal fund apart from the municipal  
137 general fund and any other funds of the municipality, and shall be  
138 expended by the municipality solely for the purposes authorized in  
139 subsection (4) of this section. The records reflecting the  
140 receipts and expenditures of the revenue from the special sales  
141 tax shall be provided in detail to the members of the commission  
142 monthly, to include the name of the vendor and the project, and  
143 the dates and amounts received and paid, and shall also be audited  
144 annually by an independent certified public accountant. The  
145 accountant shall make a report of his findings to the governing  
146 authorities of the municipality and file a copy of his report with



147 the Secretary of the Senate and the Clerk of the House of  
148 Representatives and the commission members. The audit shall be  
149 made and completed as soon as practical after the close of the  
150 fiscal year of the municipality, and expenses of the audit shall  
151 be paid from the funds derived by the municipality pursuant to  
152 this section.

153 (c) Any expenditure from the special municipal fund  
154 defined in paragraph (b) above that was not for a project approved  
155 by the commission, or was in excess of the amount approved by the  
156 commission, shall be reimbursed by the city to the special fund.

157 ( \* \* \*d) All provisions of the Mississippi Sales Tax  
158 Law 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. Expenditures of revenue from the  
187 special sales tax authorized by this section shall be in  
188 accordance with a master plan adopted by the commission pursuant  
189 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  
221 term. \* \* \*

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

228 (e) The commissioners shall serve without compensation.

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

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

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

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

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

242 (h) The commission shall, with input from the  
243 municipality, establish a master plan for road and street repair,  
244 reconstruction and resurfacing projects based on traffic patterns,



245 need and usage, and for water, sewer and drainage projects.  
246 Expenditures of the revenue from the tax authorized to be imposed  
247 pursuant to this section shall be made at the discretion of the  
248 governing authorities of the municipality if the expenditures  
249 comply with the master plan. The commission shall monitor the  
250 compliance of the municipality with the master plan.

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

264 (9) This section shall stand repealed from and after July 1,  
265 2035.

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

