

By: Representative Robinson (63rd)

To: Ways and Means

HOUSE BILL NO. 1536

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 WHOSE 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 by this section shall apply to every person making sales, delivery  
 29 or installations of tangible personal property or services within  
 30 any municipality which has adopted the levy herein authorized but  
 31 shall not apply to sales exempted by Sections 27-65-19, 27-65-101,  
 32 27-65-103, 27-65-105, 27-65-107, 27-65-109 and 27-65-111 of the  
 33 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 hereunder, or for noncompliance with the provisions of  
94 Sections 1 through 3 of this act, shall be paid to the  
95 municipality in which such damages were collected on the same  
96 basis and in the same manner as the tax proceeds. Any overpayment  
97 of tax for any reason that has been disbursed to any municipality  
98 or any payment of the tax to any municipality in error may be

99 adjusted by the State Tax Commission on any subsequent payment to  
100 the municipality involved pursuant to the provisions of the  
101 Mississippi Sales Tax Law. The State Tax Commission may, from  
102 time to time, make such rules and regulations not inconsistent  
103 with Sections 1 through 3 of this act as may be deemed necessary  
104 to carry out its provisions, and such rules and regulations shall  
105 have the full force and effect of law.

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

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

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

128 21-33-303. No municipality shall hereafter issue bonds  
129 secured by a pledge of its full faith and credit for the purposes  
130 authorized by law in an amount which, when added to the then  
131 outstanding bonded indebtedness of such municipality, shall exceed

132 either (a) fifteen percent (15%) of the assessed value of the  
133 taxable property within such municipality, according to the last  
134 completed assessment for taxation, or (b) ten percent (10%) of the  
135 assessment upon which taxes were levied for its fiscal year ending  
136 September 30, 1984, whichever is greater. In computing such  
137 indebtedness, there may be deducted all bonds or other evidences  
138 of indebtedness, heretofore or hereafter issued, for school,  
139 water, sewerage systems, gas, and light and power purposes and for  
140 the construction of special improvements primarily chargeable to  
141 the property benefited, or for the purpose of paying the  
142 municipality's proportion of any betterment program, a portion of  
143 which is primarily chargeable to the property benefited. However,  
144 in no case shall any municipality contract any indebtedness which,  
145 when added to all of the outstanding general obligation  
146 indebtedness, both bonded and floating, shall exceed either (a)  
147 twenty percent (20%) of the assessed value of all taxable property  
148 within such municipality according to the last completed  
149 assessment for taxation or (b) fifteen percent (15%) of the  
150 assessment upon which taxes were levied for its fiscal year ending  
151 September 30, 1984, whichever is greater. Nothing herein  
152 contained shall be construed to apply to contract obligations in  
153 any form heretofore or hereafter incurred by any municipality  
154 which are subject to annual appropriations therefor, or to bonds  
155 heretofore issued by any municipality for school purposes, or to  
156 contract obligations in any form heretofore or hereafter incurred  
157 by any municipality which are payable exclusively from the  
158 revenues of any municipally-owned utility, or to bonds issued by  
159 any municipality under the provisions of Sections 57-1-1 through  
160 57-1-51, or to any special assessment improvement bonds issued by  
161 any municipality under the provisions of Sections 21-41-1 through  
162 21-41-53, or to any indebtedness incurred pursuant to Section 4 of  
163 House Bill No. \_\_\_\_\_, 2001 Regular Session.

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

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

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