RESOLUTION 004-2012

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GAUTIER, MISSISSIPPI, REQUESTING THAT THE LEGISLATURE APPROVE A LOCAL AND PRIVATE BILL TO AUTHORIZE THE GOVERNING AUTHORITIES TO LEVY A TAX ON THE GROSS RECEIPTS OF RESTAURANTS AND BARS AND RELATED PURPOSES.

WHEREAS the governing authorities of the City of Gautier are interested in improving recreation, economic development and the promotion of tourism with the City of Gautier; and

WHEREAS there is a need for additional funds to achieve these goals; and

WHEREAS a tax on the receipts of restaurants and bars and related purposes would provide funds at minimal costs to citizens of the City;

NOW THEREFORE IT IS HEREBY RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GAUTIER, MISSISSIPPI, that the Legislature is urged to adopt a bill to achieve the purposes set forth above.

IT IS FURTHER RESOLVED that the City Clerk is directed to send a certified copy of this Resolution to the Speaker of the House, the Lieutenant Governor, and all members of the state Senate and House of Representatives who represent the City of Gautier.

The above and foregoing Resolution having previously been reduced to writing a motion was made by Councilmember and a second by Councilmember to approve and adopt the Resolution and no request having been made by the Mayor or any member of the Council that said Resolution be read by the City Clerk before a vote was taken Said Resolution was adopted by the Mayor and Council with results as follows:

Mayor Tommy Fortenberry

Councilmember Johnny Jones

Councilmember Hurley Ray Guillotte

Councilmember Gordon Gollott

Councilmember Scott Macfarland

Councilmember Adam Colledge

Councilwoman at Large Mary Martin

The motion having received the affirmative vote of members of the City Council and Mayor declared the motion so carried and this Resolution adopted on this 6th day of March, 2012.

CITYOF GAUTIER MISSISSIPPI

BY:

Tommy Fortenberry

Tommy Fortenberry MAYOR

ATTEST:

Wendy McClain

Wendy McClain CITYCLERK

SENATE BILL NO. ___

AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF THE CITY OF GAUTIER, MISSISSIPPI, TO LEVY A TAX UPON THE SALE OF PREPARED FOOD AND BEVERAGES IN RESTAURANTS AND BARS WHERE PREPARED FOOD IS SOLD TO THE PUBLIC AND UPON THE GROSS PROCEEDS OF SALES FROM HOTEL AND MOTEL ROOM RENTALS IN THE CITY; TO PROVIDE THAT THE PROCEEDS OF SUCH TAX SHALL BE USED FOR IMPROVING PARKS AND RECREATION FOR TOURISM AND ECONOMIC DEVELOPMENT IN THE CITY; TO REQUIRE THE TAX, BEFORE ITS IMPOSITION, TO BE APPROVED BY SIXTY PERCENT OF QUALIFIED ELECTORS VOTING IN A REFERENDUM ON THE QUESTION OF LEVYING THE TAX; TO PROVIDE THAT THE TAX SHALL BE COLLECTED BY THE STATE TAX COMMISSION AND PAID TO THE CITY OF GAUTIER' AND FOR RELATED PURPOSES.

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

SECTION 1. As used in this act, the following terms have the meanings ascribed to them in this section unless the context clearly indicates otherwise:

(a) Bar means any bar, tavern or lounge where alcoholic beverages are sold for consumption on the premises.

(b) "City" means the City of Gautier, Mississippi.

(c) "Governing authorities" means the governing authorities of the City of Gautier, Mississippi.

(d) "Prepared foods" means food prepared on the premises of a restaurant or bar.

(e) "Restaurant" means all places within the corporate limits of the city where prepared food and beverages are sold for consumption, whether such food is consumed on the premises or not. The term "restaurant" does not include any: school; hospital; convalescent or nursing home; restaurant-like facility operated in connection with a school, hospital, medical clinic, convalescent or nursing home providing food for students, patients, visitors or their families; or convenience store or service station where the sale of prepared food constitutes less than fifty percent (50%) of the gross sales.

(f) "Hotel" or "motel" means any establishment engaged in the business of furnishing or providing rooms intended or designed for dwelling, lodging or sleeping purposes to transient guests, which establishment consists of six (6) or more guest rooms, and does not encompass any hospital, convalescent or nursing home or sanitarium, or any hotel-like facility operated by or in connection with a hospital or medical clinic providing rooms exclusively for patients and their families.

SECTION 2. (l) For the purpose of providing funds to improve parks and recreation facilities for the purpose of tourism and economic development within the city, the governing authorities of the Gautier, Mississippi, in their discretion, may levy, assess and collect from persons, firms or corporations specified herein, a tax, which shall be in addition to all of the taxes and assessments imposed. The tax shall be imposed on the following:

(a) A tax upon every person, firm or corporation operating a restaurant or such other business in the City of Gautier, Mississippi, where prepared food and drink is sold to the public, at a rate not to exceed one percent (1%) of the gross proceeds of the sales of such restaurant or business.

(b) A tax upon every person, firm or corporation operating a hotel or motel in the City of Gautier, Mississippi, at a rate not to exceed one percent (1%) of the gross proceeds of sales from room rentals for each such hotel or motel.

(2) Persons, firms, or corporations liable for the tax under this section shall add the amount of the tax to the sales price and, in addition thereto shall collect, insofar as is practicable, the amount of the tax due by them from the person receiving the services or product at the time of payment therefor.

(3) Such 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 tax is 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 act.

(4) The proceeds of such tax shall not be considered by the City of Gautier as general fund revenues but shall be dedicated to and expended solely for the purposes specified in this section.

SECTION 3. Before the tax authorized by this act may be imposed, the governing authorities shall adopt a resolution declaring their intention to levy the tax, setting forth the amount of such tax and establishing the date on which this tax initially shall be levied and collected. Notice of the proposed tax levy shall be published once each week for at least three (3) consecutive weeks in a newspaper having a general circulation in the City of Gautier. The first publication of the notice shall be made not less than twenty-one (21) days before the date fixed in the resolution on which the governing authorities propose to levy the tax, and the last publication of the notice shall be made not more than seven (7) days before that date. If, within the time of giving notice, twenty percent (20%) or fifteen hundred (1,500) whichever is less, of the qualified electors of the City of Gautier, Mississippi file a written petition against the levy of such tax, then the tax shall not be levied unless authorized by a majority of the qualified electors of the City of Gautier, voting at an election to be called and held for that purpose. At least thirty (30) days before the effective date of the tax provided in this section, the governing authorities shall furnish to the State Tax Commission a certified copy of the resolution evidencing such tax.

SECTION 4. (1) Accounting for receipts and expenditures of the funds herein described shall be made separately from the accounting of receipts and expenditures of the general fund and any other funds of the City of Gautier, Mississippi. The records reflecting the receipts and expenditures of the funds prescribed herein shall be audited annually by an independent certified public accountant, and the accountant shall make a written report of his audit to the governing authorities. The audit shall be made and completed as soon as practicable after the close of the fiscal year, and expenses of such audit shall be

72 paid from the funds derived pursuant to this act.

73 (2) Except for any amount retained by the State Tax Commission under Section 27-3-58,
74 Mississippi Code of 1972, the revenue from the special tax collected under this act must be paid to the
75 city on or before the fifteenth day of the month following the month in which collected.

76 (3) The proceeds of the tax may not be considered by the city as general fund revenues but must
77 be placed into a special fund apart from the city general fund and any other funds and expended by the
78 city strictly for the purposes prescribed under Section 2 of this act.

79 SECTION 5. The governing authorities of the City of Gautier, Mississippi shall submit this act,
80 immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to
81 the Attorney General of the United States or to the United States District Court for the District of
82 Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

83 SECTION 6. This act shall take effect and be in force from and after the date it is effectuated
84 under Section 5 of the Voting Rights Act of 1965, as amended and extended.