

By: Representative Montgomery

To: Local and Private  
Legislation; Ways and Means

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1851

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF THE CITY OF  
2 PONTOTOC TO LEVY A TAX UPON THE GROSS SALES OF HOTELS, MOTELS AND  
3 RESTAURANTS IN AN AMOUNT NOT TO EXCEED TWO PERCENT OF GROSS SALES  
4 FOR THE PURPOSE OF PROVIDING FUNDS TO PROMOTE TOURISM AND TO  
5 ENCOURAGE RETIRED PERSONS TO REMAIN IN OR RELOCATE TO THE PONTOTOC  
6 AREA; TO REQUIRE A REFERENDUM ON WHETHER THE TAX MAY BE LEVIED; TO  
7 REQUIRE THAT A MAJORITY OF THE QUALIFIED ELECTORS OF THE CITY MUST  
8 APPROVE THE TAX LEVY; TO PROVIDE THAT SUCH TAX BE COLLECTED BY THE  
9 STATE TAX COMMISSION AND PAID TO THE CITY OF PONTOTOC,  
10 MISSISSIPPI; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** As used in this act, the following terms shall  
13 have the following meanings unless a different meaning is clearly  
14 indicated by the context in which they are used:

15 (a) "Governing authorities" means the governing  
16 authorities of the City of Pontotoc, Mississippi.

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

25 (c) "Restaurant" means all places where prepared food  
26 and beverages are sold for consumption, whether such food is  
27 consumed on the premises or not. "Restaurant" as defined herein  
28 does not include any school, hospital, convalescent or nursing  
29 home, or any restaurant-like facility operated by or in connection  
30 with a school, hospital, medical clinic, convalescent or nursing

31 home providing food for students, patients, visitors and their  
32 families.

33         **SECTION 2.** (1) For the purpose of providing funds to  
34 promote tourism and to encourage retired persons to remain in or  
35 relocate to the Pontotoc area, the governing authorities of the  
36 City of Pontotoc, Mississippi, are authorized, in their  
37 discretion, to levy and collect from the persons hereinafter  
38 specified a tax, which shall be in addition to all of the taxes  
39 and assessments imposed. The tax shall be imposed on the  
40 following persons:

41             (a) A tax upon every person, firm or corporation  
42 operating a motel or hotel in the City of Pontotoc, Mississippi,  
43 at a rate not to exceed two percent (2%) of the gross proceeds of  
44 room rentals for each such hotel or motel.

45             (b) A tax upon every person, firm or corporation  
46 operating a restaurant or such other business, where prepared food  
47 or drink is sold to the public in the City of Pontotoc,  
48 Mississippi, at a rate not to exceed two percent (2%) of the gross  
49 proceeds of the sales of such restaurant or business.

50         (2) Persons, firms or corporations liable for the levy  
51 imposed under subsection (1) of this section shall add the amount  
52 of the levy to the sales price of the rooms and products set out  
53 herein and shall collect, insofar as is practicable, the amount of  
54 the tax due by them from the person receiving the services or  
55 product at the time of payment therefor.

56         (3) Such tax shall be collected by and paid to the  
57 Mississippi State Tax Commission on a form prescribed by the State  
58 Tax Commission in the manner that state sales taxes are computed,  
59 collected and paid; and full enforcement provisions and all other  
60 provisions of Chapter 65, Title 27, Mississippi Code of 1972,  
61 shall apply as necessary to the implementation and administration  
62 of this act.

63           (4) The proceeds of such tax, less three percent (3%)  
64 thereof which shall be retained by the State Tax Commission to  
65 defray the cost of collection, shall be paid to the governing  
66 authorities of the City of Pontotoc, Mississippi, on or before the  
67 fifteenth day of the month following the month in which collected.

68           (5) The proceeds of such tax shall not be considered by  
69 the City of Pontotoc as general fund revenues but shall be  
70 dedicated to and expended solely for the purposes specified in  
71 this section.

72           **SECTION 3.** Before any tax authorized under this act may be  
73 imposed, the governing authorities of the City of Pontotoc shall  
74 adopt a resolution declaring its intention to levy the taxes,  
75 setting forth the amount of the tax to be imposed, the date upon  
76 which the tax shall become effective and calling for a referendum  
77 to be held on the question. The date of the referendum shall be  
78 set in the resolution. Notice of the intention shall be published  
79 once each week for at least three (3) consecutive weeks in a  
80 newspaper published or having a general circulation in the county,  
81 with the first publication of such notice to be made not less than  
82 twenty-one (21) days before the date fixed in the resolution for  
83 the referendum and the last publication to be made not more than  
84 seven (7) days before the referendum. At the referendum, all  
85 qualified electors of the City of Pontotoc may vote, and the  
86 ballots used in such referendum shall have printed thereon a brief  
87 statement of the amount and purposes of the proposed tax levy and  
88 the words "FOR THE TAX" and, on a separate line, "AGAINST THE  
89 TAX", and the voters shall vote by placing a cross (X) or check  
90 (✓) opposite their choice on the proposition. When the results of  
91 the referendum shall have been canvassed by the election  
92 commission and certified, the city may levy the taxes beginning on  
93 the first day of the second month following the referendum, only  
94 if at least a majority of the qualified electors who vote in the  
95 election vote in favor of the tax. In the event that a majority

96 of the qualified electors who vote at the referendum vote for the  
97 tax, the governing authorities shall furnish to the State Tax  
98 Commission a certified copy of the resolution evidencing the tax,  
99 no less than thirty (30) days before the effective date of the  
100 tax.

101       **SECTION 4.** Accounting for receipts and expenditures of the  
102 funds herein described shall be made separately from the  
103 accounting of receipts and expenditures of the general fund and  
104 any other funds of the City of Pontotoc, Mississippi. The records  
105 reflecting the receipts and expenditures of the funds prescribed  
106 herein shall be audited annually by an independent certified  
107 public accountant, and the accountant shall make a written report  
108 of his audit to the governing authorities. The audit shall be  
109 made and completed as soon as practicable after the close of the  
110 fiscal year, and expenses of such audit shall be paid from the  
111 funds derived in accordance with this act.

112       **SECTION 5.** The provisions of this act shall be repealed from  
113 and after June 1, 2007.

114       **SECTION 6.** The governing authorities of the City of Pontotoc  
115 are directed to submit this act, immediately upon approval by the  
116 Governor, or upon approval by the Legislature subsequent to a  
117 veto, to the Attorney General of the United States or to the  
118 United States District Court for the District of Columbia in  
119 accordance with the provisions of the Voting Rights Act of 1965,  
120 as amended and extended.

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