

By: Senator(s) King, Morgan, Harvey, Lee
(47th), Cuevas, Dearing

To: Local and Private;
Finance

SENATE BILL NO. 2439
(As Sent to Governor)

1 AN ACT TO AUTHORIZE THE CITY OF HATTIESBURG, MISSISSIPPI, TO
2 INCUR INDEBTEDNESS IN THE AMOUNT OF \$12,000,000.00; TO PROVIDE
3 THAT THE PROCEEDS OF SUCH INDEBTEDNESS SHALL BE PAID TO THE
4 UNIVERSITY OF SOUTHERN MISSISSIPPI EDUCATIONAL BUILDING FOUNDATION
5 FOR THE PURPOSE OF FUNDING CAPITAL IMPROVEMENTS TO FACILITIES ON
6 THE HATTIESBURG CAMPUS OF THE UNIVERSITY OF SOUTHERN MISSISSIPPI;
7 TO REQUIRE THE CITY OF HATTIESBURG TO IMPOSE A TAX ON THE GROSS
8 PROCEEDS OF SALES OF RESTAURANTS, ON-PREMISES ALCOHOLIC BEVERAGE
9 RETAILER PERMITTEES AND ALCOHOLIC BEVERAGE PACKAGE RETAILER
10 PERMITTEES, AND A TAX ON EACH HOTEL AND MOTEL OVERNIGHT RENTAL IN
11 THE CITY PRIOR TO INCURRING ANY INDEBTEDNESS UNDER THIS ACT; TO
12 REQUIRE THE REVENUE COLLECTED FROM SUCH TAX TO BE UTILIZED TO PAY
13 ANY INDEBTEDNESS INCURRED UNDER THIS ACT OR TO PAY ANY OBLIGATIONS
14 INCURRED BY THE UNIVERSITY OF SOUTHERN MISSISSIPPI EDUCATIONAL
15 BUILDING CORPORATION IN CONSTRUCTING SUCH CAPITAL IMPROVEMENTS;
16 AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** As used in this act:

19 (a) "City" means the City of Hattiesburg, Mississippi.

20 (b) "Governing body" means the Mayor and City Council
21 of the City of Hattiesburg, Mississippi.

22 (c) "Educational Building Corporation" means the
23 University of Southern Mississippi Educational Building
24 Corporation, a public nonprofit corporation formed pursuant to
25 Section 37-101-61, Mississippi Code of 1972.

26 (d) "Hotel" or "motel" means and includes any
27 establishment engaged in the business of furnishing or providing
28 rooms intended or designed for dwelling, lodging or sleeping
29 purposes to transient guest, but does not encompass any hospital,
30 convalescent or nursing home or sanitarium, or any hotel-like
31 facility operated by or in connection with a hospital or medical
32 clinic providing rooms exclusively for patients and their
33 families.

34 (e) "Projects" means capital improvements to facilities
35 on the Hattiesburg campus of the University of Southern
36 Mississippi.

37 (f) "Restaurant" means and includes all places where
38 prepared food and beverages are sold for consumption, whether such
39 food is consumed on the premises or not. "Restaurant" as defined
40 herein does not include any school, hospital, convalescent or
41 nursing home, or any restaurant-like facility operated by or in
42 connection with a school, hospital, medical clinic, convalescent
43 or nursing home providing food for students, patients, visitors
44 and their families, or any restaurant having annual gross sales of
45 less than One Hundred Thousand Dollars (\$100,000.00).

46 **SECTION 2.** It is hereby determined and declared to be in the
47 best interest of the people of the city and the surrounding area
48 to improve facilities on the Hattiesburg campus of the University
49 of Southern Mississippi.

50 **SECTION 3.** The governing body is hereby authorized to incur
51 indebtedness of the city in the aggregate principal amount not to
52 exceed Twelve Million Dollars (\$12,000,000.00) for the purpose of
53 funding projects; however, before any indebtedness may be incurred
54 pursuant to this act, the governing body shall impose the taxes
55 authorized under Section 4 of this act. The indebtedness shall
56 not be considered when computing any limitation of indebtedness of
57 the city established by law. The proceeds of any indebtedness
58 incurred by the city shall be paid by the city to the Educational
59 Building Corporation to pay the cost of projects. The city may
60 utilize the proceeds of the special taxes levied pursuant to
61 Section 4 of this act to pay obligations incurred by the
62 Educational Building Corporation for projects without incurring
63 debt; however, the amount of any proceeds so utilized shall be
64 deducted from the aggregate principal indebtedness authorized to
65 be incurred under this section. In no event may the total of the
66 aggregate amount of debt incurred by the city and the amount of

67 the proceeds utilized by the city without incurring debt exceed
68 Twelve Million Dollars (\$12,000,000.00).

69 **SECTION 4.** (1) For the purpose of providing funds to retire
70 any indebtedness incurred by the city under this act or for the
71 purpose of paying obligations incurred by the Educational Building
72 Corporation for projects, there is hereby levied, assessed and
73 shall be collected from every person engaging in or doing business
74 in the city, as specified herein, the following taxes which shall
75 be in addition to all other taxes now imposed:

76 (a) A tax which shall be in an amount not to exceed one
77 percent (1%) of the gross income of:

78 (i) Restaurants;

79 (ii) On-premises alcoholic beverage retailer
80 permittees; and

81 (iii) Alcoholic beverage package retailer
82 permittees.

83 (b) A tax which shall be in the amount of one percent
84 (1%) of the gross proceeds from room rentals of hotels and motels,
85 excluding charges for food, telephone, laundry, beverages and
86 similar charges.

87 (2) (a) Before any tax authorized under this act may be
88 imposed, the governing authorities shall adopt a resolution
89 declaring their intention to levy the taxes, setting forth the
90 amount of such tax to be imposed, the date upon which such taxes
91 shall become effective and calling for a referendum to be held on
92 the question. The referendum shall be held on the first Tuesday
93 after the first Monday in November 2004. Notice of such intention
94 shall be published once each week for at least three (3)
95 consecutive weeks in a newspaper published or having a general
96 circulation in the county, with the first publication of such
97 notice to be made not less than twenty-one (21) days before the
98 date fixed in the resolution for the referendum and the last
99 publication to be made not more than seven (7) days before the

100 referendum. At the referendum, all qualified electors of the city
101 may vote, and the ballots used in the referendum shall have
102 printed thereon a brief statement of the amount and purposes of
103 the proposed tax levy and the words "FOR THE TAX TO FUND CAPITAL
104 IMPROVEMENTS ON HATTIESBURG CAMPUS OF UNIVERSITY OF SOUTHERN
105 MISSISSIPPI" and, on a separate line, "AGAINST THE TAX TO FUND
106 CAPITAL IMPROVEMENTS ON HATTIESBURG CAMPUS OF UNIVERSITY OF
107 SOUTHERN MISSISSIPPI", and the voters shall vote by placing a
108 cross (X) or check (✓) opposite their choice on the proposition.
109 When the results of any such referendum shall have been canvassed
110 by the election commission and certified, the city may levy the
111 taxes beginning on the first day of the second month following the
112 referendum, only if at least sixty percent (60%) of the qualified
113 electors who vote in the election vote in favor of the tax. No
114 public funds shall be used for the purpose of promoting the
115 adoption of the referendum, and no city employees other than an
116 elected city official shall promote the referendum during business
117 hours. At least thirty (30) days before the effective date of the
118 taxes, the governing authorities shall furnish to the State Tax
119 Commission a certified copy of the resolution evidencing the
120 taxes.

121 (b) If a referendum has been held under the provisions
122 of paragraph (b) of this subsection (2), and the authority of the
123 city to impose taxes for capital improvements on the Hattiesburg
124 campus of the University of Southern Mississippi has been denied
125 by the electors of the city, a subsequent referendum on the issue
126 may be held on the first Tuesday after the first Monday in
127 November 2006. If a second referendum is held, and the authority
128 to impose the convention center taxes has been denied again by the
129 electors of the city, no further referendum may be held.

130 **SECTION 5.** (1) On or before the fifteenth day prior to the
131 imposition of the special tax authorized in Section 4 of this act,
132 the governing body shall give written notification to the Chairman

133 of the State Tax Commission of the date on which the special tax
134 will become effective.

135 (2) Such tax shall be collected in the same manner as the
136 state sales tax imposed by Title 27, Chapter 65, Mississippi Code
137 of 1972, and shall be accounted for separately from the amount of
138 sales tax collected for the state in the city. All provisions of
139 the State Sales Tax Law applicable to filing of such returns,
140 discounts to the taxpayer, remittances to the State Tax Commission
141 and retainage thereby of sums to defray the costs of collection,
142 collection enforcement, rights of taxpayers, recovery of improper
143 taxes, refunds of overpaid taxes or other provisions of said
144 chapter providing for imposition and collection of the sales tax
145 shall apply to the tax authorized by this act.

146 (3) Except as otherwise provided in Section 27-3-58, the
147 revenue from the special tax collected under the provisions of
148 this section during the preceding month shall be paid to the city
149 on or before the fifteenth day of each month.

150 (4) The proceeds of such taxes shall be placed into a
151 separate fund apart from the municipal general fund and any other
152 funds of the city, and shall be expended by the city solely for
153 the purposes of paying any indebtedness or paying obligations
154 incurred by the Educational Building Corporation for projects.

155 (5) Persons liable for the taxes imposed herein shall add
156 the amount of tax to the sales price or gross income, and in
157 addition thereto shall collect, insofar as practicable, the amount
158 of the tax due by him from the person receiving the services or
159 goods at the time of payment therefor.

160 (6) The proceeds of the tax shall be used by the city only
161 to retire indebtedness incurred under this act or to pay
162 obligations incurred by the Educational Building Corporation for
163 projects.

164 (7) The special tax shall stand repealed on the first day of
165 the month immediately succeeding the date the indebtedness

166 incurred pursuant to this act, including interest, is retired, or
167 in the event the city incurs no indebtedness, the first day of the
168 month after the total amount of the revenue collected from the
169 special tax reaches Twelve Million Dollars (\$12,000,000.00).

170 **SECTION 6.** The provisions of this act shall be repealed in
171 the event that two (2) referenda on the question of imposing
172 convention center taxes have been denied by the electors of the
173 city. If this event occurs, the Clerk of the City of Hattiesburg
174 shall notify the Chairmen of the Local and Private Committees of
175 the House of Representatives and the Senate of the Mississippi
176 State Legislature.

177 **SECTION 7.** The governing body shall submit this act,
178 immediately upon approval by the Governor, or upon approval by the
179 Legislature subsequent to a veto, to the Attorney General of the
180 United States or to the United States District Court for the
181 District of Columbia in accordance with the provisions of the
182 Voting Rights Act of 1965, as amended and extended.

183 **SECTION 8.** This act shall take effect and be in force from
184 and after the date it is effectuated under Section 5 of the Voting
185 Rights Act of 1965, as amended and extended.