

By: Cummings

To: Ways and Means

HOUSE BILL NO. 1301  
(As Passed the House)

1 AN ACT TO PROVIDE AN INCENTIVE FOR PERSONS, CORPORATIONS OR  
2 OTHER ENTITIES THAT INCUR INDEBTEDNESS TO LOCATE CERTAIN  
3 FAMILY-ORIENTED ENTERPRISES IN THIS STATE; TO CREATE THE SALES TAX  
4 INCENTIVE FUND; TO AUTHORIZE INCENTIVE PAYMENTS FROM SUCH FUND TO  
5 PERSONS, CORPORATIONS OR OTHER ENTITIES THAT INCUR INDEBTEDNESS TO  
6 LOCATE CERTAIN FAMILY-ORIENTED ENTERPRISES IN THIS STATE; TO  
7 AUTHORIZE THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT TO  
8 DEVELOP A PROGRAM TO ADMINISTER THE INCENTIVE PAYMENT AUTHORIZED  
9 BY THIS ACT; TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,  
10 TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED  
11 PURPOSES.

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

13 SECTION 1. As used in Sections 1 and 2 of this act, the  
14 following terms and phrases shall have the meanings ascribed in  
15 this section unless the context clearly indicates otherwise:

16 (a) "Approved participant" means a person, corporation  
17 or other entity issued a certificate by the Mississippi Department  
18 of Economic and Community Development under Section 2 of this act.

19 (b) "Department" means the Mississippi Department of  
20 Economic and Community Development.

21 (c) "Project" means any family-oriented entertainment  
22 enterprise such as campgrounds, golf courses and theme parks, as  
23 designated by the Mississippi Department of Economic and Community  
24 Development, with an initial capital investment of not less than  
25 Ten Million Dollars (\$10,000,000.00). The term "project" also  
26 means any of the following if located on the project site or  
27 within one (1) mile of the project and owned by the owner of the  
28 family-oriented enterprise: (a) auditoriums, (b) dining  
29 facilities, (c) gift shops and (d) lodging facilities. The term  
30 "project" does not mean any business, corporation or entity having

31 a gaming license issued under Section 75-76-1 et seq., Mississippi  
32 Code of 1972, but may include a family-oriented entertainment  
33 enterprise owned by such a business, corporation or entity.

34 (d) "State" means the State of Mississippi.

35 SECTION 2. (1) The department shall develop, implement and  
36 administer the incentive program authorized in this section and  
37 shall promulgate rules and regulations necessary for the  
38 development, implementation and administration of such program.

39 (2) A person, corporation or other entity desiring to  
40 participate in the incentive payment program authorized in this  
41 section must submit an application to the department. Such  
42 application must contain (a) plans for the proposed project; (b) a  
43 detailed description of the proposed project; (c) the method of  
44 financing the proposed project and the terms of such financing;  
45 and (d) any other information required by the department. The  
46 executive director of the department shall review the application  
47 and determine whether it qualifies as a project. If the  
48 executive director determines the proposed project qualifies as a  
49 project, he shall issue a certificate to the person, corporation  
50 or other entity designating such person, corporation or other  
51 entity as an approved participant and authorizing the approved  
52 participant to participate in the incentive payment program  
53 provided for in this section.

54 (3) (a) There is created in the State Treasury a special  
55 fund to be known as the "Sales Tax Incentive Fund," into which  
56 shall be deposited such money as provided in Section 27-65-75(16).

57 The monies in the fund shall be used for the purpose of making  
58 the incentive payments authorized in this section. The fund shall  
59 be administered by the department, and monies in the fund shall be  
60 expended upon appropriation by the Legislature. Unexpended  
61 amounts remaining in the fund at the end of a fiscal year shall  
62 not lapse into the General Fund, and any interest earned on or  
63 investment earnings on the amounts in the fund shall be deposited  
64 to the credit of the fund.

65 (b) Incentive payments may be made to an approved  
66 participant that incurs indebtedness to locate a project in the  
67 state. The payments to an approved participant shall be for the

68 amount of sales tax revenue collected during the preceding month  
69 on the gross proceeds of sales of a project, after making the  
70 diversions required in Section 27-65-75. The amount of annual  
71 incentive payments made to an approved participant may not exceed  
72 the annual debt service on the indebtedness incurred by the  
73 approved participant for the project as approved by the  
74 department. The department shall make the calculations necessary  
75 to make the payments provided for in this section. The department  
76 shall cease making incentive payments to an approved participant  
77 on the occurrence of the earlier of (a) the date the original  
78 indebtedness incurred for the project or any refinancing of the  
79 original indebtedness is satisfied, (b) twenty-five (25) years  
80 from the date the original indebtedness for the project was  
81 incurred, without regard to any refinancing or additional  
82 financing for any addition to or expansion of the projector (c)  
83 the project ceases operations.

84 **[From and after July 1, 2002, this section reads as follows:]**

85 27-65-75. On or before the fifteenth day of each month, the  
86 revenue collected under the provisions of this chapter during the  
87 preceding month shall be paid and distributed as follows:

88 (1) On or before August 15, 1992, and each succeeding month  
89 thereafter through July 15, 1993, eighteen percent (18%) of the  
90 total sales tax revenue collected during the preceding month under  
91 the provisions of this chapter, except that collected under the  
92 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on  
93 business activities within a municipal corporation shall be  
94 allocated for distribution to such municipality and paid to such  
95 municipal corporation. On or before August 15, 1993, and each  
96 succeeding month thereafter, eighteen and one-half percent  
97 (18-1/2%) of the total sales tax revenue collected during the  
98 preceding month under the provisions of this chapter, except that  
99 collected under the provisions of Sections 27-65-15, 27-65-19(3)  
100 and 27-65-21, on business activities within a municipal

101 corporation shall be allocated for distribution to such  
102 municipality and paid to such municipal corporation.

103 A municipal corporation, for the purpose of distributing the  
104 tax under this subsection, shall mean and include all incorporated  
105 cities, towns and villages.

106 Monies allocated for distribution and credited to a municipal  
107 corporation under this subsection may be pledged as security for  
108 any loan received by the municipal corporation for the purpose of  
109 capital improvements as authorized under Section 57-1-303, or  
110 loans as authorized under Section 57-44-7, or water systems  
111 improvements as authorized under Section 41-3-16.

112 In any county having a county seat which is not an  
113 incorporated municipality, the distribution provided hereunder  
114 shall be made as though the county seat was an incorporated  
115 municipality; however, the distribution to such municipality shall  
116 be paid to the county treasury wherein the municipality is located  
117 and such funds shall be used for road, bridge and street  
118 construction or maintenance therein.

119 (2) On or before September 15, 1987, and each succeeding  
120 month thereafter, from the revenue collected under this chapter  
121 during the preceding month One Million One Hundred Twenty-five  
122 Thousand Dollars (\$1,125,000.00) shall be allocated for  
123 distribution to municipal corporations as defined under subsection  
124 (1) of this section in the proportion that the number of gallons  
125 of gasoline and diesel fuel sold by distributors to consumers and  
126 retailers in each such municipality during the preceding fiscal  
127 year bears to the total gallons of gasoline and diesel fuel sold  
128 by distributors to consumers and retailers in municipalities  
129 statewide during the preceding fiscal year. The State Tax  
130 Commission shall require all distributors of gasoline and diesel  
131 fuel to report to the commission monthly the total number of  
132 gallons of gasoline and diesel fuel sold by them to consumers and  
133 retailers in each municipality during the preceding month. The

134 State Tax Commission shall have the authority to promulgate such  
135 rules and regulations as is necessary to determine the number of  
136 gallons of gasoline and diesel fuel sold by distributors to  
137 consumers and retailers in each municipality. In determining the  
138 percentage allocation of funds under this subsection for the  
139 fiscal year beginning July 1, 1987, and ending June 30, 1988, the  
140 State Tax Commission may consider gallons of gasoline and diesel  
141 fuel sold for a period of less than one (1) fiscal year. For the  
142 purposes of this subsection, the term "fiscal year" means the  
143 fiscal year beginning July 1 of a year.

144 (3) On or before September 15, 1987, and on or before the  
145 fifteenth day of each succeeding month, until the date specified  
146 in Section 65-39-35, the proceeds derived from contractors' taxes  
147 levied under Section 27-65-21 on contracts for the construction or  
148 reconstruction of highways designated under the Four-Lane Highway  
149 Program created under Section 65-3-97 shall, except as otherwise  
150 provided in Section 31-17-127, be deposited into the State  
151 Treasury to the credit of the State Highway Fund to be used to  
152 fund such Four-Lane Highway Program. The Mississippi Department  
153 of Transportation shall provide to the State Tax Commission such  
154 information as is necessary to determine the amount of proceeds to  
155 be distributed under this subsection.

156 (4) On or before August 15, 1994, and on or before the  
157 fifteenth day of each succeeding month through July 15, 1999, from  
158 the proceeds of gasoline, diesel fuel or kerosene taxes as  
159 provided in Section 27-5-101(a)(ii)1, Four Million Dollars  
160 (\$4,000,000.00) shall be deposited in the State Treasury to the  
161 credit of a special fund designated as the "State Aid Road Fund,"  
162 created by Section 65-9-17. On or before August 15, 1999, and on  
163 or before the fifteenth day of each succeeding month, from the  
164 total amount of the proceeds of gasoline, diesel fuel or kerosene  
165 taxes apportioned by Section 27-5-101(a)(ii), Four Million Dollars  
166 (\$4,000,000.00) or an amount equal to twenty-three and one-fourth

167 percent (23.25%) of such funds, whichever is the greater amount,  
168 shall be deposited in the State Treasury to the credit of the  
169 "State Aid Road Fund," created by Section 65-9-17. Such funds  
170 shall be pledged to pay the principal of and interest on state aid  
171 road bonds heretofore issued under Sections 19-9-51 through  
172 19-9-77, in lieu of and in substitution for the funds heretofore  
173 allocated to counties under this section. Such funds may not be  
174 pledged for the payment of any state aid road bonds issued after  
175 April 1, 1981; however, this prohibition against the pledging of  
176 any such funds for the payment of bonds shall not apply to any  
177 bonds for which intent to issue such bonds has been published, for  
178 the first time, as provided by law prior to March 29, 1981. From  
179 the amount of taxes paid into the special fund pursuant to this  
180 subsection and subsection (9) of this section, there shall be  
181 first deducted and paid the amount necessary to pay the expenses  
182 of the Office of State Aid Road Construction, as authorized by the  
183 Legislature for all other general and special fund agencies. The  
184 remainder of the fund shall be allocated monthly to the several  
185 counties in accordance with the following formula:

186           (a) One-third (1/3) shall be allocated to all counties  
187 in equal shares;

188           (b) One-third (1/3) shall be allocated to counties  
189 based on the proportion that the total number of rural road miles  
190 in a county bears to the total number of rural road miles in all  
191 counties of the state; and

192           (c) One-third (1/3) shall be allocated to counties  
193 based on the proportion that the rural population of the county  
194 bears to the total rural population in all counties of the state,  
195 according to the latest federal decennial census.

196           For the purposes of this subsection, the term "gasoline,  
197 diesel fuel or kerosene taxes" means such taxes as defined in  
198 paragraph (f) of Section 27-5-101.

199           The amount of funds allocated to any county under this

200 subsection for any fiscal year after fiscal year 1994 shall not be  
201 less than the amount allocated to such county for fiscal year  
202 1994. Monies allocated to a county from the State Aid Road Fund  
203 for fiscal year 1995 or any fiscal year thereafter that exceed the  
204 amount of funds allocated to that county from the State Aid Road  
205 Fund for fiscal year 1994, first must be expended by the county  
206 for replacement or rehabilitation of bridges on the state aid road  
207 system that have a sufficiency rating of less than twenty-five  
208 (25), according to National Bridge Inspection standards before  
209 such monies may be approved for expenditure by the State Aid Road  
210 Engineer on other projects that qualify for the use of state aid  
211 road funds.

212 Any reference in the general laws of this state or the  
213 Mississippi Code of 1972 to Section 27-5-105 shall mean and be  
214 construed to refer and apply to subsection (4) of Section  
215 27-65-75.

216 (5) One Million Six Hundred Sixty-six Thousand Six Hundred  
217 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into  
218 the special fund known as the "State Public School Building Fund"  
219 created and existing under the provisions of Sections 37-47-1  
220 through 37-47-67. Such payments into said fund are to be made on  
221 the last day of each succeeding month hereafter.

222 (6) An amount each month beginning August 15, 1983, through  
223 November 15, 1986, as specified in Section 6 of Chapter 542, Laws  
224 of 1983, shall be paid into the special fund known as the  
225 Correctional Facilities Construction Fund created in Section 6 of  
226 Chapter 542, Laws of 1983.

227 (7) On or before August 15, 1992, and each succeeding month  
228 thereafter, two and two hundred sixty-six one-thousandths percent  
229 (2.266%) of the total sales tax revenue collected during the  
230 preceding month under the provisions of this chapter, except that  
231 collected under the provisions of Section 27-65-17(2), not to  
232 exceed the fiscal year 1997 appropriated level shall be deposited

233 by the commission into the School Ad Valorem Tax Reduction Fund  
234 created pursuant to Section 37-61-35, with the balance to be  
235 transferred to the Education Enhancement Fund created under  
236 Section 37-61-33 for appropriation by the Legislature as other  
237 education needs and not subject to the percentage set asides set  
238 forth in Section 37-61-33.

239 (8) On or before August 15, 1992, and each succeeding month  
240 thereafter, nine and seventy-three one-thousandths percent  
241 (9.073%) of the total sales tax revenue collected during the  
242 preceding month under the provisions of this chapter, except that  
243 collected under the provisions of Section 27-65-17(2) shall be  
244 deposited into the Education Enhancement Fund created pursuant to  
245 Section 37-61-33.

246 (9) On or before August 15, 1994, and each succeeding month  
247 thereafter, from the revenue collected under this chapter during  
248 the preceding month, Two Hundred Fifty Thousand Dollars  
249 (\$250,000.00) shall be paid into the State Aid Road Fund.

250 (10) On or before August 15, 1994, and each succeeding month  
251 thereafter through August 15, 1995, from the revenue collected  
252 under this chapter during the preceding month, Two Million Dollars  
253 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad  
254 Valorem Tax Reduction Fund established in Section 27-51-105.

255 (11) Notwithstanding any other provision of this section to  
256 the contrary, on or before February 15, 1995, and each succeeding  
257 month thereafter, the sales tax revenue collected during the  
258 preceding month under the provisions of Section 27-65-17(2) and  
259 the corresponding levy in Section 27-65-23 on the rental or lease  
260 of private carriers of passengers and light carriers of property  
261 as defined in Section 27-51-101 shall be deposited, without  
262 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund  
263 established in Section 27-51-105.

264 (12) Notwithstanding any other provision of this section to  
265 the contrary, on or before August 15, 1995, and each succeeding



266 month thereafter, the sales tax revenue collected during the  
267 preceding month under the provisions of Section 27-65-17(1) on  
268 retail sales of private carriers of passengers and light carriers  
269 of property, as defined in Section 27-51-101, and the  
270 corresponding levy in Section 27-65-23 on the rental or lease of  
271 these vehicles, shall be deposited, after diversion, into the  
272 Motor Vehicle Ad Valorem Tax Reduction Fund established in Section  
273 27-51-105.

274 (13) On or before July 15, 1994, and on or before the  
275 fifteenth day of each succeeding month thereafter, that portion of  
276 the avails of the tax imposed in Section 27-65-22, which is  
277 derived from activities held on the Mississippi state fairgrounds  
278 complex, shall be paid into a special fund hereby created in the  
279 State Treasury and shall be expended pursuant to legislative  
280 appropriations solely to defray the costs of repairs and  
281 renovation at such Trade Mart and Coliseum.

282 (14) On or before August 15, 1998, and each succeeding month  
283 thereafter through July 15, 2005, that portion of the avails of  
284 the tax imposed in Section 27-65-23 which is derived from sales by  
285 cotton compresses or cotton warehouses and which would otherwise  
286 be paid into the General Fund, shall be deposited in an amount not  
287 to exceed Two Million Dollars (\$2,000,000.00) into the special  
288 fund created pursuant to Section 69-37-39.

289 (15) Notwithstanding any other provision of this section to  
290 the contrary, on or before September 15, 2000, and each succeeding  
291 month thereafter, the sales tax revenue collected during the  
292 preceding month under the provisions of Section 27-65-19(f), shall  
293 be deposited, without diversion, into the Telecommunications Ad  
294 Valorem Tax Reduction Fund established in Section 4 of Senate Bill  
295 No. 2512, 2000 Regular Session.

296 (16) On or before August 15, 2000, and each succeeding month  
297 thereafter, the sales tax revenue collected during the preceding  
298 month under the provisions of this chapter on the gross proceeds

299 of sales of a project as defined in Section 1 of House Bill  
300 No. 1301, 2000 Regular Session, shall be deposited, after  
301 diversion, into the Sales Tax Incentive Fund created in Section 2  
302 of House Bill No. 1301, 2000 Regular Session.

303       (17) The remainder of the amounts collected under the  
304 provisions of this chapter shall be paid into the State Treasury  
305 to the credit of the General Fund.

306       (18) It shall be the duty of the municipal officials of any  
307 municipality which expands its limits, or of any community which  
308 incorporates as a municipality, to notify the commissioner of such  
309 action thirty (30) days before the effective date. Failure to so  
310 notify the commissioner shall cause such municipality to forfeit  
311 the revenue which it would have been entitled to receive during  
312 this period of time when the commissioner had no knowledge of the  
313 action. If any funds have been erroneously disbursed to any  
314 municipality or any overpayment of tax is recovered by the  
315 taxpayer, the commissioner may make correction and adjust the  
316 error or overpayment with such municipality by withholding the  
317 necessary funds from any subsequent payment to be made to the  
318 municipality.

319       SECTION 4. This act shall take effect and be in force from  
320 and after July 1, 2000.