

By: Cummings

To: Ways and Means

HOUSE BILL NO. 1301
(As Sent to Governor)

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 and theme parks, as designated by
23 the Mississippi Department of Economic and Community Development,
24 with an initial capital investment of not less than Five Million
25 Dollars (\$5,000,000.00) if located in a county in a developed
26 area, as designated under Section 57-73-21, or with an initial
27 capital investment of not less than Three Million Dollars
28 (\$3,000,000.00) if located in a county in a moderately developed
29 area or less developed area as designated in Section 57-73-21.
30 Whether a county is in a developed area, moderately developed area

31 or less developed area shall be determined by the classification
32 of the area at the time the initial investment is made. The term
33 "project" also means any of the following if located on the
34 project site or within one (1) mile of the project and owned by
35 the owner of the family-oriented entertainment enterprise: (a)
36 auditoriums, (b) dining facilities, (c) gift shops and (d) lodging
37 facilities. However, the capital investment in any such dining
38 facility or lodging facility shall not be included for purposes of
39 meeting the minimum capital investment requirement for a project.
40 The term "project" does not mean any business, corporation or
41 entity having a gaming license issued under Section 75-76-1 et
42 seq., Mississippi Code of 1972, but may include a family-oriented
43 entertainment enterprise owned by such a business, corporation or
44 entity that is in excess of development that the State Gaming
45 Commission requires for the issuance or renewal of a gaming
46 license.

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

48 SECTION 2. (1) The department shall develop, implement and
49 administer the incentive program authorized in this section and
50 shall promulgate rules and regulations necessary for the
51 development, implementation and administration of such program.

52 (2) A person, corporation or other entity desiring to
53 participate in the incentive payment program authorized in this
54 section must submit an application to the department. Such
55 application must contain (a) plans for the proposed project; (b) a
56 detailed description of the proposed project; (c) the method of
57 financing the proposed project and the terms of such financing;
58 and (d) any other information required by the department. The
59 executive director of the department shall review the application
60 and determine whether it qualifies as a project. If the
61 executive director determines the proposed project qualifies as a
62 project, he shall issue a certificate to the person, corporation
63 or other entity designating such person, corporation or other
64 entity as an approved participant and authorizing the approved
65 participant to participate in the incentive payment program
66 provided for in this section.

67 (3) (a) There is created in the State Treasury a special

68 fund to be known as the "Sales Tax Incentive Fund," into which
69 shall be deposited such money as provided in Section 27-65-75(16).

70 The monies in the fund shall be used for the purpose of making
71 the incentive payments authorized in this section. The fund shall
72 be administered by the department, and monies in the fund shall be
73 expended upon appropriation by the Legislature. Unexpended
74 amounts remaining in the fund at the end of a fiscal year shall
75 not lapse into the General Fund, and any interest earned on or
76 investment earnings on the amounts in the fund shall be deposited
77 to the credit of the fund. The department may use not more than
78 one percent (1%) of interest earned or investment earnings, or
79 both, on amounts in the fund for administration and management of
80 the incentive program.

81 (b) Incentive payments may be made by the department to
82 an approved participant that incurs indebtedness or incurs capital
83 costs, or both, to locate a project in the state. The payments to
84 an approved participant shall be for the amount of sales tax
85 revenue collected on the gross proceeds of sales of a project,
86 after making the diversions required in Section 27-65-75, except
87 the diversion provided for in Section 27-65-75(1). The department
88 shall ensure that payments made pursuant to this section are
89 utilized to pay the debt service incurred by the approved
90 participant for the project as approved by the department or any
91 project capital cost incurred by the approved participant for the
92 project as approved by the department, or both. The department
93 shall make payments to an approved participant on a semiannual
94 basis with payments being made in the months of January and July.
95 The aggregate amount that an approved participant may receive
96 shall not exceed thirty-five percent (35%) of the original
97 indebtedness or project capital cost, or both, incurred by such
98 participant for the project. The department shall make the
99 calculations necessary to make the payments provided for in this
100 section. The department shall cease making incentive payments to

101 an approved participant on the occurrence of the earlier of (i)
102 the date thirty-five percent (35%) of the original indebtedness,
103 or any refinancing of the original indebtedness, incurred for the
104 project or original project capital cost incurred for the project,
105 or both, is satisfied, (ii) ten (10) years from the date the
106 original indebtedness for the project was incurred, without regard
107 to any refinancing or additional financing for any addition to or
108 expansion of the project, or (iii) the project ceases operations.

109 (4) At such time as payments are no longer required to be
110 made to an approved participant, the department shall notify the
111 State Tax Commission and the sales tax revenue collected from such
112 project shall no longer be deposited into the Sales Tax Incentive
113 Fund, and any amounts remaining in the fund that were collected
114 from such participant shall be transferred to the State General
115 Fund; provided, however, if the project is located in a
116 municipality, a portion of such amount shall be paid to such
117 municipality in the same manner and amounts as provided for in
118 Section 27-65-75(1).

119 SECTION 3. Section 27-65-75, Mississippi Code of 1972, as
120 amended by Senate Bill No. 2512, 2000 Regular Session, and House
121 Bill No. 1486, 2000 Regular Session, is amended as follows:

122 * * *

123 27-65-75. On or before the fifteenth day of each month, the
124 revenue collected under the provisions of this chapter during the
125 preceding month shall be paid and distributed as follows:

126 (1) On or before August 15, 1992, and each succeeding month
127 thereafter through July 15, 1993, eighteen percent (18%) of the
128 total sales tax revenue collected during the preceding month under
129 the provisions of this chapter, except that collected under the
130 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
131 business activities within a municipal corporation shall be
132 allocated for distribution to such municipality and paid to such
133 municipal corporation. On or before August 15, 1993, and each

134 succeeding month thereafter, eighteen and one-half percent
135 (18-1/2%) of the total sales tax revenue collected during the
136 preceding month under the provisions of this chapter, except that
137 collected under the provisions of Sections 27-65-15, 27-65-19(3)
138 and 27-65-21, on business activities within a municipal
139 corporation shall be allocated for distribution to such
140 municipality and paid to such municipal corporation.

141 A municipal corporation, for the purpose of distributing the
142 tax under this subsection, shall mean and include all incorporated
143 cities, towns and villages.

144 Monies allocated for distribution and credited to a municipal
145 corporation under this subsection may be pledged as security for
146 any loan received by the municipal corporation for the purpose of
147 capital improvements as authorized under Section 57-1-303, or
148 loans as authorized under Section 57-44-7, or water systems
149 improvements as authorized under Section 41-3-16.

150 In any county having a county seat which is not an
151 incorporated municipality, the distribution provided hereunder
152 shall be made as though the county seat was an incorporated
153 municipality; however, the distribution to such municipality shall
154 be paid to the county treasury wherein the municipality is located
155 and such funds shall be used for road, bridge and street
156 construction or maintenance therein.

157 (2) On or before September 15, 1987, and each succeeding
158 month thereafter, from the revenue collected under this chapter
159 during the preceding month One Million One Hundred Twenty-five
160 Thousand Dollars (\$1,125,000.00) shall be allocated for
161 distribution to municipal corporations as defined under subsection
162 (1) of this section in the proportion that the number of gallons
163 of gasoline and diesel fuel sold by distributors to consumers and
164 retailers in each such municipality during the preceding fiscal
165 year bears to the total gallons of gasoline and diesel fuel sold
166 by distributors to consumers and retailers in municipalities

167 statewide during the preceding fiscal year. The State Tax
168 Commission shall require all distributors of gasoline and diesel
169 fuel to report to the commission monthly the total number of
170 gallons of gasoline and diesel fuel sold by them to consumers and
171 retailers in each municipality during the preceding month. The
172 State Tax Commission shall have the authority to promulgate such
173 rules and regulations as is necessary to determine the number of
174 gallons of gasoline and diesel fuel sold by distributors to
175 consumers and retailers in each municipality. In determining the
176 percentage allocation of funds under this subsection for the
177 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
178 State Tax Commission may consider gallons of gasoline and diesel
179 fuel sold for a period of less than one (1) fiscal year. For the
180 purposes of this subsection, the term "fiscal year" means the
181 fiscal year beginning July 1 of a year.

182 (3) On or before September 15, 1987, and on or before the
183 fifteenth day of each succeeding month, until the date specified
184 in Section 65-39-35, the proceeds derived from contractors' taxes
185 levied under Section 27-65-21 on contracts for the construction or
186 reconstruction of highways designated under the Four-Lane Highway
187 Program created under Section 65-3-97 shall, except as otherwise
188 provided in Section 31-17-127, be deposited into the State
189 Treasury to the credit of the State Highway Fund to be used to
190 fund such Four-Lane Highway Program. The Mississippi Department
191 of Transportation shall provide to the State Tax Commission such
192 information as is necessary to determine the amount of proceeds to
193 be distributed under this subsection.

194 (4) On or before August 15, 1994, and on or before the
195 fifteenth day of each succeeding month through July 15, 1999, from
196 the proceeds of gasoline, diesel fuel or kerosene taxes as
197 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
198 (\$4,000,000.00) shall be deposited in the State Treasury to the
199 credit of a special fund designated as the "State Aid Road Fund,"

200 created by Section 65-9-17. On or before August 15, 1999, and on
201 or before the fifteenth day of each succeeding month, from the
202 total amount of the proceeds of gasoline, diesel fuel or kerosene
203 taxes apportioned by Section 27-5-101(a)(ii), Four Million Dollars
204 (\$4,000,000.00) or an amount equal to twenty-three and one-fourth
205 percent (23.25%) of such funds, whichever is the greater amount,
206 shall be deposited in the State Treasury to the credit of the
207 "State Aid Road Fund," created by Section 65-9-17. Such funds
208 shall be pledged to pay the principal of and interest on state aid
209 road bonds heretofore issued under Sections 19-9-51 through
210 19-9-77, in lieu of and in substitution for the funds heretofore
211 allocated to counties under this section. Such funds may not be
212 pledged for the payment of any state aid road bonds issued after
213 April 1, 1981; however, this prohibition against the pledging of
214 any such funds for the payment of bonds shall not apply to any
215 bonds for which intent to issue such bonds has been published, for
216 the first time, as provided by law prior to March 29, 1981. From
217 the amount of taxes paid into the special fund pursuant to this
218 subsection and subsection (9) of this section, there shall be
219 first deducted and paid the amount necessary to pay the expenses
220 of the Office of State Aid Road Construction, as authorized by the
221 Legislature for all other general and special fund agencies. The
222 remainder of the fund shall be allocated monthly to the several
223 counties in accordance with the following formula:

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

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

230 (c) One-third (1/3) shall be allocated to counties
231 based on the proportion that the rural population of the county
232 bears to the total rural population in all counties of the state,

233 according to the latest federal decennial census.

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

237 The amount of funds allocated to any county under this
238 subsection for any fiscal year after fiscal year 1994 shall not be
239 less than the amount allocated to such county for fiscal year
240 1994. Monies allocated to a county from the State Aid Road Fund
241 for fiscal year 1995 or any fiscal year thereafter that exceed the
242 amount of funds allocated to that county from the State Aid Road
243 Fund for fiscal year 1994, first must be expended by the county
244 for replacement or rehabilitation of bridges on the state aid road
245 system that have a sufficiency rating of less than twenty-five
246 (25), according to National Bridge Inspection standards before
247 such monies may be approved for expenditure by the State Aid Road
248 Engineer on other projects that qualify for the use of state aid
249 road funds.

250 Any reference in the general laws of this state or the
251 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
252 construed to refer and apply to subsection (4) of Section
253 27-65-75.

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

260 (6) An amount each month beginning August 15, 1983, through
261 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
262 of 1983, shall be paid into the special fund known as the
263 Correctional Facilities Construction Fund created in Section 6 of
264 Chapter 542, Laws of 1983.

265 (7) On or before August 15, 1992, and each succeeding month

266 thereafter through July 15, 2000, two and two hundred sixty-six
267 one-thousandths percent (2.266%) of the total sales tax revenue
268 collected during the preceding month under the provisions of this
269 chapter, except that collected under the provisions of Section
270 27-65-17(2) shall be deposited by the commission into the School
271 Ad Valorem Tax Reduction Fund created pursuant to Section
272 37-61-35. On or before August 15, 2000, and each succeeding month
273 thereafter, two and two hundred sixty-six one-thousandths percent
274 (2.266%) of the total sales tax revenue collected during the
275 preceding month under the provisions of this chapter, except that
276 collected under the provisions of Section 27-65-17(2), shall be
277 deposited into the School Ad Valorem Tax Reduction Fund created
278 under Section 37-61-35 until such time that the total amount
279 deposited into the fund during a fiscal year equals Forty-two
280 Million Dollars (\$42,000,000.00). Thereafter, the amounts
281 diverted under this subsection (7) during the fiscal year in
282 excess of Forty-two Million Dollars (\$42,000,000.00) shall be
283 deposited into the Education Enhancement Fund created under
284 Section 37-61-33 for appropriation by the Legislature as other
285 education needs and shall not be subject to the percentage
286 appropriation requirements set forth in Section 37-61-33.

287 (8) On or before August 15, 1992, and each succeeding month
288 thereafter, nine and seventy-three one-thousandths percent
289 (9.073%) of the total sales tax revenue collected during the
290 preceding month under the provisions of this chapter, except that
291 collected under the provisions of Section 27-65-17(2) shall be
292 deposited into the Education Enhancement Fund created pursuant to
293 Section 37-61-33.

294 (9) On or before August 15, 1994, and each succeeding month
295 thereafter, from the revenue collected under this chapter during
296 the preceding month, Two Hundred Fifty Thousand Dollars
297 (\$250,000.00) shall be paid into the State Aid Road Fund.

298 (10) On or before August 15, 1994, and each succeeding month

299 thereafter through August 15, 1995, from the revenue collected
300 under this chapter during the preceding month, Two Million Dollars
301 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
302 Valorem Tax Reduction Fund established in Section 27-51-105.

303 (11) Notwithstanding any other provision of this section to
304 the contrary, on or before February 15, 1995, and each succeeding
305 month thereafter, the sales tax revenue collected during the
306 preceding month under the provisions of Section 27-65-17(2) and
307 the corresponding levy in Section 27-65-23 on the rental or lease
308 of private carriers of passengers and light carriers of property
309 as defined in Section 27-51-101 shall be deposited, without
310 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
311 established in Section 27-51-105.

312 (12) Notwithstanding any other provision of this section to
313 the contrary, on or before August 15, 1995, and each succeeding
314 month thereafter, the sales tax revenue collected during the
315 preceding month under the provisions of Section 27-65-17(1) on
316 retail sales of private carriers of passengers and light carriers
317 of property, as defined in Section 27-51-101 and the corresponding
318 levy in Section 27-65-23 on the rental or lease of these vehicles,
319 shall be deposited, after diversion, into the Motor Vehicle Ad
320 Valorem Tax Reduction Fund established in Section 27-51-105.

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

329 (14) On or before August 15, 1998, and each succeeding month
330 thereafter through July 15, 2005, that portion of the avails of
331 the tax imposed in Section 27-65-23 which is derived from sales by

332 cotton compresses or cotton warehouses and which would otherwise
333 be paid into the General Fund, shall be deposited in an amount not
334 to exceed Two Million Dollars (\$2,000,000.00) into the special
335 fund created pursuant to Section 69-37-39.

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

343 (16) On or before August 15, 2000, and each succeeding month
344 thereafter, the sales tax revenue collected during the preceding
345 month under the provisions of this chapter on the gross proceeds
346 of sales of a project as defined in Section 1 of House Bill
347 No. 1301, 2000 Regular Session, shall be deposited, after all
348 diversions except the diversion provided for in subsection (1) of
349 this section, into the Sales Tax Incentive Fund created in Section
350 2 of House Bill No. 1301, 2000 Regular Session.

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

354 (18) It shall be the duty of the municipal officials of any
355 municipality which expands its limits, or of any community which
356 incorporates as a municipality, to notify the commissioner of such
357 action thirty (30) days before the effective date. Failure to so
358 notify the commissioner shall cause such municipality to forfeit
359 the revenue which it would have been entitled to receive during
360 this period of time when the commissioner had no knowledge of the
361 action. If any funds have been erroneously disbursed to any
362 municipality or any overpayment of tax is recovered by the
363 taxpayer, the commissioner may make correction and adjust the
364 error or overpayment with such municipality by withholding the

365 necessary funds from any subsequent payment to be made to the
366 municipality.

367 * * *

368 SECTION 4. This act shall take effect and be in force from
369 and after July 2, 2000.