MISSISSIPPI LEGISLATURE
By: Representative Eads
To: Ways and Means

HOUSE BILL NO. 484

AN ACT TO AMEND SECTIONS 57-30-1 AND 57-30-3, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERMS "ALLIANCE" AND "LOCAL GOVERNMENT UNIT" AND REVISE THE DEFINITION OF THE TERM "PROJECT" FOR PURPOSES OF THE TYPES OF PROJECTS FOR WHICH PERSONS, CORPORATIONS OR OTHER ENTITIES MAY INCUR INDEBTEDNESS AND BE ELIGIBLE FOR INCENTIVE PAYMENTS FROM THE SALES TAX INCENTIVE FUND; TO PROVIDE THAT LOCAL GOVERNMENT UNITS INCURRING INDEBTEDNESS FOR PROJECTS UNDER THE REGIONAL ECONOMIC DEVELOPMENT ACT MAY BE ELIGIBLE TO RECEIVE INCENTIVE PAYMENTS FROM THE SALES TAX INCENTIVE FUND; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 57-30-1, Mississippi Code of 1972, is amended as follows:

57-30-1. As used in this chapter, the following terms and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Alliance" means, and has the same definition as that term has in Section 57-64-7.

(b) "Approved participant" means a person, corporation or other entity issued a certificate by the Mississippi Development Authority under Section 57-30-3.

(c) "Local government unit" means, and has the same definition as that term has in Section 57-64-7.

(d) "MDA" means the Mississippi Development Authority.

(e) "Project" means any family-oriented entertainment enterprise such as campgrounds and theme parks, as designated by the Mississippi Development Authority, with an initial capital investment of not less than Five Million Dollars ($5,000,000.00) in federal, local and/or private funds if located in a county in a Tier One area, as designated under Section 57-73-21, or with an initial capital investment of not less than Three Million Dollars...
in federal, local and/or private funds if located in a county in a Tier Two area or Tier Three area as designated in Section 57-73-21. Whether a county is in a Tier One area, Tier Two area or Tier Three area shall be determined by the classification of the area at the time the initial investment is made. The term "project" also means any of the following ancillary businesses if located on the project site or within one mile of the project and owned by the owner of the family-oriented entertainment enterprise or owned by an entity legally affiliated with the owner of the family-oriented entertainment enterprise: (i) auditoriums, (ii) dining facilities, (iii) gift shops, and (iv) lodging facilities.

However, the capital investment in any such dining facility or lodging facility shall not be included for purposes of meeting the minimum capital investment requirement for a project. The term "project" does not mean any business, corporation or entity having a gaming license issued under Section 75-76-1 et seq., Mississippi Code of 1972, but may include a family-oriented entertainment enterprise owned by such a business, corporation or entity that is in excess of development that the State Gaming Commission requires for the issuance or renewal of a gaming license. The term "project" also means a project as defined in Section 57-64-7, for which the Mississippi Development Authority has issued a certificate of public convenience and necessity to a local government unit under the Regional Economic Development Act authorizing the creation of an alliance. There shall be no minimum capital investment for such a project.

(f) "State" means the State of Mississippi.

SECTION 2. Section 57-30-3, Mississippi Code of 1972, is amended as follows:

57-30-3. (1) The MDA shall develop, implement and administer the incentive program authorized in this section and
shall promulgate rules and regulations necessary for the development, implementation and administration of such program.

(2) (a) A person, corporation or other entity, except a local government unit, desiring to participate in the incentive payment program authorized in this section must submit an application to the MDA. Such application must contain (i) plans for the proposed project; (ii) a detailed description of the proposed project; (iii) the method of financing the proposed project and the terms of such financing; and (iv) any other information required by the MDA. The Executive Director of the MDA shall review the application and determine whether it qualifies as a project. If the executive director determines the proposed project qualifies as a project, he shall issue a certificate to the person, corporation or other entity designating such person, corporation or other entity as an approved participant and authorizing the approved participant to participate in the incentive payment program provided for in this section.

(b) A local government unit desiring to participate in the incentive payment program authorized in this section must submit an application to the MDA. Such application must contain (i) a copy of the certificate of public convenience and necessity issued by the MDA under the Regional Economic Development Act; (ii) the names of the local government unit members of the alliance; (iii) plans for the proposed project; (iv) a detailed description of the proposed project; (v) the proposed cost of project as defined in Section 57-64-7; (vi) the amount and type of indebtedness incurred or to be incurred by the local government unit and each member of the alliance for the project under the Regional Economic Development Act; and (vii) any other information required by the MDA. The executive director of the MDA shall review the application and determine whether it qualifies as a project. If the executive director determines the proposed
project qualifies as a project, he shall issue a certificate to
the local government unit designating the local government unit as
an approved participant and authorizing the local government unit
to participate in the incentive payment program provided for in
this section.

(3) (a) There is created in the State Treasury a special
fund to be known as the "Sales Tax Incentive Fund," into which
shall be deposited such money as provided in Section 27-65-75(16).
The monies in the fund shall be used for the purpose of making the
incentive payments authorized in this section. The fund shall be
administered by the MDA. Unexpended amounts remaining in the fund
at the end of a fiscal year shall not lapse into the General Fund,
and any interest earned on or investment earnings on the amounts
in the fund shall be deposited to the credit of the fund. The MDA
may use not more than one percent (1%) of interest earned or
investment earnings, or both, on amounts in the fund for
administration and management of the incentive program.

(b) Subject to the provisions of this section,
incentive payments may be made by the MDA to an approved
participant, except a local government unit, that incurs
indebtedness or incurs capital costs, or both, to locate a project
in the state. The payments to an approved participant shall be
for the amount of sales tax revenue collected on the gross
proceeds of sales of a project, after making the diversions
required in Section 27-65-75, except the diversion provided for in
Section 27-65-75(1). The MDA shall ensure that payments made
pursuant to this section are utilized to pay the debt service
incurred by the approved participant for the project as approved
by the MDA or any project capital cost incurred by the approved
participant for the project as approved by the MDA, or both. The
MDA shall make payments to an approved participant on a semiannual
basis with payments being made in the months of January and July.

For the purposes of determining the amount of indebtedness or
project capital costs, or both, incurred for any ancillary business, as described in Section 57-30-1(c), which is eligible for incentive payments under this section, the amount of such indebtedness or project capital costs, or both, shall be limited to an amount not greater than the indebtedness or project capital costs, or both, incurred for the primary project. The aggregate amount that an approved participant may receive shall not exceed thirty-five percent (35%) of the portion of the original indebtedness that is funded from private sources or project capital cost that is funded from private sources, or both, incurred by such participant for the project. The MDA shall make the calculations necessary to make the payments provided for in this section. The MDA shall cease making incentive payments to an approved participant on the occurrence of the earlier of (i) the date thirty-five percent (35%) of the portion of the original indebtedness that is funded from private sources, or any refinancing of the portion of the original indebtedness that is funded from private sources, incurred for the project or the portion of the original project capital cost that is funded from private sources incurred for the project, or both, is satisfied, (ii) ten (10) years from the date the original indebtedness for the project was incurred, without regard to any refinancing or additional financing for any addition to or expansion of the project, or (iii) the project ceases operations.

(c) If an approved participant is a local government unit, incentive payments may be made by the MDA to the local government unit for use according to the certificate of public convenience and necessity issued by the MDA under the Regional Economic Development Act. The payments to a local government unit shall be for a portion, as provided in such certificate of public convenience and necessity, of the sales tax revenue collected on the gross proceeds of sales of a project, after making the diversions required in Section 27-65-75, except the diversion
provided for in Section 27-65-75(1). The MDA shall ensure that payments made to a local government unit pursuant to this section are utilized according to the certificate of public convenience and necessity issued by the MDA under the Regional Economic Development Act. The MDA shall make payments to a local government unit on a semiannual basis with payments being made in the months of January and July. The aggregate amount that a local government unit may receive shall not exceed thirty-five percent (35%) of the original indebtedness incurred by the local government unit for the project under the Regional Economic Development Act. The MDA shall make the calculations necessary to make the payments provided for in this section. The MDA shall cease making incentive payments to a local government unit on the occurrence of the earlier of (i) the date thirty-five percent (35%) of the original indebtedness, or any refinancing of the original indebtedness, incurred by the local government unit for the project under the Regional Economic Development Act is satisfied, (ii) ten (10) years from the date the original indebtedness for the project was incurred, without regard to any refinancing or additional financing for any addition to or expansion of the project, or (iii) the project ceases operations.

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

SECTION 3. This act shall take effect and be in force from and after July 1, 2003.