

By: Representatives Watson, Reynolds

To: Ways and Means

HOUSE BILL NO. 441

1 AN ACT TO REENACT SECTIONS 57-30-1 AND 57-30-3, MISSISSIPPI
2 CODE OF 1972, WHICH CREATE THE SALES TAX INCENTIVE FUND AND
3 AUTHORIZE THE MISSISSIPPI DEVELOPMENT AUTHORITY TO MAKE INCENTIVE
4 PAYMENTS FROM SUCH FUND TO PERSONS, CORPORATIONS OR OTHER ENTITIES
5 THAT LOCATE CERTAIN FAMILY ORIENTED ENTERTAINMENT ENTERPRISES IN
6 THIS STATE; TO AMEND SECTION 3, CHAPTER 549, LAWS OF 2002, TO
7 EXTEND THE REPEALER ON THE SECTIONS OF LAW THAT PROVIDE FOR THE
8 SALES TAX INCENTIVE FUND AND THE MAKING OF INCENTIVE PAYMENTS FROM
9 THE FUND; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 57-30-1, Mississippi Code of 1972, is
12 reenacted as follows:

13 57-30-1. As used in this chapter, the following terms and
14 phrases shall have the meanings ascribed in this section unless
15 the context clearly indicates otherwise:

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

19 (b) "MDA" means the Mississippi Development Authority.

20 (c) "Project" means any family-oriented entertainment
21 enterprise such as campgrounds and theme parks, as designated by
22 the Mississippi Development Authority, with an initial capital
23 investment of not less than Five Million Dollars (\$5,000,000.00)
24 in federal, local and/or private funds if located in a county in a
25 Tier One area, as designated under Section 57-73-21, or with an
26 initial capital investment of not less than Three Million Dollars
27 (\$3,000,000.00) in federal, local and/or private funds if located
28 in a county in a Tier Two area or Tier Three area as designated in
29 Section 57-73-21. Whether a county is in a Tier One area, Tier
30 Two area or Tier Three area shall be determined by the

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

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

49 **SECTION 2.** Section 57-30-3, Mississippi Code of 1972, is
50 reenacted as follows:

51 57-30-3. (1) The MDA shall develop, implement and
52 administer the incentive program authorized in this section and
53 shall promulgate rules and regulations necessary for the
54 development, implementation and administration of such program.

55 (2) A person, corporation or other entity desiring to
56 participate in the incentive payment program authorized in this
57 section must submit an application to the MDA. Such application
58 must contain (a) plans for the proposed project; (b) a detailed
59 description of the proposed project; (c) the method of financing
60 the proposed project and the terms of such financing; and (d) any
61 other information required by the MDA. The Executive Director of
62 the MDA shall review the application and determine whether it
63 qualifies as a project. If the executive director determines the

64 proposed project qualifies as a project, he shall issue a
65 certificate to the person, corporation or other entity designating
66 such person, corporation or other entity as an approved
67 participant and authorizing the approved participant to
68 participate in the incentive payment program provided for in this
69 section.

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

82 (b) Subject to the provisions of this section,
83 incentive payments may be made by the MDA to an approved
84 participant that incurs indebtedness or incurs capital costs, or
85 both, to locate a project in the state. The payments to an
86 approved participant shall be for the amount of sales tax revenue
87 collected on the gross proceeds of sales of a project, after
88 making the diversions required in Section 27-65-75, except the
89 diversion provided for in Section 27-65-75(1). The MDA shall
90 ensure that payments made pursuant to this section are utilized to
91 pay the debt service incurred by the approved participant for the
92 project as approved by the MDA or any project capital cost
93 incurred by the approved participant for the project as approved
94 by the MDA, or both. The MDA shall make payments to an approved
95 participant on a semiannual basis with payments being made in the
96 months of January and July. For the purposes of determining the

97 amount of indebtedness or project capital costs, or both, incurred
98 for any ancillary business, as described in Section 57-30-1(c),
99 which is eligible for incentive payments under this section, the
100 amount of such indebtedness or project capital costs, or both,
101 shall be limited to an amount not greater than the indebtedness or
102 project capital costs, or both, incurred for the primary project.
103 The aggregate amount that an approved participant may receive
104 shall not exceed thirty-five percent (35%) of the portion of the
105 original indebtedness that is funded from private sources or
106 project capital cost that is funded from private sources, or both,
107 incurred by such participant for the project. The MDA shall make
108 the calculations necessary to make the payments provided for in
109 this section. The MDA shall cease making incentive payments to an
110 approved participant on the occurrence of the earlier of (i) the
111 date thirty-five percent (35%) of the portion of the original
112 indebtedness that is funded from private sources, or any
113 refinancing of the portion of the original indebtedness that is
114 funded from private sources, incurred for the project or the
115 portion of the original project capital cost that is funded from
116 private sources incurred for the project, or both, is satisfied,
117 (ii) ten (10) years from the date the original indebtedness for
118 the project was incurred, without regard to any refinancing or
119 additional financing for any addition to or expansion of the
120 project, or (iii) the project ceases operations.

121 (4) At such time as payments are no longer required to be
122 made to an approved participant, the MDA shall notify the State
123 Tax Commission and the sales tax revenue collected from such
124 project shall no longer be deposited into the Sales Tax Incentive
125 Fund, and any amounts remaining in the fund that were collected
126 from such participant shall be transferred to the State General
127 Fund; provided, however, if the project is located in a
128 municipality, a portion of such amount shall be paid to such

129 municipality in the same manner and amounts as provided for in
130 Section 27-65-75(1).

131 **SECTION 3.** Section 3, Chapter 549, Laws of 2002, is amended
132 as follows:

133 Section 3. Sections 57-30-1 and 57-30-3 shall stand repealed
134 from and after July 1, 2006.

135 **SECTION 4.** This act shall take effect and be in force from
136 and after July 1, 2004.