

By: Representatives Watson, Reynolds

To: Ways and Means

HOUSE BILL NO. 441
(As Sent to Governor)

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 REENACTED SECTION 57-30-3, MISSISSIPPI CODE
7 OF 1972, TO DELETE THE PROVISION THAT GOVERN PARTICIPATION IN THE
8 PROGRAM; TO CREATE SECTION 57-30-5, MISSISSIPPI CODE OF 1972, TO
9 REENACT THE PROVISIONS GOVERNING PARTICIPATION IN SUCH PROGRAM; TO
10 PROVIDE THAT NO CERTIFICATES AUTHORIZING PARTICIPATION IN THE
11 INCENTIVE PROGRAM SHALL BE ISSUED AFTER JULY 1, 2004, FOR PROJECTS
12 THAT PERTAIN TO FACILITIES WHOSE PRIMARY PURPOSE IS THE SALE OF
13 TANGIBLE PERSONAL PROPERTY AND TO REPEAL SECTION 57-30-5,
14 MISSISSIPPI CODE OF 1972, FROM AND AFTER JULY 1, 2005; TO REPEAL
15 SECTION 3, CHAPTER 549, LAWS OF 2002, WHICH REPEALS THE SECTIONS
16 OF LAW THAT PROVIDE FOR THE SALES TAX INCENTIVE FUND AND THE
17 MAKING OF INCENTIVE PAYMENTS FROM THE FUND; AND FOR RELATED
18 PURPOSES.

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

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

22 57-30-1. As used in this chapter, the following terms and
23 phrases shall have the meanings ascribed in this section unless
24 the context clearly indicates otherwise:

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

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

29 (c) "Project" means any family-oriented entertainment
30 enterprise such as campgrounds and theme parks, as designated by
31 the Mississippi Development Authority, with an initial capital
32 investment of not less than Five Million Dollars (\$5,000,000.00)
33 in federal, local and/or private funds if located in a county in a
34 Tier One area, as designated under Section 57-73-21, or with an
35 initial capital investment of not less than Three Million Dollars

36 (\$3,000,000.00) in federal, local and/or private funds if located
37 in a county in a Tier Two area or Tier Three area as designated in
38 Section 57-73-21. Whether a county is in a Tier One area, Tier
39 Two area or Tier Three area shall be determined by the
40 classification of the area at the time the initial investment is
41 made. The term "project" also means any of the following
42 ancillary businesses if located on the project site or within one
43 (1) mile of the project and owned by the owner of the
44 family-oriented entertainment enterprise or owned by an entity
45 legally affiliated with the owner of the family-oriented
46 entertainment enterprise: (i) auditoriums, (ii) dining
47 facilities, (iii) gift shops, and (iv) lodging facilities.
48 However, the capital investment in any such dining facility or
49 lodging facility shall not be included for purposes of meeting the
50 minimum capital investment requirement for a project. The term
51 "project" does not mean any business, corporation or entity having
52 a gaming license issued under Section 75-76-1 et seq., Mississippi
53 Code of 1972, but may include a family-oriented entertainment
54 enterprise owned by such a business, corporation or entity that is
55 in excess of development that the State Gaming Commission requires
56 for the issuance or renewal of a gaming license.

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

58 **SECTION 2.** Section 57-30-3, Mississippi Code of 1972, is
59 reenacted and amended as follows:

60 57-30-3. * * *

61 (1) (a) There is created in the State Treasury a special
62 fund to be known as the "Sales Tax Incentive Fund," into which
63 shall be deposited such money as provided in Section 27-65-75(16).
64 The monies in the fund shall be used for the purpose of making the
65 incentive payments authorized in this section. The fund shall be
66 administered by the MDA. Unexpended amounts remaining in the fund
67 at the end of a fiscal year shall not lapse into the General Fund,
68 and any interest earned on or investment earnings on the amounts

69 in the fund shall be deposited to the credit of the fund. The MDA
70 may use not more than one percent (1%) of interest earned or
71 investment earnings, or both, on amounts in the fund for
72 administration and management of the incentive program.

73 (b) Subject to the provisions of this section,
74 incentive payments may be made by the MDA to an approved
75 participant that incurs indebtedness or incurs capital costs, or
76 both, to locate a project in the state. The payments to an
77 approved participant shall be for the amount of sales tax revenue
78 collected on the gross proceeds of sales of a project, after
79 making the diversions required in Section 27-65-75, except the
80 diversion provided for in Section 27-65-75(1). The MDA shall
81 ensure that payments made pursuant to this section are utilized to
82 pay the debt service incurred by the approved participant for the
83 project as approved by the MDA or any project capital cost
84 incurred by the approved participant for the project as approved
85 by the MDA, or both. The MDA shall make payments to an approved
86 participant on a semiannual basis with payments being made in the
87 months of January and July. For the purposes of determining the
88 amount of indebtedness or project capital costs, or both, incurred
89 for any ancillary business, as described in Section 57-30-1(c),
90 which is eligible for incentive payments under this section, the
91 amount of such indebtedness or project capital costs, or both,
92 shall be limited to an amount not greater than the indebtedness or
93 project capital costs, or both, incurred for the primary project.
94 The aggregate amount that an approved participant may receive
95 shall not exceed thirty-five percent (35%) of the portion of the
96 original indebtedness that is funded from private sources or
97 project capital cost that is funded from private sources, or both,
98 incurred by such participant for the project. The MDA shall make
99 the calculations necessary to make the payments provided for in
100 this section. The MDA shall cease making incentive payments to an
101 approved participant on the occurrence of the earlier of (i) the

102 date thirty-five percent (35%) of the portion of the original
103 indebtedness that is funded from private sources, or any
104 refinancing of the portion of the original indebtedness that is
105 funded from private sources, incurred for the project or the
106 portion of the original project capital cost that is funded from
107 private sources incurred for the project, or both, is satisfied,
108 (ii) ten (10) years from the date the original indebtedness for
109 the project was incurred, without regard to any refinancing or
110 additional financing for any addition to or expansion of the
111 project, or (iii) the project ceases operations.

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

121 **SECTION 3.** The following provision shall be codified as
122 Section 57-30-5, Mississippi Code of 1972:

123 57-30-5. (1) The MDA shall develop, implement and
124 administer the incentive program authorized in this chapter and
125 shall promulgate rules and regulations necessary for the
126 development, implementation and administration of such program.

127 (2) A person, corporation or other entity desiring to
128 participate in the incentive payment program authorized in this
129 chapter must submit an application to the MDA. Such application
130 must contain (a) plans for the proposed project; (b) a detailed
131 description of the proposed project; (c) the method of financing
132 the proposed project and the terms of such financing; and (d) any
133 other information required by the MDA. The Executive Director of
134 the MDA shall review the application and determine whether it

135 qualifies as a project. If the executive director determines the
136 proposed project qualifies as a project, he shall issue a
137 certificate to the person, corporation or other entity designating
138 such person, corporation or other entity as an approved
139 participant and authorizing the approved participant to
140 participate in the incentive payment program provided for in this
141 chapter; however, no certificates shall be issued after July 1,
142 2004, for projects that pertain to facilities whose primary
143 purpose is the retail sale of tangible personal property.

144 (3) This section shall stand repealed from and after July 1,
145 2005.

146 **SECTION 4.** Section 3, Chapter 549, Laws of 2002, which
147 provides for the repeal of Sections 57-30-1 and 57-30-3 on July 1,
148 2004, is repealed.

149 **SECTION 5.** This act shall take effect and be in force from
150 and after its passage.