

By: Representatives Montgomery, Mayo

To: Ways and Means

## HOUSE BILL NO. 743

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

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

13 **SECTION 1.** As used in Sections 1 through 3 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  
18 Development Authority under Sections 1 through 3 of this act.

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

20 (c) "Project" means any family-oriented recreational  
21 entertainment enterprise such as bowling alleys, skating rinks,  
22 paint ball parks and similar enterprises, as designated by the  
23 Mississippi Development Authority, with an initial capital  
24 investment of not less than One Million Dollars (\$1,000,000.00) in  
25 federal, local and/or private funds if located in a small  
26 municipality and/or limited population county as defined under  
27 Section 57-1-18. Whether a municipality or county is a small  
28 municipality or limited population county shall be determined by  
29 the classification of the municipality or county at the time the  
30 initial investment is made. The term "project" does not mean any  
31 business, corporation or entity having a gaming license issued

32 under Section 75-76-1 et seq., Mississippi Code of 1972, but may  
33 include a family-oriented recreational entertainment enterprise  
34 owned by such a business, corporation or entity that is in excess  
35 of development that the Mississippi Gaming Commission requires for  
36 the issuance or renewal of a gaming license.

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

38 **SECTION 2.** (1) (a) There is created in the State Treasury  
39 a special fund to be known as the "Family-oriented Recreational  
40 Entertainment Sales Tax Incentive Fund," into which shall be  
41 deposited such money as provided in Section 27-65-75(21). The  
42 monies in the fund shall be used for the purpose of making the  
43 incentive payments authorized in this section. The fund shall be  
44 administered by the MDA. Unexpended amounts remaining in the fund  
45 at the end of a fiscal year shall not lapse into the General Fund,  
46 and any interest earned on or investment earnings on the amounts  
47 in the fund shall be deposited to the credit of the fund. The MDA  
48 may use not more than one percent (1%) of interest earned or  
49 investment earnings, or both, on amounts in the fund for  
50 administration and management of the incentive program.

51 (b) Subject to the provisions of this section,  
52 incentive payments may be made by the MDA to an approved  
53 participant that incurs indebtedness or incurs capital costs, or  
54 both, to locate a project in the state. The payments to an  
55 approved participant shall be for the amount of sales tax revenue  
56 collected from the operation of a project, after making the  
57 diversions required in Section 27-65-75, except the diversion  
58 provided for in Section 27-65-75(1). The MDA shall make payments  
59 to an approved participant on a semiannual basis with payments  
60 being made in the months of January and July. The aggregate  
61 amount that an approved participant may receive shall not exceed  
62 thirty percent (30%) of the portion of the original indebtedness  
63 that is funded from private sources or project capital cost that  
64 is funded from private sources, or both, incurred by such

65 participant for the project. The MDA shall make the calculations  
66 necessary to make the payments provided for in this section. The  
67 MDA shall cease making incentive payments to an approved  
68 participant on the occurrence of the earlier of (i) the date  
69 thirty percent (30%) of the portion of the original indebtedness  
70 or project capital cost, or both, that is funded from private  
71 sources, or any refinancing of such original indebtedness or  
72 project capital cost is satisfied, (ii) ten (10) years from the  
73 date the original indebtedness or project capital cost for the  
74 project was incurred, without regard to any refinancing or  
75 additional financing for any addition to or expansion of the  
76 project, or (iii) the project ceases operations.

77 (2) At such time as payments are no longer required to be  
78 made to an approved participant, the MDA shall notify the State  
79 Tax Commission and the sales tax revenue collected from such  
80 project shall no longer be deposited into the Family-oriented  
81 Recreational Entertainment Sales Tax Incentive Fund. Any amounts  
82 remaining in the fund that were collected from such project shall  
83 be transferred to the State General Fund; however, if the project  
84 is located in a municipality, a portion of such amount shall be  
85 paid to such municipality in the same manner and amounts as  
86 provided for in Section 27-65-75(1).

87 **SECTION 3.** (1) The MDA shall develop, implement and  
88 administer the incentive program authorized in Sections 1 through  
89 3 of this act and shall promulgate rules and regulations necessary  
90 for the development, implementation and administration of such  
91 program.

92 (2) A person, corporation or other entity desiring to  
93 participate in the incentive payment program authorized in  
94 Sections 1 through 3 of this act must submit an application to the  
95 MDA. Such application must contain (a) plans for the proposed  
96 project; (b) a detailed description of the proposed project; (c)  
97 the method of financing the proposed project and the terms of such

98 financing; and (d) any other information required by the MDA. The  
99 Executive Director of the MDA shall review the application and  
100 determine whether it qualifies as a project. If the executive  
101 director determines the proposed project qualifies as a project,  
102 he shall issue a certificate to the person, corporation or other  
103 entity designating such person, corporation or other entity as an  
104 approved participant and authorizing the approved participant to  
105 participate in the incentive payment program provided for in  
106 Sections 1 through 3 of this act.

107 **SECTION 4.** Section 27-65-75, Mississippi Code of 1972, is  
108 amended as follows:

109 27-65-75. On or before the fifteenth day of each month, the  
110 revenue collected under the provisions of this chapter during the  
111 preceding month shall be paid and distributed as follows:

112 (1) (a) On or before August 15, 1992, and each succeeding  
113 month thereafter through July 15, 1993, eighteen percent (18%) of  
114 the total sales tax revenue collected during the preceding month  
115 under the provisions of this chapter, except that collected under  
116 the provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on  
117 business activities within a municipal corporation shall be  
118 allocated for distribution to the municipality and paid to the  
119 municipal corporation. On or before August 15, 1993, and each  
120 succeeding month thereafter, eighteen and one-half percent  
121 (18-1/2%) of the total sales tax revenue collected during the  
122 preceding month under the provisions of this chapter, except that  
123 collected under the provisions of Sections 27-65-15, 27-65-19(3)  
124 and 27-65-21, on business activities within a municipal  
125 corporation shall be allocated for distribution to the  
126 municipality and paid to the municipal corporation.

127 A municipal corporation, for the purpose of distributing the  
128 tax under this subsection, shall mean and include all incorporated  
129 cities, towns and villages.

130 Monies allocated for distribution and credited to a municipal  
131 corporation under this subsection may be pledged as security for a  
132 loan if the distribution received by the municipal corporation is  
133 otherwise authorized or required by law to be pledged as security  
134 for such a loan.

135 In any county having a county seat that is not an  
136 incorporated municipality, the distribution provided under this  
137 subsection shall be made as though the county seat was an  
138 incorporated municipality; however, the distribution to the  
139 municipality shall be paid to the county treasury in which the  
140 municipality is located, and those funds shall be used for road,  
141 bridge and street construction or maintenance in the county.

142 (b) On or before August 15, 2006, and each succeeding  
143 month thereafter, eighteen and one-half percent (18-1/2%) of the  
144 total sales tax revenue collected during the preceding month under  
145 the provisions of this chapter, except that collected under the  
146 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on  
147 business activities on the campus of a state institution of higher  
148 learning or community or junior college whose campus is not  
149 located within the corporate limits of a municipality, shall be  
150 allocated for distribution to the state institution of higher  
151 learning or community or junior college and paid to the state  
152 institution of higher learning or community or junior college.

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

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

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

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

196 created by Section 65-9-17. On or before August 15, 1999, and on  
197 or before the fifteenth day of each succeeding month, from the  
198 total amount of the proceeds of gasoline, diesel fuel or kerosene  
199 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million  
200 Dollars (\$4,000,000.00) or an amount equal to twenty-three and  
201 one-fourth percent (23-1/4%) of those funds, whichever is the  
202 greater amount, shall be deposited in the State Treasury to the  
203 credit of the "State Aid Road Fund," created by Section 65-9-17.  
204 Those funds shall be pledged to pay the principal of and interest  
205 on state aid road bonds heretofore issued under Sections 19-9-51  
206 through 19-9-77, in lieu of and in substitution for the funds  
207 previously allocated to counties under this section. Those funds  
208 may not be pledged for the payment of any state aid road bonds  
209 issued after April 1, 1981; however, this prohibition against the  
210 pledging of any such funds for the payment of bonds shall not  
211 apply to any bonds for which intent to issue those bonds has been  
212 published, for the first time, as provided by law before March 29,  
213 1981. From the amount of taxes paid into the special fund under  
214 this subsection and subsection (9) of this section, there shall be  
215 first deducted and paid the amount necessary to pay the expenses  
216 of the Office of State Aid Road Construction, as authorized by the  
217 Legislature for all other general and special fund agencies. The  
218 remainder of the fund shall be allocated monthly to the several  
219 counties in accordance with the following formula:

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

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

226 (c) One-third (1/3) shall be allocated to counties  
227 based on the proportion that the rural population of the county

228 bears to the total rural population in all counties of the state,  
229 according to the latest federal decennial census.

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

233 The amount of funds allocated to any county under this  
234 subsection for any fiscal year after fiscal year 1994 shall not be  
235 less than the amount allocated to the county for fiscal year 1994.

236 Any reference in the general laws of this state or the  
237 Mississippi Code of 1972 to Section 27-5-105 shall mean and be  
238 construed to refer and apply to subsection (4) of Section  
239 27-65-75.

240 (5) One Million Six Hundred Sixty-six Thousand Six Hundred  
241 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into  
242 the special fund known as the "State Public School Building Fund"  
243 created and existing under the provisions of Sections 37-47-1  
244 through 37-47-67. Those payments into that fund are to be made on  
245 the last day of each succeeding month hereafter.

246 (6) An amount each month beginning August 15, 1983, through  
247 November 15, 1986, as specified in Section 6 of Chapter 542, Laws  
248 of 1983, shall be paid into the special fund known as the  
249 Correctional Facilities Construction Fund created in Section 6 of  
250 Chapter 542, Laws of 1983.

251 (7) On or before August 15, 1992, and each succeeding month  
252 thereafter through July 15, 2000, two and two hundred sixty-six  
253 one-thousandths percent (2.266%) of the total sales tax revenue  
254 collected during the preceding month under the provisions of this  
255 chapter, except that collected under the provisions of Section  
256 27-65-17(2) shall be deposited by the commission into the School  
257 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On  
258 or before August 15, 2000, and each succeeding month thereafter,  
259 two and two hundred sixty-six one-thousandths percent (2.266%) of  
260 the total sales tax revenue collected during the preceding month



261 under the provisions of this chapter, except that collected under  
262 the provisions of Section 27-65-17(2), shall be deposited into the  
263 School Ad Valorem Tax Reduction Fund created under Section  
264 37-61-35 until such time that the total amount deposited into the  
265 fund during a fiscal year equals Forty-two Million Dollars  
266 (\$42,000,000.00). Thereafter, the amounts diverted under this  
267 subsection (7) during the fiscal year in excess of Forty-two  
268 Million Dollars (\$42,000,000.00) shall be deposited into the  
269 Education Enhancement Fund created under Section 37-61-33 for  
270 appropriation by the Legislature as other education needs and  
271 shall not be subject to the percentage appropriation requirements  
272 set forth in Section 37-61-33.

273 (8) On or before August 15, 1992, and each succeeding month  
274 thereafter, nine and seventy-three one-thousandths percent  
275 (9.073%) of the total sales tax revenue collected during the  
276 preceding month under the provisions of this chapter, except that  
277 collected under the provisions of Section 27-65-17(2), shall be  
278 deposited into the Education Enhancement Fund created under  
279 Section 37-61-33.

280 (9) On or before August 15, 1994, and each succeeding month  
281 thereafter, from the revenue collected under this chapter during  
282 the preceding month, Two Hundred Fifty Thousand Dollars  
283 (\$250,000.00) shall be paid into the State Aid Road Fund.

284 (10) On or before August 15, 1994, and each succeeding month  
285 thereafter through August 15, 1995, from the revenue collected  
286 under this chapter during the preceding month, Two Million Dollars  
287 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad  
288 Valorem Tax Reduction Fund established in Section 27-51-105.

289 (11) Notwithstanding any other provision of this section to  
290 the contrary, on or before February 15, 1995, and each succeeding  
291 month thereafter, the sales tax revenue collected during the  
292 preceding month under the provisions of Section 27-65-17(2) and  
293 the corresponding levy in Section 27-65-23 on the rental or lease

294 of private carriers of passengers and light carriers of property  
295 as defined in Section 27-51-101 shall be deposited, without  
296 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund  
297 established in Section 27-51-105.

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

307 (13) On or before July 15, 1994, and on or before the  
308 fifteenth day of each succeeding month thereafter, that portion of  
309 the avails of the tax imposed in Section 27-65-22 that is derived  
310 from activities held on the Mississippi State Fairgrounds Complex,  
311 shall be paid into a special fund that is created in the State  
312 Treasury and shall be expended upon legislative appropriation  
313 solely to defray the costs of repairs and renovation at the Trade  
314 Mart and Coliseum.

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

322 (15) Notwithstanding any other provision of this section to  
323 the contrary, on or before September 15, 2000, and each succeeding  
324 month thereafter, the sales tax revenue collected during the  
325 preceding month under the provisions of Section 27-65-19(1)(f) and  
326 (g)(i)2, shall be deposited, without diversion, into the

327 Telecommunications Ad Valorem Tax Reduction Fund established in  
328 Section 27-38-7.

329 (16) On or before August 15, 2000, and each succeeding month  
330 thereafter, the sales tax revenue collected during the preceding  
331 month under the provisions of this chapter on the gross proceeds  
332 of sales of a project as defined in Section 57-30-1 shall be  
333 deposited, after all diversions except the diversion provided for  
334 in subsection (1) of this section, into the Sales Tax Incentive  
335 Fund created in Section 57-30-3.

336 (17) Notwithstanding any other provision of this section to  
337 the contrary, on or before April 15, 2002, and each succeeding  
338 month thereafter, the sales tax revenue collected during the  
339 preceding month under Section 27-65-23 on sales of parking  
340 services of parking garages and lots at airports shall be  
341 deposited, without diversion, into the special fund created under  
342 Section 27-5-101(d).

343 (18) On or before August 15, 2007, and each succeeding month  
344 thereafter through July 15, 2008, from the sales tax revenue  
345 collected during the preceding month under the provisions of this  
346 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)  
347 shall be deposited into the Special Funds Transfer Fund created in  
348 Section 4 of Chapter 556, Laws of 2003.

349 (19) (a) On or before August 15, 2005, and each succeeding  
350 month thereafter, the sales tax revenue collected during the  
351 preceding month under the provisions of this chapter on the gross  
352 proceeds of sales of a business enterprise located within a  
353 redevelopment project area under the provisions of Sections  
354 57-91-1 through 57-91-11, and the revenue collected on the gross  
355 proceeds of sales from sales made to a business enterprise located  
356 in a redevelopment project area under the provisions of Sections  
357 57-91-1 through 57-91-11 (provided that such sales made to a  
358 business enterprise are made on the premises of the business  
359 enterprise), shall, except as otherwise provided in this

360 subsection (19), be deposited, after all diversions, into the  
361 Redevelopment Project Incentive Fund as created in Section  
362 57-91-9.

363 (b) For a municipality participating in the Economic  
364 Redevelopment Act created in Sections 57-91-1 through 57-91-11,  
365 the diversion provided for in subsection (1) of this section  
366 attributable to the gross proceeds of sales of a business  
367 enterprise located within a redevelopment project area under the  
368 provisions of Sections 57-91-1 through 57-91-11, and attributable  
369 to the gross proceeds of sales from sales made to a business  
370 enterprise located in a redevelopment project area under the  
371 provisions of Sections 57-91-1 through 57-91-11 (provided that  
372 such sales made to a business enterprise are made on the premises  
373 of the business enterprise), shall be deposited into the  
374 Redevelopment Project Incentive Fund as created in Section  
375 57-91-9, as follows:

376 (i) For the first six (6) years in which payments  
377 are made to a developer from the Redevelopment Project Incentive  
378 Fund, one hundred percent (100%) of the diversion shall be  
379 deposited into the fund;

380 (ii) For the seventh year in which such payments  
381 are made to a developer from the Redevelopment Project Incentive  
382 Fund, eighty percent (80%) of the diversion shall be deposited  
383 into the fund;

384 (iii) For the eighth year in which such payments  
385 are made to a developer from the Redevelopment Project Incentive  
386 Fund, seventy percent (70%) of the diversion shall be deposited  
387 into the fund;

388 (iv) For the ninth year in which such payments are  
389 made to a developer from the Redevelopment Project Incentive Fund,  
390 sixty percent (60%) of the diversion shall be deposited into the  
391 fund; and

392                   (v) For the tenth year in which such payments are  
393 made to a developer from the Redevelopment Project Incentive Fund,  
394 fifty percent (50%) of the funds shall be deposited into the fund.

395           (20) On or before January 15, 2007, and each succeeding  
396 month thereafter, eighty percent (80%) of the sales tax revenue  
397 collected during the preceding month under the provisions of this  
398 chapter from the operation of a tourism project under the  
399 provisions of Sections 57-28-1 through 57-28-5, shall be  
400 deposited, after the diversions required in subsections (7) and  
401 (8) of this section, into the Tourism Sales Tax Incentive Fund  
402 created in Section 57-28-3.

403           (21) On or before August 15, 2007, and each succeeding month  
404 thereafter, the sales tax revenue collected during the preceding  
405 month under the provisions of this chapter from the operation of a  
406 project under Sections 1 through 3 of House Bill No. \_\_\_\_\_, 2007  
407 Regular Session, shall be deposited, after all diversions except  
408 the diversion provided for in subsection (1) of this section, into  
409 the Family-oriented Recreational Entertainment Sales Tax Incentive  
410 Fund created in Section 2 of House Bill No. \_\_\_\_\_, 2007 Regular  
411 Session.

412           (22) The remainder of the amounts collected under the  
413 provisions of this chapter shall be paid into the State Treasury  
414 to the credit of the General Fund.

415           (23) It shall be the duty of the municipal officials of any  
416 municipality that expands its limits, or of any community that  
417 incorporates as a municipality, to notify the commissioner of that  
418 action thirty (30) days before the effective date. Failure to so  
419 notify the commissioner shall cause the municipality to forfeit  
420 the revenue that it would have been entitled to receive during  
421 this period of time when the commissioner had no knowledge of the  
422 action. If any funds have been erroneously disbursed to any  
423 municipality or any overpayment of tax is recovered by the  
424 taxpayer, the commissioner may make correction and adjust the

425 error or overpayment with the municipality by withholding the  
426 necessary funds from any later payment to be made to the  
427 municipality.

428         **SECTION 5.** This act shall take effect and be in force from  
429 and after July 1, 2007.