

By: Representative Peranich

To: Tourism; Ways and Means

## HOUSE BILL NO. 1025

1 AN ACT TO PROVIDE AN INCENTIVE FOR PERSONS, CORPORATIONS OR  
2 OTHER ENTITIES THAT MAKE CAPITAL INVESTMENTS TO LOCATE CERTAIN  
3 TOURISM-ORIENTED ENTERPRISES IN THIS STATE; TO CREATE THE TOURISM  
4 SALES TAX INCENTIVE FUND; TO AUTHORIZE INCENTIVE PAYMENTS FROM  
5 SUCH FUND TO PERSONS, CORPORATIONS OR OTHER ENTITIES THAT MAKE  
6 CAPITAL INVESTMENTS TO LOCATE CERTAIN TOURISM-ORIENTED ENTERPRISES  
7 IN THIS STATE; TO AUTHORIZE THE MISSISSIPPI DEVELOPMENT AUTHORITY  
8 TO DEVELOP A PROGRAM TO ADMINISTER THE TOURISM INCENTIVE PROGRAM  
9 AUTHORIZED BY THIS ACT; TO CREATE THE TOURISM INCENTIVE PROGRAM;  
10 TO AMEND SECTION 57-30-5, MISSISSIPPI CODE OF 1972, WHICH PROVIDES  
11 FOR PARTICIPATION IN THE SALES TAX INCENTIVE FUND PROGRAM, TO  
12 PROVIDE THAT NO CERTIFICATES AUTHORIZING PARTICIPATION IN THE  
13 PROGRAM SHALL BE ISSUED AFTER JULY 1, 2005; TO EXTEND THE DATE OF  
14 REPEAL FOR SUCH SECTION; TO AMEND SECTION 27-65-75, MISSISSIPPI  
15 CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR  
16 RELATED PURPOSES.

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

18 **SECTION 1.** As used in Sections 1 and 2 of this act, the  
19 following terms and phrases shall have the meanings ascribed in  
20 this section unless the context clearly indicates otherwise:

21 (a) "Approved capital costs" means any or all of the  
22 following:

23 (i) Obligations incurred for labor and materials  
24 in connection with the acquisition, construction, installation,  
25 equipping, and rehabilitation of a project and all related costs  
26 thereto;

27 (ii) The costs of acquiring land or rights in land  
28 and any cost incidental thereto;

29 (iii) All costs of reasonable architectural and  
30 engineering services, including test borings, surveys, estimates,  
31 plans and specifications, preliminary investigations, and  
32 supervision of construction, as well as for the performance of all  
33 the duties required by or consequent to the acquisition,

34 construction, installation, equipping, and rehabilitation of a  
35 project;

36 (iv) All costs which shall be required to be paid  
37 under the terms of any contract or contracts for the acquisition,  
38 construction, installation, equipping, and rehabilitation of a  
39 project; and

40 (v) All other costs of a nature comparable to  
41 those described above.

42 Approved capital costs does not mean working capital,  
43 marketing expense, inventory and other soft cost as determined by  
44 the MDA.

45 (b) "Approved participant" means a person, corporation,  
46 or other entity issued a certificate by the MDA under Section 2 of  
47 this act.

48 (c) "Board" means the Tourism Incentive Program Board.

49 (d) "Certificate" means a Certificate of Public  
50 Convenience and Necessity authorized to be issued by the MDA  
51 pursuant to Sections 1 and 2 of this act as approved and directed  
52 by the board.

53 (e) "MDA" means the Mississippi Development Authority.

54 (f) "Project" means any of the following:

55 (i) A tourist-oriented enterprise as herein  
56 specified or as designated by the MDA, with an initial capital  
57 investment of not less than Five Million Dollars (\$5,000,000.00)  
58 from federal, local and/or private sources if located in a county  
59 in a Tier One area as designated under Section 57-73-21, or, with  
60 an initial capital investment of not less than Three Million  
61 Dollars (\$3,000,000.00) from federal, local and/or private sources  
62 if located in a county in a Tier Two area or Tier Three area as  
63 designated in Section 57-73-21. Whether a county is in a Tier One  
64 area, Tier Two area or Tier Three area shall be determined by the  
65 classification of the area at the time the initial investment is  
66 made;

67                   (ii) Future project expansions and complementary  
68 projects and facilities meeting the same criteria for a project,  
69 as defined herein, which are contiguous to the original project  
70 site or within a designated development district created by a unit  
71 of local government and owned by the owner of the initial project,  
72 or its successor in interest, and which project additions and  
73 expansions must also meet all other criteria of a qualifying  
74 project;

75                   (iii) A cultural or historical site, a recreation  
76 or entertainment facility, or a facility that creates a natural  
77 phenomenon or scenic beauty as determined by the MDA and approved  
78 by the board;

79                   (iv) Lodging facilities that have a minimum of one  
80 hundred fifty (150) rooms, at least twenty (20) square feet of  
81 meeting space per hotel room, and are within one thousand (1,000)  
82 feet of a convention center owned by a unit of local government,  
83 which convention center has at least twenty-five thousand (25,000)  
84 square feet of exhibit space and at least ten thousand (10,000)  
85 square feet of meeting and ballroom space; or

86                   (v) Hotel facilities that involve the restoration  
87 or rehabilitation of a structure that is listed individually in  
88 the National Register of Historic Places, or are located in a  
89 National Register Historic District.

90           In addition, in order for a project to qualify under the  
91 provisions of Sections 1 and 2 of this act, it shall, at a  
92 minimum, have a positive economic impact on the state and the  
93 increased tax revenues and economic benefits from the project will  
94 exceed the tax incentives granted to the approved participant  
95 pursuant to this act.

96           The term "project" does not mean any of the following: (a)  
97 any business, corporation or entity having a gaming license issued  
98 under Section 75-76-1 et seq., Mississippi Code of 1972, but may  
99 include a tourism-oriented facility 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; (b) except for a project promoting or otherwise marketing and selling crafts and products made in the state, facilities that are (a) primarily devoted to the retail sale of merchandise and goods, or (b) tourism-oriented facilities out of which the retail sale of merchandise and goods is the primary component of the attraction; or (c) any project that receives a tax subsidy or tax credit of any kind from the state pursuant to any other law.

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

(h) "Unit of local government" means any city, county or other public entity created by statute.

**SECTION 2.** (1) There is created the Tourism Incentive Program Board whose voting members shall be the Executive Director of the MDA, who shall serve as chairman, the Chairman of the State Tax Commission or his designee, and the Executive Director of the Department of Finance and Administration. The President of the Mississippi Tourism Association and the Director of the Tourism Division of the MDA shall serve in an advisory capacity as nonvoting members of the board. The board shall meet subject to the call of the chairman, shall keep minutes of its proceedings, and shall be authorized, in its sole discretion, to approve the issuance of certificates by the MDA approving projects as "qualified projects" which certificates shall set forth the terms and provisions under which such projects are approved and the extent to which such projects may receive the incentives provided in Sections 1 and 2 of this act, as may be determined by the board. All projects approved by the board pursuant to Sections 1 and 2 of this act shall require two (2) affirmative votes. The board shall be further authorized to require the MDA to rescind and terminate certificates, enforce the terms and provisions of the certificates and any agreements arising therefrom and exercise

any available remedy at law or arising out of contract approved by the board pursuant to any project approved pursuant to this act.

(2) The MDA shall develop, implement and administer the program authorized in Sections 1 and 2 of this act and shall submit rules and regulations necessary for the development, implementation and administration of such program to the board for its consideration and approval.

(3) Any person, corporation or other entity desiring to participate in the incentive program authorized by Sections 1 and 2 of this act must pay a nonrefundable application fee of Five Thousand Dollars (\$5,000.00) to the MDA which shall be used, without appropriation from the Legislature, by the MDA to offset staff costs and then shall submit an application, hereinafter described, to the MDA. Such application must contain (a) plans for the proposed project; (b) a detailed description of the proposed project and its site; (c) a project budget including capital and other anticipated expenditures for the project that indicates that the total cost of the project shall achieve or exceed the investment threshold and the anticipated sources of funding the costs of the project; (d) marketing plans for the project that target individuals who are not residents of the state; (e) the anticipated employment and wages to be paid at the project; (f) business plans describing the operation of the project, including the anticipated revenues and expenses generated by the project; (g) financial information regarding the applicant as may be requested by the MDA and/or the board to demonstrate that the applicant has the financial resources to construct and operate the project; (h) resumes of applicants and of its senior staff as may be requested by the MDA and/or the board to demonstrate that the applicant has the required experience to construct and operate the project; and (i) any other information required by the MDA that would satisfactorily demonstrate that the

project meets all specified criteria prescribed and approved by the board.

(4) If the MDA determines that the applicant and the project reasonably satisfy the criteria for approval as described in Sections 1 and 2 of this act, then the MDA shall submit a written memorandum describing the project and the applicant to the board requesting that the board consider a preliminary approval of the project.

(5) After receiving the preliminary approval of the board, the MDA shall engage the services of an institution of higher learning in the state to analyze the data made available by the applicant and to collect and analyze additional information necessary to determine that, in the independent judgment of the institution of higher learning, the tourism project: (a) shall have capital expenditures in excess of the minimum requirements set forth herein; (b) shall have a positive economic impact on the state; (c) will not occur if not for the designation of the project and granting of incentives by the state to the project; and (d) complies with the rules and regulations and minimum requirements adopted by the board.

The institution of higher learning shall consult with MDA staff and shall agree as to methodology to be used and assumptions to be made in preparing its report, and upon completion of such analysis, shall provide the board and the MDA staff a written report of its findings. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the state.

The applicant shall pay for the cost of the institution of higher learning's report, shall cooperate with the institution of higher learning, and shall provide all of the data that the institution of higher learning deems necessary to make its determination under this paragraph (e).

197           (6) After a review of relevant materials, the institution of  
198 higher learning's report, and completion of other inquiries, the  
199 board may approve the project and direct the MDA to issue its  
200 certificate approving the project, setting forth the terms and  
201 conditions under which the project is approved and the extent to  
202 which the incentives provided for herein may be used. A copy of  
203 each certificate issued by the MDA shall be sent to the State Tax  
204 Commission.

205           (7) (a) There is created in the State Treasury a special  
206 fund to be known as the "Tourism Sales Tax Incentive Fund," into  
207 which shall be deposited such money as provided in Section  
208 27-65-75(19). The monies in the fund shall be used for the  
209 purpose of making the incentive payments authorized in this  
210 section. The fund shall be administered by the MDA. Unexpended  
211 amounts remaining in the fund at the end of a fiscal year shall  
212 not lapse into the General Fund, and any interest earned on or  
213 investment earnings on the amounts in the fund shall be deposited  
214 to the credit of the fund. MDA may use not more than one percent  
215 (1%) of interest earned or investment earnings, or both, on  
216 amounts in the fund for administration and management of the  
217 incentive program.

218           (b) Incentive payments may be made by the MDA to an  
219 approved participant that incurs approved costs to locate an  
220 approved project in the state. The payments to an approved  
221 participant shall be for the amount of sales tax revenue collected  
222 on the gross proceeds of sales generated by the project, after  
223 making the diversions required in Section 27-65-75, except the  
224 diversion provided for in Section 27-65-75(1). The incentive  
225 payments shall decrease at the rate of ten percent (10%) per year  
226 during the first five (5) years of payments and shall be in the  
227 amount of fifty percent (50%) of the sales generated by the  
228 project, after making the applicable diversions, in years six (6)  
229 through ten (10) of payments. 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 or any approved cost incurred by the approved participant for the project as set forth in the certificates issued by the MDA. The MDA shall make payments to an approved participant on a semiannual basis with payments being made in the months of January and July. The aggregate amount that an approved participant may receive shall not exceed thirty-five percent (35%) of the original capital costs incurred for the project by such approved participant. The MDA shall make the calculations necessary to make the payments provided for in this section and such calculations to the board for its consideration and approval. The MDA shall cease making incentive payments to an approved participant upon 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 for the project or original project capital cost 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; (iii) any violation of the terms and provisions of the certificate or any agreement arising out of the certificate; or (iv) the project ceases operations for a continuous period of ninety (90) days or more (except for seasonal projects or an act of God) or the project or approved applicant is involved in any state or federal bankruptcy proceedings not discharged within ninety (90) days.

(8) 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 Tourism 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; however, if the project is located in a



263 municipality, a portion of such amount shall be paid to such  
264 municipality in the same manner and amounts as provided for in  
265 Section 27-65-75(1).

266       **SECTION 3.** Section 27-65-75, Mississippi Code of 1972, is  
267 amended as follows:

268       27-65-75. On or before the fifteenth day of each month, the  
269 revenue collected under the provisions of this chapter during the  
270 preceding month shall be paid and distributed as follows:

271       (1) On or before August 15, 1992, and each succeeding month  
272 thereafter through July 15, 1993, eighteen percent (18%) of the  
273 total sales tax revenue collected during the preceding month under  
274 the provisions of this chapter, except that collected under the  
275 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on  
276 business activities within a municipal corporation shall be  
277 allocated for distribution to the municipality and paid to the  
278 municipal corporation. On or before August 15, 1993, and each  
279 succeeding month thereafter, eighteen and one-half percent  
280 (18-1/2%) of the total sales tax revenue collected during the  
281 preceding month under the provisions of this chapter, except that  
282 collected under the provisions of Sections 27-65-15, 27-65-19(3)  
283 and 27-65-21, on business activities within a municipal  
284 corporation shall be allocated for distribution to the  
285 municipality and paid to the municipal corporation.

286       A municipal corporation, for the purpose of distributing the  
287 tax under this subsection, shall mean and include all incorporated  
288 cities, towns and villages.

289       Monies allocated for distribution and credited to a municipal  
290 corporation under this subsection may be pledged as security for  
291 any loan received by the municipal corporation for the purpose of  
292 capital improvements as authorized under Section 57-1-303, or  
293 loans as authorized under Section 57-44-7, or water systems  
294 improvements as authorized under Section 41-3-16.

295           In any county having a county seat that is not an  
296 incorporated municipality, the distribution provided under this  
297 subsection shall be made as though the county seat was an  
298 incorporated municipality; however, the distribution to the  
299 municipality shall be paid to the county treasury in which the  
300 municipality is located, and those funds shall be used for road,  
301 bridge and street construction or maintenance in the county.

302           (2) On or before September 15, 1987, and each succeeding  
303 month thereafter, from the revenue collected under this chapter  
304 during the preceding month One Million One Hundred Twenty-five  
305 Thousand Dollars (\$1,125,000.00) shall be allocated for  
306 distribution to municipal corporations as defined under subsection  
307 (1) of this section in the proportion that the number of gallons  
308 of gasoline and diesel fuel sold by distributors to consumers and  
309 retailers in each such municipality during the preceding fiscal  
310 year bears to the total gallons of gasoline and diesel fuel sold  
311 by distributors to consumers and retailers in municipalities  
312 statewide during the preceding fiscal year. The State Tax  
313 Commission shall require all distributors of gasoline and diesel  
314 fuel to report to the commission monthly the total number of  
315 gallons of gasoline and diesel fuel sold by them to consumers and  
316 retailers in each municipality during the preceding month. The  
317 State Tax Commission shall have the authority to promulgate such  
318 rules and regulations as is necessary to determine the number of  
319 gallons of gasoline and diesel fuel sold by distributors to  
320 consumers and retailers in each municipality. In determining the  
321 percentage allocation of funds under this subsection for the  
322 fiscal year beginning July 1, 1987, and ending June 30, 1988, the  
323 State Tax Commission may consider gallons of gasoline and diesel  
324 fuel sold for a period of less than one (1) fiscal year. For the  
325 purposes of this subsection, the term "fiscal year" means the  
326 fiscal year beginning July 1 of a year.

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

(4) On or before August 15, 1994, and on or before the fifteenth day of each succeeding month through July 15, 1999, from the proceeds of gasoline, diesel fuel or kerosene taxes as provided in Section 27-5-101(a)(ii)1, Four Million Dollars (\$4,000,000.00) shall be deposited in the State Treasury to the credit of a special fund designated as the "State Aid Road Fund," created by Section 65-9-17. On or before August 15, 1999, and on or before the fifteenth day of each succeeding month, from the total amount of the proceeds of gasoline, diesel fuel or kerosene taxes apportioned by Section 27-5-101(a)(ii)1, Four Million Dollars (\$4,000,000.00) or an amount equal to twenty-three and one-fourth percent (23.25%) of those funds, whichever is the greater amount, shall be deposited in the State Treasury to the credit of the "State Aid Road Fund," created by Section 65-9-17. Those funds shall be pledged to pay the principal of and interest on state aid road bonds heretofore issued under Sections 19-9-51 through 19-9-77, in lieu of and in substitution for the funds previously allocated to counties under this section. Those funds may not be pledged for the payment of any state aid road bonds issued after April 1, 1981; however, this prohibition against the pledging of any such funds for the payment of bonds shall not

360 apply to any bonds for which intent to issue those bonds has been  
361 published, for the first time, as provided by law before March 29,  
362 1981. From the amount of taxes paid into the special fund under  
363 this subsection and subsection (9) of this section, there shall be  
364 first deducted and paid the amount necessary to pay the expenses  
365 of the Office of State Aid Road Construction, as authorized by the  
366 Legislature for all other general and special fund agencies. The  
367 remainder of the fund shall be allocated monthly to the several  
368 counties in accordance with the following formula:

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

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

375 (c) One-third (1/3) shall be allocated to counties  
376 based on the proportion that the rural population of the county  
377 bears to the total rural population in all counties of the state,  
378 according to the latest federal decennial census.

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

382 The amount of funds allocated to any county under this  
383 subsection for any fiscal year after fiscal year 1994 shall not be  
384 less than the amount allocated to the county for fiscal year 1994.  
385 Monies allocated to a county from the State Aid Road Fund for  
386 fiscal year 1995 or any fiscal year thereafter that exceed the  
387 amount of funds allocated to that county from the State Aid Road  
388 Fund for fiscal year 1994, first must be expended by the county  
389 for replacement or rehabilitation of bridges on the state aid road  
390 system that have a sufficiency rating of less than twenty-five  
391 (25), according to National Bridge Inspection standards before  
392 the monies may be approved for expenditure by the State Aid Road

393 Engineer on other projects that qualify for the use of state aid  
394 road funds.

395 Any reference in the general laws of this state or the  
396 Mississippi Code of 1972 to Section 27-5-105 shall mean and be  
397 construed to refer and apply to subsection (4) of Section  
398 27-65-75.

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

405 (6) An amount each month beginning August 15, 1983, through  
406 November 15, 1986, as specified in Section 6 of Chapter 542, Laws  
407 of 1983, shall be paid into the special fund known as the  
408 Correctional Facilities Construction Fund created in Section 6 of  
409 Chapter 542, Laws of 1983.

410 (7) On or before August 15, 1992, and each succeeding month  
411 thereafter through July 15, 2000, two and two hundred sixty-six  
412 one-thousandths percent (2.266%) of the total sales tax revenue  
413 collected during the preceding month under the provisions of this  
414 chapter, except that collected under the provisions of Section  
415 27-65-17(2) shall be deposited by the commission into the School  
416 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On  
417 or before August 15, 2000, and each succeeding month thereafter,  
418 two and two hundred sixty-six one-thousandths percent (2.266%) of  
419 the total sales tax revenue collected during the preceding month  
420 under the provisions of this chapter, except that collected under  
421 the provisions of Section 27-65-17(2), shall be deposited into the  
422 School Ad Valorem Tax Reduction Fund created under Section  
423 37-61-35 until such time that the total amount deposited into the  
424 fund during a fiscal year equals Forty-two Million Dollars  
425 (\$42,000,000.00). Thereafter, the amounts diverted under this

426 subsection (7) during the fiscal year in excess of Forty-two  
427 Million Dollars (\$42,000,000.00) shall be deposited into the  
428 Education Enhancement Fund created under Section 37-61-33 for  
429 appropriation by the Legislature as other education needs and  
430 shall not be subject to the percentage appropriation requirements  
431 set forth in Section 37-61-33.

432 (8) On or before August 15, 1992, and each succeeding month  
433 thereafter, nine and seventy-three one-thousandths percent  
434 (9.073%) of the total sales tax revenue collected during the  
435 preceding month under the provisions of this chapter, except that  
436 collected under the provisions of Section 27-65-17(2), shall be  
437 deposited into the Education Enhancement Fund created under  
438 Section 37-61-33.

439 (9) On or before August 15, 1994, and each succeeding month  
440 thereafter, from the revenue collected under this chapter during  
441 the preceding month, Two Hundred Fifty Thousand Dollars  
442 (\$250,000.00) shall be paid into the State Aid Road Fund.

443 (10) On or before August 15, 1994, and each succeeding month  
444 thereafter through August 15, 1995, from the revenue collected  
445 under this chapter during the preceding month, Two Million Dollars  
446 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad  
447 Valorem Tax Reduction Fund established in Section 27-51-105.

448 (11) Notwithstanding any other provision of this section to  
449 the contrary, on or before February 15, 1995, and each succeeding  
450 month thereafter, the sales tax revenue collected during the  
451 preceding month under the provisions of Section 27-65-17(2) and  
452 the corresponding levy in Section 27-65-23 on the rental or lease  
453 of private carriers of passengers and light carriers of property  
454 as defined in Section 27-51-101 shall be deposited, without  
455 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund  
456 established in Section 27-51-105.

457 (12) Notwithstanding any other provision of this section to  
458 the contrary, on or before August 15, 1995, and each succeeding

month thereafter, the sales tax revenue collected during the preceding month under the provisions of Section 27-65-17(1) on retail sales of private carriers of passengers and light carriers of property, as defined in Section 27-51-101 and the corresponding levy in Section 27-65-23 on the rental or lease of these vehicles, shall be deposited, after diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund established in Section 27-51-105.

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

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

(15) Notwithstanding any other provision of this section to the contrary, on or before September 15, 2000, and each succeeding month thereafter, the sales tax revenue collected during the preceding month under the provisions of Section 27-65-19(1)(f) and (g)(i)2, shall be deposited, without diversion, into the Telecommunications Ad Valorem Tax Reduction Fund established in Section 27-38-7.

(16) On or before August 15, 2000, and each succeeding month thereafter, the sales tax revenue collected during the preceding month under the provisions of this chapter on the gross proceeds of sales of a project as defined in Section 57-30-1 shall be

deposited, after all diversions except the diversion provided for in subsection (1) of this section, into the Sales Tax Incentive Fund created in Section 57-30-3.

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

(18) On or before August 15, 2005, and each succeeding month thereafter through July 15, 2006, from the sales tax revenue collected during the preceding month under the provisions of this chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00) shall be deposited into the Special Funds Transfer Fund created in Section 4 of Chapter 556, Laws of 2003.

(19) On or before August 15, 2005, and each succeeding month thereafter, the sales tax revenue collected during the preceding month under the provisions of this chapter on the gross proceeds of sales of a project as defined in Section 1 of House Bill No. 1025, 2005 Regular Session, shall be deposited, after all diversions except the diversion provided for in subsection (1) of this section, into the Tourism Sales Tax Incentive Fund created in Section 2 of House Bill No. 1025, 2005 Regular Session.

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

(21) It shall be the duty of the municipal officials of any municipality that expands its limits, or of any community that incorporates as a municipality, to notify the commissioner of that action thirty (30) days before the effective date. Failure to so notify the commissioner shall cause the municipality to forfeit the revenue that it would have been entitled to receive



during this period of time when the commissioner had no knowledge of the action. If any funds have been erroneously disbursed to any municipality or any overpayment of tax is recovered by the taxpayer, the commissioner may make correction and adjust the error or overpayment with the municipality by withholding the necessary funds from any later payment to be made to the municipality.

**SECTION 4.** Section 57-30-5, Mississippi Code of 1972, is amended as follows:

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

(2) A person, corporation or other entity desiring to participate in the incentive payment program authorized in this chapter must submit an application to the MDA. Such application must contain (a) plans for the proposed project; (b) a detailed description of the proposed project; (c) the method of financing the proposed project and the terms of such financing; and (d) 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 chapter; however, no certificates shall be issued after July 1, 2004, for projects that pertain to facilities whose primary purpose is the retail sale of tangible personal property. No certificates shall be issued for any project under this section after July 1, 2005.

557           (3) This section shall stand repealed from and after July 1,  
558   2006.

559           **SECTION 5.** This act shall take effect and be in force from  
560 and after July 1, 2005.