

By: Senator(s) Horhn

To: Finance; Tourism

SENATE BILL NO. 2651

1 AN ACT TO AMEND SECTION 57-26-1, MISSISSIPPI CODE OF 1972, TO
 2 INCLUDE CERTAIN HOTELS WITHIN THE DEFINITION OF THE TERM "TOURISM
 3 PROJECT" FOR PURPOSES OF TOURISM PROJECT SALES TAX INCENTIVE
 4 PROGRAM; TO AMEND SECTION 57-26-5, MISSISSIPPI CODE OF 1972, TO
 5 REMOVE THE PROVISION THAT PROHIBITS, FROM AND AFTER JULY 1, 2014,
 6 FOR TOURISM PROJECTS THAT ARE CULTURAL RETAIL ATTRACTIONS, AND
 7 FROM AND AFTER JULY 1, 2016, FOR OTHER TOURISM PROJECTS, THE
 8 MISSISSIPPI DEVELOPMENT AUTHORITY FROM ISSUING CERTIFICATES
 9 DESIGNATING AN ENTITY AS AN APPROVED PARTICIPANT AND AUTHORIZING
 10 THE APPROVED PARTICIPANT TO PARTICIPATE IN THE INCENTIVE PROGRAM;
 11 AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 57-26-1, Mississippi Code of 1972, is
 14 amended as follows:

15 57-26-1. As used in Sections 57-26-1 through 57-26-5, the
 16 following terms and phrases shall have the meanings ascribed in
 17 this section unless the context clearly indicates otherwise:

18 (a) "Approved project costs" means actual costs
 19 incurred by an approved participant for land acquisition,
 20 construction, engineering, design and other costs approved by the
 21 Mississippi Development Authority relating to a tourism project;
 22 however, for the purposes of a tourism project described in



23 paragraph (d)(iv) of this section, such costs include only those
24 incurred after January 1, 2011, relating to the hotel portion of
25 the project consisting of facilities used for lodging and common
26 areas in that portion of the project. All costs must be verified
27 by an independent third party approved by the MDA. An approved
28 participant shall pay the costs for the third-party verification
29 of costs. Approved project costs may not increase regardless of
30 the actual costs incurred by the project.

31 (b) "Approved participant" means a person, corporation
32 or other entity issued a certificate by the Mississippi
33 Development Authority under Section 57-26-5.

34 (c) "MDA" means the Mississippi Development Authority.

35 (d) "Tourism project" shall include any of the
36 following as may be approved by the MDA:

37 (i) Theme parks, water parks, entertainment parks
38 or outdoor adventure parks, cultural or historical interpretive
39 educational centers or museums, motor speedways, indoor or outdoor
40 entertainment centers or complexes, convention centers,
41 professional sports facilities, spas, attractions created around a
42 natural phenomenon or scenic landscape and marinas open to the
43 public with a minimum private investment of not less than Ten
44 Million Dollars (\$10,000,000.00);

45 (ii) A hotel with a minimum private investment of
46 Forty Million Dollars (\$40,000,000.00) in land, buildings,
47 architecture, engineering, fixtures, equipment, furnishings,



48 amenities and other related soft costs approved by the Mississippi
49 Development Authority, and having a minimum private investment of
50 One Hundred Fifty Thousand Dollars (\$150,000.00) per guest room
51 which amount shall be included within the minimum private
52 investment of Forty Million Dollars (\$40,000,000.00);

53 (iii) A public golf course with a minimum private
54 investment of Ten Million Dollars (\$10,000,000.00);

55 (iv) A full service hotel with a minimum private
56 investment of Fifteen Million Dollars (\$15,000,000.00) in land,
57 buildings, architecture, engineering, fixtures, equipment,
58 furnishings, amenities and other related soft costs approved by
59 the Mississippi Development Authority, and having a minimum
60 private investment of Two Hundred Thousand Dollars (\$200,000.00)
61 per guest room or suite which amount shall be included within the
62 minimum private investment of Fifteen Million Dollars
63 (\$15,000,000.00), a minimum of twenty-five (25) guest rooms or
64 suites, and guest amenities such as restaurants, spas and other
65 amenities as determined by the Mississippi Development Authority;

66 (v) A tourism attraction located within an
67 "entertainment district" as defined in Section 17-29-3 that is
68 open to the public, has seating to accommodate at least forty (40)
69 persons, is open at least five (5) days per week from at least
70 6:00 p.m. until midnight, serves food and beverages, and provides
71 live entertainment at least three (3) nights per week;

72 (vi) A cultural retail attraction;



73 (vii) A tourism attraction located within a
74 historic district where the district is listed in the National
75 Register of Historic Places, where the tourism attraction is open
76 to the public, has seating to accommodate at least forty (40)
77 persons, is open at least five (5) days per week from at least
78 6:00 p.m. until midnight, serves food and beverages, and provides
79 live entertainment at least three (3) nights per week.

80 (viii) A hotel located within a historic district
81 where the district is listed in the National Register of Historic
82 Places, a hotel located in an entertainment district as defined in
83 Section 17-29-3, a hotel located within one thousand (1,000) feet
84 of a convention center, or a hotel built on state or federal parks
85 and recreational lands that:

86 1. Involves the restoration or renovation of
87 a hotel facility having no less than seventy-five (75) rooms with
88 project costs exceeding Five Million Dollars (\$5,000,000.00); or

89 2. Involves the construction, restoration, or
90 renovation of a hotel with project cost exceeding Ten Million
91 Dollars (\$10,000,000.00) with guest amenities such as restaurants,
92 golf courses, spas, fitness facilities, entertainment activities,
93 retail or other amenities as determined by the MDA.

94 Not more than an amount equal to forty percent (40%) of the
95 project cost of a tourism project described in subparagraph (viii)
96 of this paragraph may be expended on facilities to house retail
97 activity.



98 The term "tourism project" does not include any licensed
99 gaming establishment owned, leased or controlled by a business,
100 corporation or entity having a gaming license issued under Section
101 75-76-1 et seq.; however, the term "tourism project" may include a
102 project described in this paragraph (d) that is owned, leased or
103 controlled by such a business, corporation or entity or in which
104 the business, corporation or entity has a direct or indirect
105 financial interest if the project is in excess of development that
106 the State Gaming Commission requires for the issuance or renewal
107 of a gaming license and is not part of a licensed gaming
108 establishment in which gaming activities are conducted.

109 The term "tourism project" does not include any facility
110 within the project whose primary business is retail sales or any
111 expansions of existing projects; however, pro shops, souvenir
112 shops, gift shops, concessions and similar retail activities, and
113 cultural retail attractions may be included within the definition
114 of the term "tourism project." In addition, retail activities,
115 regardless of whether the primary business is retail sales, that
116 are part of a resort development or are part of a tourism project
117 described in subparagraph (viii) of this paragraph may be included
118 within the definition of "tourism project."

119 (e) "Resort development" means a travel destination
120 development with a minimum private investment of One Hundred
121 Million Dollars (\$100,000,000.00) and which consists of (i) a
122 hotel with a minimum of two hundred (200) guest rooms or suites



123 and having a minimum private investment of Two Hundred Thousand
124 Dollars (\$200,000.00) per guest room or suite, and (ii) guest
125 amenities such as restaurants, golf courses, spas, fitness
126 facilities, entertainment activities and other amenities as
127 determined by the MDA. Not more than an amount equal to forty
128 percent (40%) of the private investment required by this paragraph
129 may be expended on facilities to house retail activity.

130 (f) "Cultural retail attraction" means a project which
131 combines destination shopping with cultural or historical
132 interpretive elements specific to Mississippi with a minimum
133 private investment of Fifty Million Dollars (\$50,000,000.00) in
134 land, buildings, architecture, engineering, fixtures, equipment,
135 furnishings, amenities and other related soft costs approved by
136 the Mississippi Development Authority and which:

137 (i) Is located in a qualified resort area as
138 defined in Section 67-1-5;

139 (ii) Is a part of a master-planned development
140 with a total investment of not less than One Hundred Million
141 Dollars (\$100,000,000.00) in land, buildings, architecture,
142 engineering, fixtures, equipment, furnishings, amenities and other
143 related soft costs approved by the Mississippi Development
144 Authority;

145 (iii) Has a minimum of fifty (50) retail tenants
146 with a minimum of three hundred thousand (300,000) square feet of
147 heated and cooled space; and



148 (iv) Has a minimum investment of One Million
149 Dollars (\$1,000,000.00) in one or more of the following:

150 1. Art created by Mississippi artists or
151 portraying themes specific to Mississippi;

152 2. Memorabilia, signage or historical markers
153 which serve to promote the State of Mississippi;

154 3. Audio/visual equipment used to showcase
155 Mississippi artists;

156 4. A minimum of one thousand two hundred and
157 fifty (1,250) square feet of heated and cooled space available to
158 the Mississippi Development Authority or its assignee for a period
159 of not less than ten (10) years.

160 (g) "Retail activity" means businesses whose inventory
161 consists primarily of upscale name brands or their equivalent as
162 determined by the MDA.

163 (h) "State" means the State of Mississippi.

164 **SECTION 2.** Section 57-26-5, Mississippi Code of 1972, is
165 amended as follows:

166 57-26-5. (1) The MDA shall develop, implement and
167 administer the incentive program authorized in Sections 57-26-1
168 through 57-26-5 and shall promulgate rules and regulations
169 necessary for the development, implementation and administration
170 of such program.

171 (2) A person, corporation or other entity desiring to
172 participate in the incentive program authorized in Sections



173 57-26-1 through 57-26-5 must submit an application and an
174 application fee in the amount of Five Thousand Dollars (\$5,000.00)
175 to the MDA. Such application must contain (a) plans for the
176 proposed tourism project; (b) a detailed description of the
177 proposed tourism project; (c) the method of financing the proposed
178 tourism project and the terms of such financing; (d) an
179 independent study that identifies the number of out-of-state
180 visitors anticipated to visit the project and the ratio of
181 out-of-state visitors to in-state visitors; and (e) any other
182 information required by the MDA. The Executive Director of the
183 MDA shall review the application and determine if it qualifies as
184 a tourism project under this section and under the rules and
185 regulations promulgated pursuant to this section. If the
186 executive director determines the proposed tourism project
187 qualifies as a tourism project under this section and under the
188 rules and regulations promulgated pursuant to this section, he
189 shall issue a certificate to the person, corporation or other
190 entity designating such person, corporation or other entity as an
191 approved participant and authorizing the approved participant to
192 participate in the incentive program provided for in Sections
193 57-26-1 through 57-26-5. * * *

194 (3) The MDA shall cause a cost benefit analysis of the
195 tourism project to be performed by a state institution of higher
196 learning, the university research center or some other entity
197 approved by the MDA.



198 **SECTION 3.** This act shall take effect and be in force from
199 and after July 1, 2015.

