

By: Senator(s) Gollott, Chassaniol

To: Finance; Tourism

SENATE BILL NO. 2831

1 AN ACT TO CREATE THE MISSISSIPPI ENTERTAINMENT INDUSTRY
2 INVESTMENT ACT; TO PROVIDE AN INCENTIVE FOR SOUND RECORDING
3 PRODUCTION COMPANIES THAT PRODUCE SOUND RECORDING PROJECTS IN THIS
4 STATE; TO PROVIDE THAT A SOUND RECORDING PRODUCTION COMPANY SHALL
5 BE ELIGIBLE FOR A REBATE OF A PERCENTAGE OF CERTAIN EXPENDITURES
6 MADE IN CONNECTION WITH A STATE-CERTIFIED SOUND RECORDING
7 PRODUCTION PROJECT; TO PROVIDE AN INCENTIVE FOR COMPANIES THAT
8 PRODUCE MUSICAL AND THEATRICAL PROJECTS IN THIS STATE; TO PROVIDE
9 THAT A COMPANY SHALL BE ELIGIBLE FOR A REBATE OF A PERCENTAGE OF
10 EXPENDITURES MADE IN CONNECTION WITH A STATE-CERTIFIED MUSICAL OR
11 THEATRICAL PRODUCTION PROJECT; TO PROVIDE THAT THE REBATE PROGRAMS
12 CREATED IN THIS ACT SHALL BE ADMINISTERED BY THE MISSISSIPPI
13 DEVELOPMENT AUTHORITY; TO DEFINE CERTAIN TERMS FOR THE PURPOSES OF
14 THE REBATE PROGRAMS CREATED IN THIS ACT; TO AMEND SECTION 57-89-7,
15 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE MISSISSIPPI DEVELOPMENT
16 AUTHORITY TO APPROVE APPLICATIONS FOR A REBATE UNDER THE
17 MISSISSIPPI MOTION PICTURE INCENTIVE ACT; AND FOR RELATED
18 PURPOSES.

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

20 **SECTION 1.** This act shall be known and may be cited as the
21 "Mississippi Entertainment Investment Act."

22 **SECTION 2.** (1) As used in this section, the following words
23 and phrases shall have the following meanings, unless the context
24 clearly requires otherwise:

25 (a) "Base investment" means the actual investment made
26 and expended in this state by a sound recording production company



as production-related costs in connection with the production of a state-certified production in Mississippi. The term "base investment" includes amounts expended in Mississippi by a sound production company to acquire personal property or services which are subject to state sales tax under Section 27-65-1 et seq. or use tax under Section 27-67-1 et seq., and/or amounts expended as compensation for services performed within the state which compensation is subject to state income tax under Section 27-7-1 et seq.

(b) "Sound recording" means a recording of music, poetry, or spoken-word performance made in Mississippi, in whole or in part. The term "sound recording" shall not include the audio portions of dialogue or words spoken and recorded as part of television news coverage or athletic events.

(c) "Sound recording production company" means a company engaged in the business of producing sound recordings. The term "sound recording production company" shall not mean or include any person or company, or any company owned, affiliated, or controlled, in whole or in part, by any company or person, which is in default on a loan made by the state or a loan guaranteed by the state, nor which has ever declared bankruptcy under which an obligation of the company or person to pay or repay public funds or monies was discharged as a part of such bankruptcy.



51 (d) "State-certified production" means a sound
52 recording production, or a series of sound recording productions
53 occurring over the course of a twelve-month period, approved by
54 the Mississippi Development Authority produced by a sound
55 production company in the state. An application for approval as a
56 state-certified production must be submitted to the Mississippi
57 Development Authority before production of the project begins.

58 (e) "State" means the State of Mississippi.

59 (2) (a) A sound recording production company that expends
60 at least Fifteen Thousand Dollars (\$15,000.00) in base investment,
61 or Five Thousand Dollars (\$5,000.00) in base investment in the
62 case of a resident sound recording production company, in the
63 state shall be entitled to a rebate of a portion of the base
64 investment made by the sound recording production company.
65 Subject to the provisions of this section, the amount of the
66 rebate shall be equal to twenty-five percent (25%) of the base
67 investment made by the sound production company.

68 (b) If a sound recording production has physical
69 production activities and/or post-production activities both
70 inside and outside the state, then the sound recording production
71 company shall be required to provide an itemized accounting for
72 base investment expended regarding such activities inside and
73 outside the state for the purposes of determining the eligible
74 base investment for activities performed in the state.



75 (c) The total amount of rebates authorized in any
76 fiscal year shall not exceed One Million Dollars (\$1,000,000.00)
77 in the aggregate.

78 (3) A sound recording production desiring a rebate under
79 this section must submit a rebate request to the Mississippi
80 Development Authority upon completion of the project. The request
81 must include a detailed accounting of the base investment made by
82 the sound recording production company and any other information
83 required by the Mississippi Development Authority. The
84 Mississippi Development Authority shall review the application and
85 determine the amount of rebate to be paid to the sound recording
86 production company. The Mississippi Development Authority shall
87 certify such amount to the Department of Revenue and the
88 Department of Revenue shall pay the rebate to the sound recording
89 production company. Rebates made under this section shall be made
90 from current tax collections. The Mississippi Development
91 Authority shall not approve any application for a rebate under
92 this section after July 1, 2022.

93 (4) (a) A sound recording production company desiring to
94 participate in the rebate program authorized in this section must
95 submit an application to the Mississippi Development Authority
96 that includes the following information for the proposed sound
97 recording project:

98 (i) A distribution plan for the project;



99 (ii) A preliminary budget including estimated
100 Mississippi payroll and estimated base investment for the project;
101 (iii) A description of the type of sound to be
102 recorded;
103 (iv) A list of the principal creative elements
104 including any performing artists and producers;
105 (v) The name and address of the recording studio
106 or other location where the sound recording production will take
107 place;
108 (vi) The estimated start and completion dates for
109 the project; and
110 (vii) Any additional information requested by the
111 Mississippi Development Authority.
112 (b) The Mississippi Development Authority shall review
113 the application and determine whether the sound recording
114 production company is eligible to participate in the program
115 authorized in this section. If the Mississippi Development
116 Authority determines that the sound recording production company
117 is eligible to participate in the program authorized in this
118 section it shall issue a certificate to the applicant designating
119 the project as a state-certified production. The Mississippi
120 Development Authority also may require as a condition for being
121 designated a state-certified production and receiving the rebates
122 authorized in this section that the production must display the



state brand or logo, or both, as prescribed by the Mississippi Development Authority.

(5) The Mississippi Development Authority shall have all powers necessary to implement and administer the provisions of this section, and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

SECTION 3. (1) As used in this section, the following words and phrases shall have the following meanings, unless the context clearly requires otherwise:

(a) "Base investment" means the actual investment made and expended in this state by a company as production-related costs and as production expenditures in connection with a state-certified production in Mississippi. The term "base investment" includes amounts expended in Mississippi to acquire personal property which are subject to state sales tax under Section 27-65-1 et seq. or use tax under Section 27-67-1 et seq., and/or amounts expended as compensation for services performed within the state which compensation is subject to state income tax under Section 27-7-1 et seq.

(b) "Company" means any individual, firm, partnership, limited liability company, joint venture, association, corporation, estate, trust, or other entity, group, or combination thereof acting as a unit.



(c) "Musical or theatrical production" means (i) the producing, rehearsing, marketing, administration, recording, performing, and/or filming of a live musical or theatrical performance in the state before live audiences, including, but not limited to, concerts, musical tours, ballet, dance, drama, comedy, comedy revue, opera or live variety entertainment, whether or not there is a charge for admission, and/or (ii) a series of such productions occurring over the course of a twelve-month period, and the recording or filming of such productions, that originate, are developed, or have their initial public performance before an audience within Mississippi, or that have their United States debut within Mississippi. The term "musical or theatrical production" does not include nontouring music and cultural festivals, industry seminars, trade shows, and any production activity taking place outside of the state.

(d) "Production expenditures" means a contemporaneous exchange of cash or cash equivalent for goods or services related to development, production, or operating expenditures in this state for a state-certified production, including, but not limited to, expenditures for set construction and operation, including special and visual effects, costumes, wardrobes, make-up, accessories, costs associated with sound, lighting, staging, payroll, and other related costs. The term "production expenditures" does not include any indirect costs, any expenditures later reimbursed by a third party or any amounts that



are paid to persons or entities as a result of their participation in profits from the exploitation of the production.

(e) "State-certified production" means a musical or theatrical production approved by the Mississippi Development Authority produced by a company in this state. A musical or theatrical production that was previously designated as a "state-certified production" and later returns for performances within the state after being performed on Broadway may be redesignated as a "state-certified production." An application for approval as a state-certified production must be submitted to the Mississippi Development Authority before production of the project begins.

(2) (a) A company that expends at least One Hundred Thousand Dollars (\$100,000.00) in base investment in the state shall be entitled to a rebate of a portion of the base investment made by the company. Subject to the provisions of this section, the amount of the rebate shall be equal to twenty-five percent (25%) of the base investment made by the company.

(b) The total amount of rebates authorized in any fiscal year shall not exceed Five Hundred Thousand Dollars (\$500,000.00) in the aggregate.

(3) A company desiring a rebate under this section must submit a rebate request to the Mississippi Development Authority upon completion of the project. The request must include a detailed accounting of the base investment made by the company and



any other information required by the Mississippi Development Authority. The Mississippi Development Authority shall review the application and determine the amount of rebate to be paid to the company. The Mississippi Development Authority shall certify such amount to the Department of Revenue and the Department of Revenue shall pay the rebate to the company. Rebates made under this section shall be made from current tax collections. The Mississippi Development Authority shall not approve an application for a rebate under this section after July 1, 2022.

(4) (a) A company desiring to participate in the rebate program authorized in this section must submit an application to the Mississippi Development Authority that includes the following information for the proposed musical or theatrical production project:

(i) A preliminary budget including estimated Mississippi payroll, estimated transportation expenditures and estimated base investment, including the manner in which available federal and state incentives will be utilized in the financing or operation of the production;

(ii) A general description of the production and performance which may, at the request of the Mississippi Development Authority, include the book, libretto, score, or concept, and plans for recording and/or filming such production;



221 (iii) A list of the principal creative elements
222 including the cast, musicians, headline performers, conductor,
223 producer, or director;

224 (iv) The possibility of offering students in
225 Mississippi colleges, universities, and vocational-technical
226 schools an opportunity to work directly in the production in an
227 arts-related position, including a description of possible job or
228 trainee positions working with professional actors, writers,
229 producers, stagehands, directors, or technicians working on all
230 aspects of the production such as lighting, sound, and actual
231 stage work, or working indirectly on the production with
232 professionals in accounting, law, management, and marketing;

233 (v) Estimated dates for start and completion of
234 rehearsals before paid performances and the estimated dates of
235 performances in the state;

236 (vi) Plans, if any, for a national tour or for any
237 performances in other states;

238 (vii) The companies to whom the rebates shall be
239 allocated and the estimated amounts of the rebates to be allocated
240 to each;

241 (viii) A discussion of any other reasons why the
242 applicant believes the production should be considered a
243 state-certified production; and

244 (ix) Any additional information requested by the
245 Mississippi Development Authority.



(b) The Mississippi Development Authority shall review the application and determine whether the company is eligible to participate in the program authorized in this section. If the Mississippi Development Authority determines that the company is eligible to participate in the program authorized in this section it shall issue a certificate to the applicant designating the project as a state-certified production. The Mississippi Development Authority also may require as a condition for being designated a state-certified production and receiving the rebates authorized in this section that the production must display the state brand or logo, or both, as prescribed by the Mississippi Development Authority.

(5) The Mississippi Development Authority shall have all powers necessary to implement and administer the provisions of this section, and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

SECTION 4. Section 57-89-7, Mississippi Code of 1972, is amended as follows:

57-89-7. (1) (a) A motion picture production company that expends at least Fifty Thousand Dollars (\$50,000.00) in base investment, payroll and/or fringes, in the state shall be entitled to a rebate of a portion of the base investment made by the motion picture production company. Subject to the provisions of this



271 section, the amount of the rebate shall be equal to twenty-five
272 percent (25%) of the base investment made by the motion picture
273 production company.

274 (b) In addition to the rebates authorized under
275 paragraphs (a), (c) and (d) of this subsection, a motion picture
276 production company may receive a rebate equal to twenty-five
277 percent (25%) of payroll and fringes paid for any employee who is
278 not a resident and whose wages are subject to the Mississippi
279 Income Tax Withholding Law of 1968. However, if the payroll and
280 fringes paid for an employee exceeds Five Million Dollars
281 (\$5,000,000.00), then the rebate is authorized only for the first
282 Five Million Dollars (\$5,000,000.00) of such payroll and fringes.

283 (c) In addition to the rebates authorized under
284 paragraphs (a), (b) and (d) of this subsection, a motion picture
285 production company may receive a rebate equal to thirty percent
286 (30%) of payroll and fringes paid for any employee who is a
287 resident and whose wages are subject to the Mississippi Income Tax
288 Withholding Law of 1968. However, if the payroll and fringes paid
289 for an employee exceeds Five Million Dollars (\$5,000,000.00), then
290 the rebate is authorized only for the first Five Million Dollars
291 (\$5,000,000.00) of such payroll and fringes.

292 (d) In addition to the rebates authorized in paragraphs
293 (a), (b) and (c) of this subsection, a motion picture production
294 company may receive an additional rebate equal to five percent
295 (5%) of the payroll and fringes paid for any employee who is an



honorably discharged veteran of the United States Armed Forces and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968.

(e) If a motion picture has physical production activities and/or post-production activities both inside and outside the state, then the motion picture production company shall be required to provide an itemized accounting for each employee regarding such activities inside and outside the state for the purposes of proration of eligible payroll based on the percentage of activities performed in the state.

(f) The total amount of rebates authorized for a motion picture project shall not exceed Ten Million Dollars (\$10,000,000.00) in the aggregate.

(g) The total amount of rebates authorized in any fiscal year shall not exceed Twenty Million Dollars (\$20,000,000.00) in the aggregate.

(2) A motion picture production company desiring a rebate under this section must submit a rebate request to the Department of Revenue upon completion of the project. The request must include a detailed accounting of the base investment made by the motion picture production company and any other information required by the Department of Revenue. Rebates made by the Department of Revenue under this section shall be made from current income tax collections. The Department of Revenue shall



320 not approve any application for a rebate under subsection (1)(b)
321 of this section after July 1, * * * 2022.

322 (3) The Department of Revenue shall have all powers
323 necessary to implement and administer the provisions of this
324 section, and the Department of Revenue shall promulgate rules and
325 regulations, in accordance with the Mississippi Administrative
326 Procedures Law, necessary for the implementation of this section.

327 (4) The State Auditor may conduct performance and compliance
328 audits under this chapter according to Section 7-7-211(o) and may
329 bill the oversight agency.

330 **SECTION 5.** This act shall take effect and be in force from
331 and after July 1, 2018.

