

By: Representative Burnett

To: Tourism; Ways and Means

HOUSE BILL NO. 1523

1 AN ACT TO AMEND SECTION 57-26-1, MISSISSIPPI CODE OF 1972, TO
 2 REVISE THE DEFINITION OF THE TERM "TOURISM PROJECT" FOR PURPOSES
 3 OF THE TOURISM PROJECT SALES INCENTIVE PROGRAM ADMINISTERED BY THE
 4 MISSISSIPPI DEVELOPMENT AUTHORITY, TO DELETE THE PROVISION OF LAW
 5 PROVIDING THAT THE TERM DOES NOT INCLUDE ANY LICENSED GAMING
 6 ESTABLISHMENT OWNED, LEASED OR CONTROLLED BY A BUSINESS,
 7 CORPORATION OR ENTITY HAVING A GAMING LICENSE ISSUED UNDER THE
 8 MISSISSIPPI GAMING CONTROL ACT; TO BRING FORWARD SECTIONS 57-26-3,
 9 57-26-5 AND 57-26-7, MISSISSIPPI CODE OF 1972, WHICH ARE SECTIONS
 10 OF LAW RELATING TO THE TOURISM PROJECT SALES TAX INCENTIVE PROGRAM
 11 ADMINISTERED BY THE MISSISSIPPI DEVELOPMENT AUTHORITY, FOR THE
 12 PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

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

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

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



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

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

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

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

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

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



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

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

56 (iv) A full service hotel with a minimum private
57 investment of Fifteen Million Dollars (\$15,000,000.00) in land,
58 buildings, architecture, engineering, fixtures, equipment,
59 furnishings, amenities and other related soft costs approved by
60 the Mississippi Development Authority, and having a minimum
61 private investment of Two Hundred Thousand Dollars (\$200,000.00)
62 per guest room or suite which amount shall be included within the
63 minimum private investment of Fifteen Million Dollars
64 (\$15,000,000.00), a minimum of twenty-five (25) guest rooms or
65 suites, and guest amenities such as restaurants, spas and other
66 amenities as determined by the Mississippi Development Authority;
67 however, in a county in which the Grammy Museum Mississippi or the
68 Mississippi Arts and Entertainment Center is located, in a county
69 in which the Saenger Theater and the main campus of a state
70 institution of higher learning are located, and in the downtown
71 historic district of the city in which the NWCC Performing Arts
72 Center is located, the minimum private investment per guest room
73 or suite shall be One Hundred Fifty Thousand Dollars (\$150,000.00)



74 which amount shall be included within the minimum private
75 investment of Fifteen Million Dollars (\$15,000,000.00);

76 (v) A tourism attraction located within an
77 "entertainment district" as defined in Section 17-29-3 that is
78 open to the public, has seating to accommodate at least forty (40)
79 persons, is open at least five (5) days per week from at least
80 6:00 p.m. until midnight, serves food and beverages, and provides
81 live entertainment at least three (3) nights per week;

82 (vi) A cultural retail attraction;

83 (vii) A tourism attraction located within a
84 historic district where the district is listed in the National
85 Register of Historic Places, where the tourism attraction is open
86 to the public, has seating to accommodate at least forty (40)
87 persons, is open at least five (5) days per week from at least
88 6:00 p.m. until midnight, serves food and beverages, and provides
89 live entertainment at least three (3) nights per week;

90 (viii) A tourism attraction, located in a county
91 bordered by the Mississippi River and including Interstate 69 and
92 U.S. Highways 3, 4 and 61, with a minimum investment of One
93 Hundred Million Dollars (\$100,000,000.00) and subject to an urban
94 renewal plan that redevelops two (2) hotels, a golf course and
95 clubhouse, a shooting range and a convention center and develops
96 an entertainment center and waterpark, together with other
97 attraction-related amenities, on an area not less than two
98 thousand (2,000) acres.



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100 The term "tourism project" does not include any facility
101 within the project whose primary business is retail sales or any
102 expansions of existing projects; however, pro shops, souvenir
103 shops, gift shops, concessions and similar retail activities, and
104 cultural retail attractions may be included within the definition
105 of the term "tourism project." In addition, retail activities,
106 regardless of whether the primary business is retail sales, that
107 are part of a resort development may be included within the
108 definition of "tourism project."

109 (e) "Resort development" means a travel destination
110 development with a minimum private investment of One Hundred
111 Million Dollars (\$100,000,000.00) and which consists of (i) a
112 hotel with a minimum of two hundred (200) guest rooms or suites
113 and having a minimum private investment of Two Hundred Thousand
114 Dollars (\$200,000.00) per guest room or suite, and (ii) guest
115 amenities such as restaurants, golf courses, spas, fitness
116 facilities, entertainment activities and other amenities as
117 determined by the MDA. Not more than an amount equal to forty
118 percent (40%) of the private investment required by this paragraph
119 may be expended on facilities to house retail activity.

120 (f) "Cultural retail attraction" means a project which
121 combines destination shopping with cultural or historical
122 interpretive elements specific to Mississippi with a minimum
123 private investment of Fifty Million Dollars (\$50,000,000.00) in



124 land, buildings, architecture, engineering, fixtures, equipment,
125 furnishings, amenities and other related soft costs approved by
126 the Mississippi Development Authority and which:

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

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

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

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

140 1. Art created by Mississippi artists or
141 portraying themes specific to Mississippi;

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

144 3. Audio/visual equipment used to showcase
145 Mississippi artists;

146 4. A minimum of one thousand two hundred
147 fifty (1,250) square feet of heated and cooled space available to



148 the Mississippi Development Authority or its assignee for a period
149 of not less than ten (10) years.

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

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

154 **SECTION 2.** Section 57-26-3, Mississippi Code of 1972, is
155 brought forward as follows:

156 57-26-3. (1) (a) There is created in the State Treasury a
157 special fund to be known as the "Tourism Project Sales Tax
158 Incentive Fund," into which shall be deposited such money as
159 provided in Section 27-65-75(16). The monies in the fund shall be
160 used for the purpose of making the incentive payments authorized
161 in this section. The fund shall be administered by the MDA.
162 Unexpended amounts remaining in the fund at the end of a fiscal
163 year shall not lapse into the State General Fund, and any interest
164 earned on or investment earnings on the amounts in the fund shall
165 be deposited to the credit of the fund. The MDA may use not more
166 than one percent (1%) of interest earned or investment earnings,
167 or both, on amounts in the fund for administration and management
168 of the incentive program authorized under Sections 57-26-1 through
169 57-26-5.

170 (b) Subject to the provisions of this section,
171 incentive payments may be made by the MDA to an approved
172 participant that incurs approved project costs to locate a tourism



173 project in the state. The payments to an approved participant
174 shall be for eighty percent (80%) of the amount of sales tax
175 revenue collected from the operation of the tourism project, after
176 making the diversions required in Section 27-65-75(7) and (8).
177 The MDA shall make payments to an approved participant on a
178 semiannual basis with payments being made in the months of January
179 and July. The aggregate amount of incentive payments that an
180 approved participant may receive shall not exceed thirty percent
181 (30%) of the approved project costs incurred by the approved
182 participant for the tourism project. Expansions, enlargements or
183 additional investments made by an approved participant will not
184 increase authorized incentive payments certified by the MDA. The
185 MDA shall make the calculations necessary to make the payments
186 provided for in this section. The MDA shall cease making
187 incentive payments to an approved participant on the occurrence of
188 the earlier of:

189 (i) The date that an aggregate amount of thirty
190 percent (30%) of the approved project costs incurred by the
191 approved participant for the tourism project has been paid to the
192 approved participant; or

193 (ii) Fifteen (15) years after the date the tourism
194 project opens for commercial operation.

195 (2) At such time as incentive payments are no longer
196 required to be made to an approved participant, the MDA shall
197 notify the Department of Revenue and the sales tax revenue



198 collected from the tourism project shall no longer be deposited
199 into the Tourism Project Sales Tax Incentive Fund. Any amounts
200 remaining in the fund that were collected from such project shall
201 be transferred to the State General Fund.

202 **SECTION 3.** Section 57-26-5, Mississippi Code of 1972, is
203 brought forward as follows:

204 57-26-5. (1) The MDA shall develop, implement and
205 administer the incentive program authorized in Sections 57-26-1
206 through 57-26-5 and shall promulgate rules and regulations
207 necessary for the development, implementation and administration
208 of such program.

209 (2) A person, corporation or other entity desiring to
210 participate in the incentive program authorized in Sections
211 57-26-1 through 57-26-5 must submit an application and an
212 application fee in the amount of Five Thousand Dollars (\$5,000.00)
213 to the MDA. Such application must contain (a) plans for the
214 proposed tourism project; (b) a detailed description of the
215 proposed tourism project; (c) the method of financing the proposed
216 tourism project and the terms of such financing; (d) an
217 independent study that identifies the number of out-of-state
218 visitors anticipated to visit the project and the ratio of
219 out-of-state visitors to in-state visitors; and (e) any other
220 information required by the MDA. The Executive Director of the
221 MDA shall review the application and determine if it qualifies as
222 a tourism project under this section and under the rules and



223 regulations promulgated pursuant to this section. If the
224 executive director determines the proposed tourism project
225 qualifies as a tourism project under this section and under the
226 rules and regulations promulgated pursuant to this section, he
227 shall issue a certificate to the person, corporation or other
228 entity designating such person, corporation or other entity as an
229 approved participant and authorizing the approved participant to
230 participate in the incentive program provided for in Sections
231 57-26-1 through 57-26-5. No certificate designating an entity as
232 an approved participant and authorizing the approved participant
233 to participate in the incentive program shall be issued from and
234 after July 1, 2014, for tourism projects that are cultural retail
235 attractions, or from and after July 1, 2027, for other tourism
236 projects. For tourism projects that are cultural retail
237 attractions, no such issued certificate shall be altered or
238 extended after the date last approved as of July 1, 2020.

239 (3) The MDA shall cause a cost-benefit analysis of the
240 tourism project to be performed by a state institution of higher
241 learning, the university research center or some other entity
242 approved by the MDA.

243 **SECTION 4.** Section 57-26-7, Mississippi Code of 1972, is
244 brought forward as follows:

245 57-26-7. The MDA shall not approve any application submitted
246 after June 30, 2014, pursuant to Section 57-26-5 for a project
247 that includes any resort development.



248 **SECTION 5.** This act shall take effect and be in force from
249 and after July 1, 2024.

