

By: Senator(s) Harkins

To: Finance

SENATE BILL NO. 2854
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 57-26-1, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DEFINITIONS OF "TOURISM PROJECT" AND "RESORT
3 DEVELOPMENT" TO INCREASE THE MINIMUM PRIVATE INVESTMENT AMOUNTS
4 REQUIRED UNDER THE TOURISM PROJECT INCENTIVE PROGRAM; TO DECREASE
5 THE PERCENTAGE OF THE PRIVATE INVESTMENT AMOUNT REQUIRED FOR
6 RESORT DEVELOPMENTS THAT MAY BE EXPENDED ON FACILITIES TO HOUSE
7 RETAIL ACTIVITY; TO AMEND SECTION 57-26-3, MISSISSIPPI CODE OF
8 1972, TO INCREASE THE POTENTIAL TIME IN WHICH THE MISSISSIPPI
9 DEVELOPMENT AUTHORITY MAY MAKE INCENTIVE PAYMENTS FROM THE TOURISM
10 PROJECT SALES TAX INCENTIVE FUND; TO AMEND SECTION 57-26-7,
11 MISSISSIPPI CODE OF 1972, TO REAUTHORIZE THE MISSISSIPPI
12 DEVELOPMENT AUTHORITY TO APPROVE APPLICATIONS FOR PROJECTS THAT
13 INCLUDE RESORT DEVELOPMENTS, AND TO EXTEND THE APPLICATION
14 DEADLINE TO JUNE 30, 2027; AND FOR RELATED PURPOSES.

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

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

18 57-26-1. As used in Sections 57-26-1 through * * * 57-26-7,
19 the following terms and phrases shall have the meanings ascribed
20 in this section unless the context clearly indicates otherwise:

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



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

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

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

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

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

48 (ii) A hotel with a minimum private investment
49 of * * * Fifty Million Dollars (\$50,000,000.00) in land,



50 buildings, architecture, engineering, fixtures, equipment,
51 furnishings, amenities and other related soft costs approved by
52 the * * * MDA, and having a minimum private investment of * * *
53 Two Hundred Thousand Dollars (\$200,000.00) per guest room which
54 amount shall be included within the minimum private investment
55 of * * * Fifty Million Dollars (\$50,000,000.00);

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

58 (iv) A full-service hotel with a minimum private
59 investment of * * * Twenty Million Dollars (\$20,000,000.00) in
60 land, buildings, architecture, engineering, fixtures, equipment,
61 furnishings, amenities and other related soft costs approved by
62 the * * * MDA, and having a minimum private investment of * * *
63 Two Hundred Fifty Thousand Dollars (\$250,000.00) per guest room or
64 suite which amount shall be included within the minimum private
65 investment of * * * Twenty Million Dollars (\$20,000,000.00), a
66 minimum of twenty-five (25) guest rooms or suites, and guest
67 amenities such as restaurants, spas and other amenities as
68 determined by the * * * MDA; however, in a county in which the
69 Grammy Museum Mississippi, the Marty Stuart Congress of Country
70 Music or the Mississippi Arts and Entertainment Center is located,
71 in a county in which the Saenger Theater and the main campus of a
72 state institution of higher learning are located, and in the
73 downtown historic district of the city in which the NWCC
74 Performing Arts Center is located, the minimum private investment



75 per guest room or suite shall be * * * Two Hundred Thousand
76 Dollars (\$200,000.00), which amount shall be included within the
77 minimum private investment of * * * Twenty Million Dollars
78 (\$20,000,000.00);

79 (v) A tourism attraction located within an
80 "entertainment district" as defined in Section 17-29-3 that is
81 open to the public, has seating to accommodate at least forty (40)
82 persons, is open at least five (5) days per week from at least
83 6:00 p.m. until midnight, serves food and beverages, and provides
84 live entertainment at least three (3) nights per week;

85 (vi) A cultural retail attraction;

86 (vii) A tourism attraction located within a
87 historic district where the district is listed in the National
88 Register of Historic Places, where the tourism attraction is open
89 to the public, has seating to accommodate at least forty (40)
90 persons, is open at least five (5) days per week from at least
91 6:00 p.m. until midnight, serves food and beverages, and provides
92 live entertainment at least three (3) nights per week;

93 (viii) A tourism attraction, located in a county
94 bordered by the Mississippi River and including Interstate 69 and
95 U.S. Highways 3, 4 and 61, with a minimum investment of One
96 Hundred Million Dollars (\$100,000,000.00) and subject to an urban
97 renewal plan that redevelops two (2) hotels, a golf course and
98 clubhouse, a shooting range and a convention center and develops
99 an entertainment center and waterpark, together with other



attraction-related amenities, on an area not less than two thousand (2,000) acres.

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

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

(e) "Resort development" means a travel destination development with a minimum private investment of * * * Two Hundred Million Dollars (\$200,000,000.00) and which consists of (i) a



hotel with a minimum of two hundred (200) guest rooms or suites and having a minimum private investment of Two Hundred Thousand Dollars (\$200,000.00) per guest room or suite, and (ii) guest amenities such as restaurants, golf courses, spas, fitness facilities, entertainment activities and other amenities as determined by the MDA. Not more than an amount equal to * * * thirty percent (30%) of the private investment required by this paragraph may be expended on facilities to house retail activity.

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

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

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

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



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

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

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

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

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

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

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

SECTION 2. Section 57-26-3, Mississippi Code of 1972, is amended as follows:

57-26-3. (1) (a) There is created in the State Treasury a special fund to be known as the "Tourism Project Sales Tax Incentive Fund," into which shall be deposited such money as provided in Section 27-65-75(16). The monies in the fund shall be used for the purpose of making the incentive payments authorized in this section. The fund shall be administered by the MDA. Unexpended amounts remaining in the fund at the end of a fiscal



year shall not lapse into the State General Fund, and any interest earned on or investment earnings on the amounts in the fund shall be deposited to the credit of the fund. The MDA may use not more than one percent (1%) of interest earned or investment earnings, or both, on amounts in the fund for administration and management of the incentive program authorized under Sections 57-26-1 through 57-26-5.

(b) Subject to the provisions of this section, incentive payments may be made by the MDA to an approved participant that incurs approved project costs to locate a tourism project in the state. The payments to an approved participant shall be for eighty percent (80%) of the amount of sales tax revenue collected from the operation of the tourism project, after making the diversions required in Section 27-65-75(7) and (8). 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 of incentive payments that an approved participant may receive shall not exceed thirty percent (30%) of the approved project costs incurred by the approved participant for the tourism project. Expansions, enlargements or additional investments made by an approved participant will not increase authorized incentive payments certified by the MDA. The MDA shall make the calculations necessary to make the payments provided for in this section. The MDA shall cease making



incentive payments to an approved participant on the occurrence of the earlier of:

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

(ii) * * * Twenty (20) years after the date the tourism project opens for commercial operation.

(2) At such time as incentive payments are no longer required to be made to an approved participant, the MDA shall notify the Department of Revenue and the sales tax revenue collected from the tourism project shall no longer be deposited into the Tourism Project Sales Tax Incentive Fund. Any amounts remaining in the fund that were collected from such project shall be transferred to the State General Fund.

SECTION 3. Section 57-26-7, Mississippi Code of 1972, is amended as follows:

57-26-7. The MDA shall not approve any application submitted after June 30, * * * 2027, pursuant to Section 57-26-5 for a project that includes any resort development.

SECTION 4. This act shall take effect and be in force from and after its passage.

