

MOTION PICTURE INCENTIVES AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel W. Thatcher

House Sponsor: _____

LONG TITLE**General Description:**

This bill modifies provisions related to motion picture incentives.

Highlighted Provisions:

This bill:

- ▶ allows the Governor's Office of Economic Development to provide motion picture incentives for companies engaging in post-production work in Utah;
- ▶ removes the cap on cash rebate incentives allowed for any one motion picture; and
- ▶ defines terms.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:****63N-8-101**, as renumbered and amended by Laws of Utah 2015, Chapter 283**63N-8-102**, as renumbered and amended by Laws of Utah 2015, Chapter 283**63N-8-104**, as renumbered and amended by Laws of Utah 2015, Chapter 283**63N-8-105**, as renumbered and amended by Laws of Utah 2015, Chapter 283

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63N-8-101** is amended to read:

63N-8-101. Title -- Purpose.

(1) This chapter is known as "Motion Picture Incentives."

(2) The Legislature finds that:

(a) the state's natural beauty, scenic wonders, and diverse topography provide a variety of magnificent settings from which the motion picture industry can choose to film part or all of major or independent motion pictures, made-for-television movies, and television series;

(b) the state has an abundance of resources, including a skilled and able workforce, the required infrastructure, and a friendly and hospitable populace that have been instrumental in the filming of hundreds of successful motion pictures and several television series; and

(c) further development of the motion picture industry in Utah is a state public purpose that will significantly impact growth in the state's economy and contribute to the fiscal well being of the state and its people.

(3) The purpose of this chapter is to:

(a) encourage the use of Utah as a site for the production of motion pictures, television series, and made-for-television movies;

(b) provide financial incentives to the film industry so that Utah might compete successfully with other states and countries for filming locations and post-production work; and

(c) help develop a strong motion picture industry presence in the state that will contribute substantially to improving the state's economy.

Section 2. Section **63N-8-102** is amended to read:

63N-8-102. Definitions.

As used in this chapter:

(1) "Digital media company" means a company engaged in the production of a digital media project.

(2) "Digital media project" means all or part of a production of interactive entertainment or animated production that is produced for distribution in commercial or educational markets, which shall include projects intended for Internet or wireless distribution.

(3) "Dollars left in the state" means expenditures made in the state for a state-approved production, including:

- 59 (a) an expenditure that is subject to:
- 60 (i) a corporate franchise or income tax under Title 59, Chapter 7, Corporate Franchise
- 61 and Income Taxes;
- 62 (ii) an individual income tax under Title 59, Chapter 10, Individual Income Tax Act;
- 63 and
- 64 (iii) a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act,
- 65 notwithstanding any sales and use tax exemption allowed by law; or
- 66 (iv) a combination of Subsections (3)(a)(i), (ii), and (iii);
- 67 (b) payments made to a nonresident only to the extent of the income tax paid to the
- 68 state on the payments, the amount of per diems paid in the state, and other direct
- 69 reimbursements transacted in the state; and
- 70 (c) payments made to a payroll company or loan-out corporation that is registered to do
- 71 business in the state, only to the extent of the amount of withholding under Section [59-10-402](#).
- 72 (4) "Loan-out corporation" means a corporation owned by one or more artists that
- 73 provides services of the artists to a third party production company.
- 74 (5) "Motion picture company" means a company engaged in the production of:
- 75 (a) motion pictures;
- 76 (b) television series; or
- 77 (c) made-for-television movies.
- 78 (6) "Motion picture incentive" means either a cash rebate from the Motion Picture
- 79 Incentive Account or a refundable tax credit under Section [59-7-614.5](#) or [59-10-1108](#).
- 80 (7) "New state revenues" means:
- 81 (a) incremental new state sales and use tax revenues generated as a result of a digital
- 82 media project that a digital media company pays under Title 59, Chapter 12, Sales and Use Tax
- 83 Act;
- 84 (b) incremental new state tax revenues that a digital media company pays as a result of
- 85 a digital media project under:
- 86 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
- 87 (ii) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and
- 88 Information;
- 89 (iii) Title 59, Chapter 10, Part 2, Trusts and Estates;

(iv) Title 59, Chapter 10, Part 4, Withholding of Tax; or
(v) a combination of Subsections (7)(b)(i), (ii), (iii), and (iv);
(c) incremental new state revenues generated as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, paid by employees of the new digital media project as evidenced by payroll records from the digital media company; or

(d) a combination of Subsections (7)(a), (b), and (c).

(8) "Payroll company" means a business entity that handles the payroll and becomes the employer of record for the staff, cast, and crew of a motion picture production.

(9) "Post-production work" means work undertaken on a state-approved production after filming or shooting is complete and includes film and video editing, sound editing, sound mixing, computer graphics services, visual effects services, and animation services.

~~[(9)]~~ (10) "Refundable tax credit" means a refundable motion picture tax credit authorized under Section 63N-8-103 and claimed under Section 59-7-614.5 or 59-10-1108.

~~[(10)]~~ (11) "Restricted account" means the Motion Picture Incentive Account created in Section 63N-8-103.

~~[(11)]~~ (12) "State-approved production" means a production, or post-production work, under Subsections (2) and (5) that is:

(a) approved by the office and ratified by the board; and

(b) produced or carried out in the state by a motion picture company.

~~[(12)]~~ (13) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

~~[(13)]~~ (14) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the applicant;

(b) lists the applicant's taxpayer identification number;

(c) lists the amount of tax credit that the office awards the applicant for the taxable year; and

(d) may include other information as determined by the office.

Section 3. Section 63N-8-104 is amended to read:

**63N-8-104. Motion picture incentives -- Standards to qualify for an incentive --
Limitations -- Content of agreement between office and motion picture company or**

digital media company.

(1) In addition to the requirements for receiving a motion picture incentive as set forth in this part, the office, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall make rules establishing:

(a) the standards that a motion picture company or digital media company must meet to qualify for the motion picture incentive; and

(b) criteria for determining the amount of the incentive.

(2) The office shall ensure that those standards include the following:

(a) an incentive may only be issued for a ~~[state-approved]~~ state-approved production by a motion picture company or digital media company;

(b) financing has been obtained and is in place for the production; and

(c) the economic impact of the production on the state represents new incremental economic activity in the state as opposed to existing economic activity.

(3) With respect to a digital media project, the office shall consider economic modeling, including the costs and benefits of the digital media project to state and local governments in determining the motion picture incentive amount.

(4) The office may also consider giving preference to a production that stimulates economic activity in rural areas of the state, engages in post-production work in the state, or ~~[that]~~ has Utah content, such as recognizing that the production was made in the state or uses Utah as Utah in the production.

(5) (a) The office, with advice from the board, may enter into an agreement with a motion picture company or digital media company that meets the standards established under this section and satisfies the other qualification requirements under this part.

(b) Subject to Subsection 63N-8-103(3), the office may commit or authorize a motion picture incentive:

(i) to a motion picture company of up to 20% of the dollars left in the state by the motion picture company, and a motion picture company can receive an additional 5%, not to exceed 25% of the dollars left in the state by the motion picture company if the company fulfills certain requirements determined by the office including:

(A) employing a significant percentage of cast and crew from Utah;

(B) highlighting the state of Utah and the Utah Film Commission in the motion picture

credits; ~~[or]~~

(C) engaging in post-production work in Utah; or

~~[(C)] (D)~~ other promotion opportunities as agreed upon by the office and the motion picture company; and

(ii) to a digital media company, if the incentive does not exceed 100% of the new state revenue less the considerations under Subsection (3), but not to exceed 20% of the dollars left in the state by the digital media company.

~~[(c) A cash rebate incentive from the Motion Picture Incentive Restricted Account may not exceed \$500,000 per state approved production for a motion picture project.]~~

~~[(d)] (c)~~ The office may not give a cash rebate incentive from the Motion Picture Incentive Restricted Account for a digital media project.

(6) The office shall ensure that the agreement entered into with a motion picture company or digital media company under Subsection (5)(a):

(a) details the requirements that the motion picture company or digital media company must meet to qualify for an incentive under this part;

(b) specifies:

(i) the nature of the incentive; and

(ii) the maximum amount of the motion picture incentive that the motion picture company or digital media company may earn for a taxable year and over the life of the production;

(c) establishes the length of time over which the motion picture company or digital media company may claim the motion picture incentive;

(d) requires the motion picture company or digital media company to retain records supporting its claim for a motion picture incentive for at least four years after the motion picture company or digital media company claims the incentive under this part; and

(e) requires the motion picture company or digital media company to submit to audits for verification of the claimed motion picture incentive.

Section 4. Section **63N-8-105** is amended to read:

63N-8-105. Annual report.

The office shall include the following information in the annual written report described in Section [63N-1-301](#):

- 183 (1) the office's success in attracting within-the-state;
184 (a) production of television series, made-for-television movies, and motion pictures,
185 including feature films and independent films; and
186 (b) post-production work;
187 (2) the amount of incentive commitments made by the office under this part and the
188 period of time over which the incentives will be paid; and
189 (3) the economic impact on the state related to:
190 (a) dollars left in the state; and
191 (b) providing motion picture incentives under this part.