

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 608 By: Hall of the Senate
3 and
4 Fetgatter of the House
5

6
7 [film production incentives - Compete with Canada
8 Film Act - effective date]
9

10 AUTHORS: Add the following House Coauthors: Hill, Pittman and
11 Waldron

12 AMENDMENT NO. 1. Delete the stricken title, enacting clause and
13 entire bill and replace with:

14 "[film production incentives - enacting the Filmed
15 In Oklahoma Act of 2021 - creating the Filmed In
16 Oklahoma Program Revolving Fund - effective date -
17 emergency]

18 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

19 SECTION 1. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 3631 of Title 68, unless there
21 is created a duplication in numbering, reads as follows:

22 This act shall be known and may be cited as the "Filmed In
23 Oklahoma Act of 2021".
24

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3632 of Title 68, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in the Filmed In Oklahoma Act of 2021:

5 1. "Above-the-line personnel" means producers, principal cast,
6 screenwriters and directors who work on production of films or
7 television series;

8 2. "Apprentice" means a person who works for a skilled or
9 qualified person in order to learn a trade or profession for an
10 agreed upon period of time. An apprentice may work in any of the
11 trades recognized by the Oklahoma Department of Commerce as
12 necessary for a film production;

13 3. "Crew" means any person who works on preproduction,
14 principal photography, and postproduction, with the exception of
15 above-the-line personnel. The qualifying salary of above-the-line
16 personnel may be included as crew if the salaries are paid to loan-
17 out corporations and limited liability companies registered to do
18 business in the State of Oklahoma or the salaries are paid to
19 Oklahoma-based above-the-line personnel. The qualifying salary of
20 above-the-line personnel shall not comprise more than twenty-five
21 percent (25%) of total expenditures as defined in paragraph 5 of
22 this section. For purposes of this paragraph, "Oklahoma-based"
23 means a company or individual with an Oklahoma income tax
24 requirement;

1 4. "Eligible television series" means a project if either
2 seventy-five percent (75%) of the series season is shot within the
3 state or, for an episodic television pilot, if more than seventy-
4 five percent (75%) of the pilot is shot within the state. It shall
5 also include a production company that shoots at least seventy-five
6 percent (75%) of main crew principal photography for three films in
7 this state within three (3) years or where the third film starts
8 main crew principal photography within the three-year period;

9 5. "Expenditure" or "production cost" includes but is not
10 limited to:

- 11 a. wages or salaries of persons who are residents of this
12 state and who have earned income from working on a
13 film in this state, including payments to personal
14 services corporations with respect to the services of
15 qualified performing artists, pursuant to the
16 provisions of the Internal Revenue Code, 26 U.S.C.,
17 Section 62(a)(2),
- 18 b. the cost of construction and operations, wardrobe,
19 accessories and related services,
- 20 c. the cost of photography, sound synchronization,
21 lighting and related services,
- 22 d. the cost of editing and related services,
- 23 e. rental of facilities and equipment,
- 24 f. other direct costs of producing a film, and

1 g. the wages and salaries of persons who are defined and
2 registered as an Oklahoma Expatriate by the Office of
3 the Oklahoma Film and Music Commission;

4 6. "Film" means a professional single media, multimedia program
5 or feature, which is not child pornography as defined in subsection
6 A of Section 1024.1 of Title 21 of the Oklahoma Statutes or obscene
7 material as defined in paragraph 1 of subsection B of Section 1024.1
8 of Title 21 of the Oklahoma Statutes, including, but not limited to,
9 national advertising messages that are broadcast on a national
10 affiliate or cable network, fixed on film or digital video, which
11 can be viewed or reproduced and which is exhibited in theaters,
12 licensed for exhibition by individual television stations, groups of
13 stations, networks, cable television stations or other means or
14 licensed for home viewing markets. The term shall also include
15 filming for interactive and video gaming, including, but not limited
16 to, green screen, motion capture and similar production techniques;

17 7. "Nonresident crew member" means a person who is not an
18 Oklahoma resident, hired for a qualifying production project
19 occurring within the state and who is subject to the payment of
20 Oklahoma employment taxes;

21 8. "Production company" means a person, producer or company who
22 produces film for exhibition in theaters, on television or
23 elsewhere;

1 9. "Qualified production expenditure amount" means an
2 expenditure defined pursuant to paragraph 5 of this section; and

3 10. "Qualified soundstage facility" means a state certified
4 industry standard soundstage facility having not less than seven
5 thousand five hundred (7,500) square feet of combined soundstage
6 space and with a total state rental cost to the production company
7 equal to at least one percent (1%) of the qualifying Oklahoma
8 expenditures with respect to a production.

9 SECTION 3. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 3633 of Title 68, unless there
11 is created a duplication in numbering, reads as follows:

12 A. There is hereby created an incentive rebate program for
13 certain film projects and eligible television series projects filmed
14 or produced in Oklahoma who meet the requirements of this act.

15 B. The rebate program shall be administered by the Oklahoma
16 Department of Commerce and the Oklahoma Tax Commission.

17 C. By October 1 of each year, the Oklahoma Department of
18 Commerce shall submit an annual report to the Speaker of the House
19 of Representatives, the President Pro Tempore of the Senate, the
20 Chair of the Appropriations and Budget Committee of the House of
21 Representatives and the Chair of the Appropriations Committee of the
22 Senate detailing the program and incentive rebate payments.

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1 D. The Oklahoma Department of Commerce and the Oklahoma Tax
2 Commission may promulgate rules to implement the provisions of this
3 act.

4 E. To be eligible for a rebate payment a production company
5 shall:

6 1. Submit an application and documentation to the Oklahoma
7 Department of Commerce as required by the Department;

8 2. Have filed any Oklahoma tax returns and tax documents
9 required by law;

10 3. Except for major studio productions, provide the name of the
11 completion guarantor and a copy of the bond guaranteeing the
12 project, or, if a film has not secured a completion bond, the
13 production company shall provide evidence that all Oklahoma crew and
14 local vendors have been paid and that there are no pending liens
15 against the production company in this state;

16 4. Provide evidence of financing for production prior to the
17 commencement of principal photography; and

18 5. Provide evidence of a certificate of general liability
19 insurance with a minimum coverage of One Million Dollars
20 (\$1,000,000.00) and a workers' compensation policy in compliance
21 with law, which shall include coverage of employer's liability.

22 F. A production company shall not be eligible to receive both a
23 rebate payment pursuant to the provisions of this act and an
24 exemption from sales tax pursuant to the provisions of paragraph 23

1 of Section 1357 of Title 68 of the Oklahoma Statutes. If a
2 production company has received the exemption from sales taxes and
3 submits a claim for rebate pursuant to the provisions of this act,
4 the company shall be required to fully repay the amount of the
5 exemption to the Tax Commission. A claim for a rebate shall include
6 documentation from the Tax Commission that repayment has been made
7 as required in this subsection or shall include an affidavit from
8 the production company that the company has not received an
9 exemption from sales tax pursuant to the provisions of paragraph 23
10 of Section 1357 of Title 68 of the Oklahoma Statutes.

11 G. The Department of Commerce shall approve or disapprove all
12 claims for rebate and shall notify the Tax Commission subject to the
13 limitations set forth in Section 4 of this act. Upon notification
14 of approval from the Department, the Commission shall issue payment
15 for all approved claims from funds held in the Filmed In Oklahoma
16 Program Revolving Fund created pursuant to Section 9 of this act and
17 subject to the limitations set forth in Section 4 of this act. If
18 the amount of approved claims exceeds the balance of the revolving
19 fund, payments shall be made in the order the claims are approved by
20 the Department. If an approved claim is not paid in whole or in
21 part, the unpaid claim or unpaid portion of the claim shall be paid
22 upon the availability of funds.

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1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3634 of Title 68, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The total amount of rebate payments conditionally pre-
5 qualified by the Department of Commerce each fiscal year with
6 respect to any of the incentives authorized pursuant to this act
7 shall not exceed Twenty Million Dollars (\$20,000,000.00). Projects
8 not conditionally pre-qualified for rebate payments due to the
9 limitations provided in this section may be conditionally pre-
10 qualified by the Department in subsequent fiscal years.

11 B. The amount of rebate payments conditionally pre-qualified by
12 the Department of Commerce each fiscal year with respect to any of
13 the incentives authorized pursuant to this act shall not exceed:

14 1. Five Million Dollars (\$5,000,000.00) for production projects
15 with total expenditures of less than Seven Million Five Hundred
16 Thousand Dollars (\$7,500,000.00); and

17 2. Fifteen Million Dollars (\$15,000,000.00) for production
18 projects with total expenditures of Seven Million Five Hundred
19 Thousand Dollars (\$7,500,000.00) or more.

20 C. A production project shall have total expenditures of Fifty
21 Thousand Dollars (\$50,000.00) or more to be eligible for the rebate
22 payments provided in this act.

23 D. In any fiscal year if the amount of rebate payments
24 conditionally pre-qualified by the Department of Commerce are less

1 than the limitations provided in this section, the excess rebate
2 payments not utilized shall be added to subsequent fiscal year's
3 limitation.

4 SECTION 5. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 3635 of Title 68, unless there
6 is created a duplication in numbering, reads as follows:

7 A. Subject to the final approval of the eligibility application
8 by the Oklahoma Department of Commerce, a requirement that the
9 incentive payments made pursuant to the provisions of this act
10 achieve the maximum positive impact for the Oklahoma economy and
11 subject to the Oklahoma workforce requirements of Section 7 of this
12 act, the base incentive amount for a project located in the state
13 shall be a maximum of twenty percent (20%) of the qualified
14 production expenditure amount.

15 B. In addition to the amount authorized by subsection A of this
16 section, there may be an additional incentive amount, subject to the
17 final approval of the Oklahoma Department of Commerce, in the
18 maximum amount of:

19 1. Three percent (3%) of the qualified production expenditure
20 amount for projects where at least twenty-five percent (25%) of main
21 crew principal photography days are filmed on location, excluding
22 sound stage production, in any county of this state if the county
23 has a population of less than two hundred fifty thousand (250,000)

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1 persons according to the Federal Decennial Census or most recent
2 population estimate;

3 2. Two percent (2%) of the qualified production expenditure
4 amount if the project is located in a municipality having a
5 population of thirteen thousand (13,000) or fewer persons according
6 to the Federal Decennial Census or most recent population estimate
7 regardless of the county in which the municipality is located or
8 partially located;

9 3. Five percent (5%) of the qualified production expenditure
10 amount for soundstage expenditures if at least twenty-five percent
11 (25%) of main crew principal photography days are filmed at a
12 qualified soundstage facility;

13 4. For eligible television series as defined in paragraph 4 of
14 Section 2 of this act:

15 a. two percent (2%) of the qualified production
16 expenditure amount for an eligible television episodic
17 pilot, and

18 b. an additional three percent (3%) of the qualified
19 production expenditure amount if a television series
20 is renewed for one or more seasons.

21 An eligible television series shooting three films within three
22 (3) years as defined in paragraph 4 of Section 2 of this act shall
23 be eligible for the incentives in subparagraphs a and b of this
24 paragraph; and

1 5. Three percent (3%) of the qualified production expenditure
2 amount based on expenditures paid to Oklahoma vendors for post-
3 production expenses with a minimum expenditure of three percent (3%)
4 of Oklahoma production expenditures. Post-production expenditures
5 include but are not limited to the following categories:

- 6 a. sound recording or mixing,
- 7 b. color grading,
- 8 c. editorial work,
- 9 d. visual effects,
- 10 e. animation,
- 11 f. deliverables, excluding marketing,
- 12 g. music production, recording, mixing or composition,
- 13 h. licensing of Oklahoma music, and
- 14 i. editing equipment or editing facility rental.

15 C. To qualify for the rebates provided in paragraphs 1 and 2 of
16 subsection B of this section, a minimum of at least twenty-five
17 percent (25%) of main crew principal photography days must be filmed
18 on location in the municipality, excluding sound stage production.

19 SECTION 6. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 3636 of Title 68, unless there
21 is created a duplication in numbering, reads as follows:

22 A. Subject to the final approval of the eligibility application
23 by the Oklahoma Department of Commerce, and subject to the
24 requirement that incentive payments pursuant to the provisions of

1 this act have the maximum positive impact for the economy of the
2 state, the base incentive amount for post-production activity
3 occurring in this state for a project located outside the state
4 shall be a maximum of twenty percent (20%) of the qualified
5 production expenditure amount.

6 B. In addition to the amount authorized by subsection A of this
7 section, there may be an additional incentive amount, subject to the
8 final approval of the Oklahoma Department of Commerce, for eligible
9 television series as defined in paragraph 4 of Section 2 of this act
10 in the following amounts:

11 1. Two percent (2%) of the qualified production expenditure
12 amount for an eligible episodic television pilot; and

13 2. An additional three percent (3%) of the qualified production
14 expenditure amount if the television series is renewed for one or
15 more seasons.

16 An eligible television series shooting, in a location outside of
17 the state, three films within three (3) years as defined in
18 paragraph 4 of Section 2 of this act shall be eligible for the
19 incentives provided in subsection A of this section and in
20 paragraphs 1 and 2 of this subsection.

21 C. The provisions of this section shall be applicable only with
22 respect to qualified production expenditure amounts for post-
23 production activity occurring within the state, including, but not
24 limited to the following categories:

- 1 1. Sound recording or mixing;
- 2 2. Color grading;
- 3 3. Editorial work;
- 4 4. Visual effects;
- 5 5. Animation;
- 6 6. Deliverables, excluding marketing;
- 7 7. Music production, recording, mixing or composition;
- 8 8. Licensing of Oklahoma music; and
- 9 9. Editing equipment or editing facility rental.

10 SECTION 7. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 3637 of Title 68, unless there
12 is created a duplication in numbering, reads as follows:

13 To qualify for the maximum twenty percent (20%) base incentive
14 payment authorized for Oklahoma production projects pursuant to
15 subsection A of Section 5 of this act, the production project shall
16 utilize the services of apprentices according to the following
17 requirements:

- 18 1. For a production with expenditures of Seven Million Five
19 Hundred Thousand Dollars (\$7,500,000.00) or less, two apprentices;
- 20 2. For a production with expenditures greater than Seven
21 Million Five Hundred Thousand Dollars (\$7,500,000.00) and not
22 greater than Fifteen Million Dollars (\$15,000,000.00), four
23 apprentices;

1 3. For a production with expenditures greater than Fifteen
2 Million Dollars (\$15,000,000.00) and not greater than Twenty-five
3 Million Dollars (\$25,000,000.00), eight apprentices; and

4 4. For a production with expenditures equal to or greater than
5 Twenty-five Million Dollars (\$25,000,000.00), sixteen apprentices.

6 SECTION 8. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 3638 of Title 68, unless there
8 is created a duplication in numbering, reads as follows:

9 All production projects for which any incentive is paid pursuant
10 to the provisions of this act shall contain a logo, as approved by
11 the Oklahoma Department of Commerce, to be displayed in the end
12 credits of the finished production or, if the production does not
13 contain end credits, the Oklahoma Department of Commerce shall
14 obtain a commitment by the production company to provide equivalent
15 value as determined by the Oklahoma Department of Commerce.

16 SECTION 9. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 3639 of Title 68, unless there
18 is created a duplication in numbering, reads as follows:

19 A. There is hereby created in the State Treasury a revolving
20 fund for the Oklahoma Tax Commission to be designated the "Filmed In
21 Oklahoma Program Revolving Fund". The fund shall be a continuing
22 fund, not subject to fiscal year limitations, and shall consist of
23 all monies received by the Tax Commission which are specifically
24 required by law to be deposited in the fund, any public or private

1 donations, contributions, and gifts received for the benefit of the
2 fund and any amounts appropriated by the Oklahoma Legislature. All
3 monies accruing to the credit of the fund are hereby appropriated
4 and may be budgeted and expended by the Tax Commission for the
5 purpose of paying rebates as provided in this act. Expenditures
6 from the fund shall be made upon warrants issued by the State
7 Treasurer against claims filed as prescribed by law with the
8 Director of the Office of Management and Enterprise Services for
9 approval and payment.

10 B. Any unexpended funds remaining in the Filmed In Oklahoma
11 Program Revolving Fund upon the expiration of this act as provided
12 in Section 11 of this act shall be transferred to the State
13 Treasurer for deposit in the General Revenue Fund.

14 SECTION 10. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 3640 of Title 68, unless there
16 is created a duplication in numbering, reads as follows:

17 Any company or entity that receives rebate payments for a
18 project pursuant to the provisions of the Compete with Canada Film
19 Act shall not be eligible for rebate payments provided pursuant to
20 this act for the same project.

21 SECTION 11. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 3641 of Title 68, unless there
23 is created a duplication in numbering, reads as follows:

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1 The provisions of this act shall cease to have the force and
2 effect of law on June 30, 2031. Incentive payments may be made
3 after such date to the extent necessary for payment of claims based
4 on projects approved not later than June 30, 2031.

5 SECTION 12. AMENDATORY 68 O.S. 2011, Section 2352, as
6 last amended by Section 3, Chapter 15, O.S.L. 2020 (68 O.S. Supp.
7 2020, Section 2352), is amended to read as follows:

8 Section 2352. It is hereby declared to be the purpose of
9 Section 2351 et seq. of this title to provide revenue for general
10 governmental functions of state government; and, for that purpose
11 and to that end, it is expressly declared that the revenue derived
12 herefrom and penalties and interest thereon, subject to the
13 apportionment requirements for the Rebuilding Oklahoma Access and
14 Driver Safety Fund, the Oklahoma Tourism and Passenger Rail
15 Revolving Fund, the Public Transit Revolving Fund, and the Education
16 Reform Revolving Fund to be derived from income tax revenue that
17 would otherwise be apportioned to the General Revenue Fund as
18 provided by Section 1521 of Title 69 of the Oklahoma Statutes,
19 subject to the apportionment requirements for the Oklahoma Tax
20 Commission and Office of Management and Enterprise Services Joint
21 Computer Enhancement Fund provided by Section 265 of this title, and
22 subject to the apportionment requirements for the Oklahoma State
23 Capitol Building Repair and Restoration Fund provided by Section 19

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1 of Title 73 of the Oklahoma Statutes, shall be distributed as
2 follows:

3 1. For the fiscal year beginning July 1, 2002, the first Five
4 Million Eight Hundred Thousand Dollars (\$5,800,000.00) of revenue
5 derived pursuant to the provisions of subsections A, B and E of
6 Section 2355 of this title shall be apportioned to the Education
7 Reform Revolving Fund. The remainder of such revenue for the fiscal
8 year beginning July 1, 2002, and all such revenue for each fiscal
9 year thereafter shall be apportioned monthly as follows:

10 a. (1) except as provided in division (2) of this
11 subparagraph, the following amounts shall be paid
12 to the State Treasurer to be placed to the credit
13 of the General Revenue Fund of the state for such
14 fiscal year for the support of the state
15 government to be paid out only pursuant to
16 appropriation by the Legislature:

| Fiscal Year | Amount |
|---|--------|
| FY 2003 and FY 2004 | 87.12% |
| FY 2005 | 86.91% |
| FY 2006 | 86.66% |
| FY 2007 | 86.16% |
| FY 2008 through FY 2022 | 85.66% |
| FY 2023 through FY 2027 | 85.16% |
| FY 2028 and each fiscal year thereafter | 85.66% |

1 (2) for each fiscal year beginning after June 30,
2 2021, and ending on or prior to June 30, 2031,
3 Twenty Million Dollars (\$20,000,000.00) of the
4 amounts otherwise scheduled to be placed to the
5 credit of the General Revenue Fund of the state
6 pursuant to the provisions of division (1) of
7 this subparagraph, shall be placed to the credit
8 of the Filmed In Oklahoma Program Revolving Fund
9 created by Section 9 of this act,

10 b. the following amounts shall be paid to the State
11 Treasurer to be placed to the credit of the Education
12 Reform Revolving Fund of the State Department of
13 Education:

14 (1) for FY 2003 through FY 2020, eight and thirty-
15 four one-hundredths percent (8.34%),

16 (2) for FY 2021:

17 (a) for the month beginning July 1, 2020,
18 through the month ending August 31, 2020,
19 eight and thirty-four one-hundredths percent
20 (8.34%), and

21 (b) for the month beginning September 1, 2020,
22 through the month ending June 30, 2021, nine
23 and eighty-four one-hundredths percent
24 (9.84%),

1 (3) for FY 2022, nine and fifty-nine one-hundredths
2 percent (9.59%), and

3 (4) for FY 2023 and each fiscal year thereafter,
4 eight and thirty-four one-hundredths percent
5 (8.34%) shall be paid to the State Treasurer to
6 be placed to the credit of the Education Reform
7 Revolving Fund,

8 c. the following amounts shall be paid to the State
9 Treasurer to be placed to the credit of the Teachers'
10 Retirement System Dedicated Revenue Revolving Fund:

| 11 Fiscal Year | Amount |
|----------------------------|--------|
| 12 FY 2003 and FY 2004 | 3.54% |
| 13 FY 2005 | 3.75% |
| 14 FY 2006 | 4.0% |
| 15 FY 2007 | 4.5% |
| 16 FY 2008 through FY 2020 | 5.0% |

17 FY 2021:

18 (1) for the month beginning
19 July 1, 2020, through
20 the month ending August
21 31, 2020 5.0%

22 (2) for the month beginning
23 September 1, 2020,

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| | | |
|---|--------------------------|-------|
| 1 | through the month ending | |
| 2 | June 30, 2021 | 3.5% |
| 3 | FY 2022 | 3.75% |
| 4 | FY 2023 through FY 2027 | 5.5% |
| 5 | FY 2028 and each fiscal | |
| 6 | year thereafter | 5.0% |

d. for FY 2003 and each fiscal year thereafter, one percent (1%) shall be placed to the credit of the Ad Valorem Reimbursement Fund;

2. Beginning July 1, 2003, for any period of time as certified by the Oklahoma Development Finance Authority and the Oklahoma Department of Commerce to be necessary for the repayment of obligations issued by the Oklahoma Development Finance Authority pursuant to Section 3654 of this title if the other sources of revenue paid to or apportioned to the Quality Jobs Program Incentive Leverage Fund are not adequate, including the proceeds from payment pursuant to the guaranty required by subsection M of Section 3654 of this title, an amount certified by the Oklahoma Development Finance Authority to the Oklahoma Tax Commission shall be apportioned to the Quality Jobs Program Incentive Leverage Fund before any other apportionments are made as otherwise authorized by this paragraph. The Oklahoma Development Finance Authority shall certify to the Oklahoma Tax Commission the time as of which the revenue authorized for apportionment pursuant to this paragraph is no longer required.

1 After the certification, the revenue derived from the income tax
2 shall be apportioned in the manner otherwise provided by this
3 section. Except as otherwise provided by this paragraph, for the
4 fiscal year beginning July 1, 2002, the first Forty-one Million One
5 Hundred Ninety Thousand Eight Hundred Dollars (\$41,190,800.00) of
6 revenue derived pursuant to the provisions of subsections D and E of
7 Section 2355 of this title shall be apportioned to the Education
8 Reform Revolving Fund. The remainder of such revenue for the fiscal
9 year beginning July 1, 2002, and all such revenue for each fiscal
10 year thereafter, subject to the apportionment requirements for the
11 Oklahoma Tax Commission and Office of Management and Enterprise
12 Services Joint Computer Enhancement Fund provided by Section 265 of
13 this title, shall be apportioned monthly as follows:

14 a. the following amounts shall be paid to the State
15 Treasurer to be placed to the credit of the General
16 Revenue Fund of the state for such fiscal year for the
17 support of the state government to be paid out only
18 pursuant to appropriation by the Legislature:

| 19 Fiscal Year | Amount |
|------------------------|--------|
| 20 FY 2003 and FY 2004 | 78.96% |
| 21 FY 2005 | 78.75% |
| 22 FY 2006 | 78.50% |
| 23 FY 2007 | 78.0% |

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- (1) (a) FY 2018 through FY 2022
until the apportionment to
the General Revenue Fund
equals the moving five-
year average amount for
corporate income tax as
prescribed by paragraph 3
of this section 77.50%

- (b) FY 2023 through FY 2027
until the apportionment to
the General Revenue Fund
equals the moving five-
year average amount for
corporate income tax as
prescribed by paragraph 3
of this section 77.00%

- (c) FY 2028 and each fiscal
year thereafter until the
apportionment to the
General Revenue Fund
equals the moving five-
year average amount for
corporate income tax as

1 prescribed by paragraph 3

2 of this section 77.50%

3 (2) there shall be apportioned from the tax levy
4 imposed on corporate income tax to the Revenue
5 Stabilization Fund created by Section 34.102 of
6 Title 62 of the Oklahoma Statutes, or to the
7 Constitutional Reserve Fund, as provided by
8 Section 34.102 of Title 62 of the Oklahoma
9 Statutes, the amount of revenue, if any, which
10 exceeds the moving five-year average amount as
11 defined pursuant to paragraph 3 of this section,

12 b. the following amounts shall be paid to the State
13 Treasurer to be placed to the credit of the Education
14 Reform Revolving Fund of the State Department of
15 Education:

16 (1) for FY 2003 through FY 2020, sixteen and five-
17 tenths percent (16.5%),

18 (2) for FY 2021:

19 (a) for the month beginning July 1, 2020,
20 through the month ending August 31, 2020,
21 sixteen and five-tenths percent (16.5%), and

22 (b) for the month beginning September 1, 2020,
23 through the month ending June 30, 2021,
24 eighteen percent (18%),

1 (3) for FY 2022, seventeen and seventy-five one-
2 hundredths percent (17.75%), and

3 (4) for FY 2023 and each fiscal year thereafter,
4 sixteen and five-tenths percent (16.5%),

5 c. the following amounts shall be paid to the State
6 Treasurer to be placed to the credit of the Teachers'
7 Retirement System Dedicated Revenue Revolving Fund:

| 8 Fiscal Year | Amount |
|--------------------------------|--------|
| 9 FY 2003 and FY 2004 | 3.54% |
| 10 FY 2005 | 3.75% |
| 11 FY 2006 | 4.0% |
| 12 FY 2007 | 4.5% |
| 13 FY 2008 through FY 2020 | 5.0% |
| 14 FY 2021: | |
| 15 (1) for the month beginning | |
| 16 July 1, 2020, through | |
| 17 the month ending August | |
| 18 31, 2020 | 5.0% |
| 19 (2) for the month beginning | |
| 20 September 1, 2020, | |
| 21 through the month ending | |
| 22 June 30, 2021 | 3.5% |
| 23 FY 2022 | 3.75% |
| 24 FY 2023 through FY 2027 | 5.5% |

1 FY 2028 and each fiscal
2 year thereafter 5.0%

3 d. for FY 2003 and each fiscal year thereafter, one
4 percent (1%) shall be placed to the credit of the Ad
5 Valorem Reimbursement Fund; and

6 3. "Moving five-year average for corporate income tax" means,
7 for purposes of the apportionments prescribed by this section, the
8 amount of income tax on corporations, as determined by the State
9 Board of Equalization in the manner prescribed by Section 34.103 of
10 Title 62 of the Oklahoma Statutes.

11 SECTION 13. This act shall become effective July 1, 2021.

12 SECTION 14. It being immediately necessary for the preservation
13 of the public peace, health or safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval."

16 Passed the House of Representatives the 21st day of April, 2021.

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19 _____
Presiding Officer of the House of
20 Representatives

21 Passed the Senate the ____ day of _____, 2021.

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24 _____
Presiding Officer of the Senate

1 ENGROSSED SENATE
2 BILL NO. 608

By: Hall of the Senate

3 and

4 Fetgatter of the House

5
6 [film production incentives - Compete with Canada
7 Film Act - effective date]
8

9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

10 SECTION 15. AMENDATORY 68 O.S. 2011, Section 3621, is
11 amended to read as follows:

12 Section 3621. This act shall be known and may be cited as the
13 ~~"Compete with Canada Film Act"~~ "Oklahoma Film Incentive Act".

14 SECTION 16. AMENDATORY 68 O.S. 2011, Section 3623, as
15 amended by Section 2, Chapter 313, O.S.L. 2019 (68 O.S. Supp. 2020,
16 Section 3623), is amended to read as follows:

17 Section 3623. As used in the ~~Compete with Canada Film Act~~
18 Oklahoma Film Incentive Act:

19 1. "Crew" means any person who works on preproduction,
20 principal photography, and postproduction, with the exception of
21 producers, principal cast, screenwriters, and the director. The
22 qualifying salary of producers, principal cast, screenwriters, and
23 the director, also known as "above-the-line personnel", may be
24 included as crew if the salaries are paid to loan-out corporations

1 and limited liability companies registered to do business in ~~the~~
2 ~~State of Oklahoma~~ this state or the salaries are paid to Oklahoma-
3 based above-the-line personnel. The qualifying salary of above-the-
4 line personnel shall not comprise more than twenty-five percent
5 (25%) of total expenditures as defined in paragraph 2 of this
6 section. For purposes of this paragraph, "Oklahoma-based" means a
7 company or individual with an Oklahoma income tax requirement;

8 2. "Expenditure" or "production cost" includes but is not
9 limited to:

- 10 a. wages or salaries of persons who are residents of this
11 state and who have earned income from working on a
12 film in this state, including payments to personal
13 services corporations with respect to the services of
14 qualified performing artists, as determined under
15 Section 62(a)(A) of the Internal Revenue Code,
- 16 b. the cost of construction and operations, wardrobe,
17 accessories and related services,
- 18 c. the cost of photography, sound synchronization,
19 lighting and related services,
- 20 d. the cost of editing and related services,
- 21 e. rental of facilities and equipment,
- 22 f. other direct costs of producing a film, and

23
24

1 g. the wages and salaries of persons who are defined and
2 registered as an Oklahoma Expatriate by the Office of
3 the Oklahoma Film and Music Commission;

4 3. "Film" means a professional single media, multimedia program
5 or feature, which is not child pornography as defined in subsection
6 A of Section 1024.1 of Title 21 of the Oklahoma Statutes or obscene
7 material as defined in paragraph 1 of subsection B of Section 1024.1
8 of Title 21 of the Oklahoma Statutes, including, but not limited to,
9 national advertising messages that are broadcast on a national
10 affiliate or cable network, fixed on film or digital video, which
11 can be viewed or reproduced and which is exhibited in theaters,
12 licensed for exhibition by individual television stations, groups of
13 stations, networks, cable television stations or other means or
14 licensed for home viewing markets;

15 4. "High impact production" means a production for which total
16 expenditures or production costs are equal to or greater than Fifty
17 Million Dollars (\$50,000,000.00), with at least one-third (1/3) of
18 total costs deemed Oklahoma expenditures by the Office of the
19 Oklahoma Film and Music Commission; and

20 5. "Production company" means a person or company who produces
21 film for exhibition in theaters, on television or elsewhere.

22 SECTION 17. AMENDATORY 68 O.S. 2011, Section 3624, as
23 last amended by Section 3, Chapter 313, O.S.L. 2019 (68 O.S. Supp.
24 2020, Section 3624), is amended to read as follows:

1 Section 3624. A. There is hereby created the Oklahoma Film
2 Enhancement Rebate Program. A rebate in the amount of up to
3 seventeen percent (17%) of documented expenditures made in ~~Oklahoma~~
4 this state directly attributable to the production of a film,
5 television production, or television commercial, as defined in
6 Section 3623 of this title, in this state, may be paid to the
7 production company responsible for the production. Provided, for
8 documented expenditures made after July 1, 2009, the rebate amount
9 shall be thirty-five percent (35%), except as provided in subsection
10 B of this section. Provided, for documented expenditures made after
11 July 1, 2022, the rebate amount shall be nineteen percent (19%),
12 except as provided in subsection B of this section.

13 B. The amount of rebate paid to the production company as
14 provided for in subsection A of this section shall be increased by
15 an:

16 1. An additional two percent (2%) of documented expenditures if
17 a production company spends at least Twenty Thousand Dollars
18 (\$20,000.00) for the use of music created by ~~an Oklahoma~~ a resident
19 of this state that is recorded in ~~Oklahoma~~ this state or for the
20 cost of recording songs or music in ~~Oklahoma~~ this state for use in
21 the production;

22 2. For documented expenditures made after July 1, 2022, an
23 additional two percent (2%) if a production company hires two (2)
24 persons in coordination with the Oklahoma Works Employer Portal;

1 3. For documented expenditures made after July 1, 2022, an
2 additional two percent (2%) if a production company displays the
3 state logo, as provided by the Oklahoma Film and Music Commission,
4 in the film, television production or television commercial;

5 4. For documented expenditures made after July 1, 2022, an
6 additional two percent (2%) if a production company conducts the
7 filming outside of at least a fifty (50) mile radius from downtown
8 Oklahoma City, as determined by the Commission;

9 5. For documented expenditures made after July 1, 2022, an
10 additional five percent (5%) if a production company's filming at a
11 location in this state accounts for at least one-third (1/3) of
12 total production days; and

13 6. For documented expenditures made after July 1, 2022, an
14 additional five percent (5%) if a production company produces
15 multiple films for exhibition in a theater or at least six (6)
16 episodes of a film series in this state.

17 C. The rebate program shall be administered by the Office of
18 the Oklahoma Film and Music Commission and the Oklahoma Tax
19 Commission, as provided in the ~~Compete with Canada Film Act~~ Oklahoma
20 Film Incentive Act.

21 D. To be eligible for a rebate payment:

22 1. The production company responsible for a film, television
23 production, or television commercial, as defined in Section 3623 of
24 this title, made in this state shall submit documentation to the

1 Office of the Oklahoma Film and Music Commission of the amount of
2 wages paid for employment in this state to residents of this state
3 directly relating to the production and the amount of other
4 production costs incurred in this state directly relating to the
5 production;

6 2. The production company has filed or will file any Oklahoma
7 tax return or tax document which may be required by law;

8 3. Except major studio productions, the production company
9 shall provide the name of the completion guarantor and a copy of the
10 bond guaranteeing the completion of the project or if a film has not
11 secured a completion bond, the production company shall provide
12 evidence that all Oklahoma crew and local vendors have been paid and
13 there are no liens against the production company pending in the
14 state;

15 4. The minimum budget for the film shall be Fifty Thousand
16 Dollars (\$50,000.00) of which not less than Twenty-five Thousand
17 Dollars (\$25,000.00) shall be expended in this state;

18 5. The production company shall provide evidence of financing
19 for production prior to the commencement of principal photography;
20 and

21 6. The production company shall provide evidence of a
22 certificate of general liability insurance with a minimum coverage
23 of One Million Dollars (\$1,000,000.00) and a workers' compensation
24

1 policy pursuant to state law, which shall include coverage of
2 employer's liability.

3 E. A production company shall not be eligible to receive both a
4 rebate payment pursuant to the provisions of ~~this act~~ Section 3621
5 et seq. of this title and an exemption from sales taxes pursuant to
6 the provisions of paragraph 23 of Section 1357 of this title. If a
7 production company has received such an exemption from sales taxes
8 and submits a claim for rebate pursuant to the provisions of the
9 ~~Compete with Canada Film Act~~ Oklahoma Film Incentive Act, the
10 company shall be required to fully repay the amount of the exemption
11 to the Tax Commission. A claim for a rebate shall include
12 documentation from the Tax Commission that repayment has been made
13 as required herein or shall include an affidavit from the production
14 company that the company has not received an exemption from sales
15 taxes pursuant to the provisions of paragraph ~~21~~ 23 of Section 1357
16 of this title.

17 F. The Office shall approve or disapprove all claims for rebate
18 and shall notify the Tax Commission. The Tax Commission shall, upon
19 notification of approval from the Office of the Film and Music
20 Commission, issue payment for all approved claims from funds in the
21 Oklahoma Film Enhancement Rebate Program Revolving Fund created in
22 Section 3625 of this title. Excluding any rebate payments to high
23 impact productions as provided for in subsection G of this section,
24 the amount of payments in any single fiscal year shall not exceed

1 Eight Million Dollars (\$8,000,000.00). If the amount of approved
2 claims exceeds the amount specified in this subsection in a fiscal
3 year, payments shall be made in the order in which the claims are
4 approved by the Office. If an approved claim is not paid in whole
5 or in part, the unpaid claim or unpaid portion may be paid in the
6 following fiscal year subject to the limitations specified in this
7 subsection.

8 G. 1. At the time the Office of the Film and Music Commission
9 issues a conditional prequalification for a production, such
10 prequalification may include a proposed designation as a high impact
11 production, as defined in Section 3623 of this title.

12 2. The proposed designation must be approved by the Cabinet
13 Secretary for Commerce and Tourism.

14 3. If the high impact production otherwise meets all of the
15 requirements of the ~~Compete With Canada Act~~ Oklahoma Film Incentive
16 Act and the Office gives final approval to rebate claims, such
17 rebate claims shall not be subject to the Eight Million Dollar
18 (\$8,000,000.00) cap provided for in subsection F of this section.

19 4. The payment of a rebate claim approved by the Office for a
20 production designated as a high impact production by the Cabinet
21 Secretary may be made as follows:

22 a. by special appropriation to the Oklahoma Film
23 Enhancement Rebate Program Revolving Fund, if the
24

1 claim is approved during a regular or special session
2 of the Oklahoma Legislature, or

3 b. by payment from the Oklahoma Quick Action Closing Fund
4 pursuant to Section 48.2 of Title 62 of the Oklahoma
5 Statutes, if the claim is approved when the Oklahoma
6 Legislature is not in session.

7 SECTION 18. AMENDATORY 68 O.S. 2011, Section 3626, as
8 last amended by Section 5, Chapter 313, O.S.L. 2019 (68 O.S. Supp.
9 2020, Section 3626), is amended to read as follows:

10 Section 3626. The provisions of the ~~Compete with Canada Film~~
11 ~~Act~~ Oklahoma Film Incentive Act shall be terminated effective ~~July~~
12 ~~1, 2027~~ July 1, 2035, and no claim shall be paid thereafter.

13 SECTION 19. This act shall become effective November 1, 2021.
14 Passed the Senate the 2nd day of March, 2021.

15
16 _____
17 Presiding Officer of the Senate

18 Passed the House of Representatives the ____ day of _____,
19 2021.

20
21 _____
22 Presiding Officer of the House
23 of Representatives
24