

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2374 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By deleting the content of the entire measure, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Brian Hill

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 PROPOSED SUBCOMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2374

By: Hill

7 PROPOSED SUBCOMMITTEE SUBSTITUTE

8 An Act relating to revenue and taxation; amending 68
9 O.S. 2021, Sections Section 3632, as last amended by
10 Section 44, Chapter 59, O.S.L. 2024, 3633, 3634,
11 3635, as last amended by Section 159, Chapter 452,
12 O.S.L. 2024, 3636 and 3637 (68 O.S. Supp. 2024,
13 Sections 3632 and 3635), which relate to the Filmed
14 in Oklahoma Act of 2021; modifying definitions;
15 prescribing procedures for withholding tax;
16 prescribing income tax treatment; modifying
17 provisions related to expenditure amounts; modifying
18 provisions related to base incentive amounts;
19 modifying provisions related to wages paid to
20 nonresidents; modifying provisions related to
21 expenditure requirement for certain incentive amount
22 related to post-production expenses; modifying
23 provisions related to incentive for projects outside
24 state; providing for set aside amount for economic
impact reviews; providing for codification; providing
an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 3632, as
last amended by Section 44, Chapter 59, O.S.L. 2024 (68 O.S. Supp.
2024, Section 3632), is amended to read as follows:

Section 3632. As used in the Filmed in Oklahoma Act of 2021:

1 1. "Above-the-line personnel" means producers, principal cast,
2 screenwriters, and directors who work on production of films or
3 television series. The qualifying salary of above-the-line
4 personnel may be included as crew, as defined in paragraph 3 of this
5 section, if the salaries are paid to loan-out corporations and
6 limited liability companies registered to do business in this state
7 or the salaries are paid to Oklahoma-based above-the-line personnel.
8 ~~The qualifying salary of above-the-line personnel shall not comprise~~
9 ~~more than twenty-five percent (25%) of total expenditures as defined~~
10 ~~in paragraph 5 of this section.~~ For purposes of this paragraph,
11 "Oklahoma-based" means a company or individual with an Oklahoma
12 income tax requirement;

13 2. "Apprentice" means a person who works for a skilled or
14 qualified person in order to learn a trade or profession for an
15 agreed-upon period of time. An apprentice may work in any of the
16 trades recognized by the Oklahoma Department of Commerce as
17 necessary for a film production. An apprentice shall be required to
18 complete safety training appropriate for the duties to be performed
19 in connection with a qualified project and also to complete a course
20 related to and with the objective of preventing workplace
21 misbehavior, such as bullying and sexual harassment;

22 3. "Crew" means any person who works on preproduction,
23 principal photography and post-production, ~~with the exception of~~
24 ~~above-the-line personnel;~~

1 4. "Eligible television series" means a project if either
2 seventy-five percent (75%) of the series season is filmed within the
3 state or, for an episodic television pilot, ~~if more than seventy-~~
4 ~~five percent (75%) of the pilot is filmed within the state;~~

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

- 7 a. wages or salaries of persons who are residents of this
8 state or who are enrolled as full-time students at a
9 college or university located in the state offering an
10 undergraduate degree program or who are on active
11 military duty and stationed in Oklahoma or involved in
12 a restorative workforce program and who have earned
13 income from working on a film in this state including
14 payments to personal services corporations with
15 respect to the services of qualified performing
16 artists, pursuant to the provisions of the Internal
17 Revenue Code, 26 U.S.C., 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 Oklahoma
3 Film and Music Office;

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

20 7. "Live audience episodic television" means episodic
21 television filmed in front of a live audience intended for broadcast
22 on network television, cable and streaming platforms. The audience
23 should consist of a minimum of fifty (50) people;
24

1 8. "Loan-out corporation" or "Loan-out company" means a
2 corporation or limited liability company actively registered with
3 the Oklahoma Secretary of State to do business in this state as a
4 foreign or domestic entity used by above-the-line personnel and crew
5 to report payments received from the production as Oklahoma earnings
6 for the personnel or crew member;

7 9. "Multi-film deal" means a project in which a production
8 company films at least seventy-five percent (75%) of main crew
9 principal photography for three (3) or more films in this state
10 within three (3) years or where the third film starts main crew
11 principal photography within the three-year period;

12 ~~8.~~ 10. "Nonresident crew member" means a person who is not an
13 Oklahoma resident, hired for a qualifying production project
14 occurring within the state and who is subject to the payment of
15 Oklahoma employment taxes;

16 ~~9.~~ 11. "Production company" means a person, producer or company
17 who produces film for exhibition in theaters, on television or
18 elsewhere;

19 ~~10.~~ 12. "Qualified production expenditure amount" means an
20 expenditure defined pursuant to paragraph 5 of this section; and

21 ~~11.~~ 13. "Qualified soundstage facility" means a state-certified
22 industry standard soundstage facility having not less than seven
23 thousand five hundred (7,500) square feet of combined soundstage
24 space and with a total state rental cost to the production company

1 equal to at least three percent (3%) of the qualifying Oklahoma
2 expenditures with respect to a production.

3 SECTION 2. AMENDATORY 68 O.S. 2021, Section 3633, is
4 amended to read as follows:

5 Section 3633. A. There is hereby created an incentive rebate
6 program for certain film projects and eligible television series
7 projects filmed or produced in Oklahoma who meet the requirements of
8 this act.

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

11 C. By October 1 of each year, the Oklahoma Department of
12 Commerce shall submit an annual report to the Speaker of the House
13 of Representatives, the President Pro Tempore of the Senate, the
14 Chair of the Appropriations and Budget Committee of the House of
15 Representatives, the Chair of the Appropriations Committee of the
16 Senate and the Director of the Legislative Office of Fiscal
17 Transparency detailing the program and incentive rebate payments.

18 D. The Oklahoma Department of Commerce and the Oklahoma Tax
19 Commission may promulgate rules to implement the provisions of this
20 act.

21 E. To be eligible for a rebate payment a production company
22 shall:

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

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

3 3. Provide evidence that all Oklahoma crew and local vendors
4 have been paid and that there are no pending liens against the
5 production company in this state;

6 4. Provide evidence of financing for production prior to the
7 commencement of principal photography;

8 5. Provide evidence of a certificate of general liability
9 insurance with a minimum coverage of One Million Dollars
10 (\$1,000,000.00) and a workers' compensation policy in compliance
11 with law, which shall include coverage of employer's liability; and

12 6. Provide evidence, as required by the Department, that the
13 projects pursuant to this act are completed;

14 7. The production company, or its payroll service provider,
15 shall withhold Oklahoma income tax at the highest percentage rate
16 found in the withholding statutes, on all payments to loan-out
17 companies for services performed in Oklahoma. The amounts so
18 withheld shall be allocated to the loan-out company's employees
19 based on the payments made to the loan-out company's employees for
20 services performed in Oklahoma. The loan-out company employees
21 performing services in Oklahoma shall be considered taxable and the
22 loan-out company shall be subject to income taxation in the taxable
23 year in which the loan-out company's employees perform services in
24 Oklahoma.

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

14 G. The Department of Commerce shall approve or disapprove all
15 claims for rebate and shall notify the Tax Commission subject to the
16 limitations set forth in Section 4 of this act. Upon notification
17 of approval from the Department, the Commission shall issue payment
18 for all approved claims from funds held in the Filmed in Oklahoma
19 Program Revolving Fund created pursuant to Section 9 of this act and
20 subject to the limitations set forth in Section 4 of this act. If
21 the amount of approved claims exceeds the balance of the revolving
22 fund, payments shall be made in the order the claims are approved by
23 the Department. If an approved claim is not paid in whole, the
24

1 unpaid claim or unpaid portion of the claim shall be paid upon the
2 availability of funds.

3 SECTION 3. AMENDATORY 68 O.S. 2021, Section 3634, is
4 amended to read as follows:

5 Section 3634. A. The total amount of rebate payments
6 conditionally pre-qualified by the Department of Commerce each
7 fiscal year with respect to any of the incentives authorized
8 pursuant to this act shall not exceed Thirty Million Dollars
9 (\$30,000,000.00). Projects not conditionally pre-qualified for
10 rebate payments due to the limitations provided in this section may
11 be conditionally pre-qualified by the Department in subsequent
12 fiscal years.

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

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

19 2. Twenty-two Million Five Hundred Thousand Dollars
20 (\$22,500,000.00) for production projects with total expenditures of
21 Seven Million Five Hundred Thousand Dollars (\$7,500,000.00) or more.

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

1 (\$20,000.00) for projects filmed out-of-state pursuant to Section
2 3636 of this title.

3 D. In any fiscal year if the amount of rebate payments
4 conditionally pre-qualified by the Department of Commerce are less
5 than the limitations provided in this section, the excess rebate
6 payments not utilized shall be added to subsequent fiscal year's
7 limitation.

8 SECTION 4. AMENDATORY 68 O.S. 2021, Section 3635, as
9 last amended by Section 159, Chapter 452, O.S.L. 2024 (68 O.S. Supp.
10 2024, Section 3635), is amended to read as follows:

11 Section 3635. A. Subject to the final approval of the
12 eligibility application by the Oklahoma Department of Commerce, a
13 requirement that the incentive payments made pursuant to the
14 provisions of the Filmed in Oklahoma Act of 2021 achieve the maximum
15 positive impact for the Oklahoma economy and subject to the Oklahoma
16 workforce requirements of Section 3637 of this title, the base
17 incentive amount for a project filmed in this state, ~~not including~~
18 ~~above-the-line personnel,~~ shall be a ~~maximum~~ minimum of ~~thirty~~
19 ~~percent (30%)~~ twenty percent (20%) of the qualified production
20 expenditure amount. An incentive for a project filmed in this state
21 for wages paid to nonresident crew, not including above-the-line
22 personnel, shall be provided in the amount of seven and one-half
23 percent (7.5%) for wages paid before April 1, 2023, and twenty
24 percent (20%) for wages paid on or after April 1, 2023. For wages

1 paid to nonresidents on or after November 1, 2025, shall be provided
2 in the amount of twenty percent (20%).

3 B. In addition to the amount authorized by subsection A of this
4 section, there may be an additional incentive amount, subject to the
5 final approval of the Oklahoma Department of Commerce, in the
6 maximum amount of:

7 1. Three percent (3%) of the qualified production expenditure
8 amount for projects where at least twenty-five percent (25%) of main
9 crew principal photography days are filmed on location, excluding
10 sound stage production, in any county of this state if the county
11 has a population of less than two hundred fifty thousand (250,000)
12 persons according to the Federal Decennial Census or most recent
13 population estimate;

14 2. Two percent (2%) of the qualified production expenditure
15 amount for projects whose hub location, as determined by the
16 Department, is for projects where at least twenty-five percent (25%)
17 of main crew principal photography days are filmed on location,
18 excluding sound stage production, in a municipality having a
19 population of twenty-five thousand (25,000) or fewer persons
20 according to the Federal Decennial Census or most recent population
21 estimate regardless of the county in which the municipality is
22 located or partially located;

23 3. Five percent (5%) of the qualified production expenditure
24 amount for soundstage expenditures if at least twenty-five percent

1 (25%) of main crew principal photography days are filmed at a
2 qualified soundstage facility;

3 4. For eligible television series as defined in paragraph 4 of
4 Section 3632 of this title:

5 a. two percent (2%) of the qualified production
6 expenditure amount for an eligible television episodic
7 pilot, and

8 b. five percent (5%) of the qualified production
9 expenditure amount if a television series is filmed
10 for one or more seasons;

11 5. Five percent (5%) of the qualified production expenditure
12 amount for an eligible multi-film deal as defined in paragraph 7 of
13 Section 3632 of this title;

14 6. On or after July 1, 2023, two percent (2%) of the qualified
15 production expenditure amount for the post-production expenses with
16 a minimum expenditure of Twenty Thousand Dollars (\$20,000.00) of:

17 a. music production, recording, mixing, or composition,
18 or

19 b. licensing of Oklahoma music; ~~and~~

20 7. Three percent (3%) of the qualified production expenditure
21 amount based on expenditures paid to Oklahoma vendors for post-
22 production expenses with a minimum expenditure of three percent (3%)
23 of Oklahoma production expenditures. Post-production expenditures
24 include but are not limited to the following categories:

- 1 a. sound recording or mixing,
- 2 b. color grading,
- 3 c. editorial work,
- 4 d. visual effects,
- 5 e. animation,
- 6 f. deliverables, excluding marketing and advertising,
- 7 g. editing equipment or editing facility rental,
- 8 h. color grading or digital intermediate processing,
- 9 i. audio post-production processes including Foley artist
- 10 processes or services, and
- 11 j. graphics, including but not limited to the GFX system.

12 C. Notwithstanding any other provisions of this section or the
13 provisions of the Filmed in Oklahoma Act of 2021 to the contrary, in
14 no case shall the total incentive payments authorized by this
15 section exceed thirty percent (30%) of the otherwise qualified
16 production expenditure amount. The incentive payment amount
17 prescribed by subsection A of this section may be used in any
18 combination with the additional incentive amounts authorized by
19 subsection B of this section, but the combination of the incentive
20 amounts shall not exceed thirty percent (30%).

21 SECTION 5. AMENDATORY 68 O.S. 2021, Section 3636, is
22 amended to read as follows:

23 Section 3636. A. Subject to the final approval of the
24 eligibility application by the Oklahoma Department of Commerce, and

1 subject to the requirement that incentive payments pursuant to the
2 provisions of this act have the maximum positive impact for the
3 economy of the state, the base incentive amount for post-production
4 activity occurring in this state for a project filmed outside this
5 state shall be a ~~maximum~~ minimum base of twenty percent (20%) of the
6 qualified production expenditure amount.

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

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

14 2. Five percent (5%) of the qualified production expenditure
15 amount if the television series is filmed for one or more seasons.

16 C. In addition to the amount authorized by subsection A of this
17 section, there may be an additional five percent (5%) of the
18 qualified production expenditure amount, subject to the final
19 approval of the Oklahoma Department of Commerce, for an eligible
20 multi-film deal, as defined in paragraph 7 of Section 2 of this act,
21 produced outside this state.

22 D. The provisions of this section shall be applicable only with
23 respect to qualified production expenditure amounts for post-

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1 production activity occurring within the state including, but not
2 limited to, the following categories:

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

12 SECTION 6. AMENDATORY 68 O.S. 2021, Section 3637, is
13 amended to read as follows:

14 Section 3637. To qualify for the maximum twenty percent (20%)
15 base incentive payment authorized for Oklahoma production projects
16 pursuant to subsection A of Section 5 of this act, the production
17 project shall utilize the services of apprentices according to the
18 following requirements:

19 1. For a production with Oklahoma expenditures of Seven Million
20 Five Hundred Thousand Dollars (\$7,500,000.00) or less, two (2)
21 apprentices;

22 2. For a production with Oklahoma expenditures greater than
23 Seven Million Five Hundred Thousand Dollars (\$7,500,000.00) and
24

1 Fifteen Million Dollars (\$15,000,000.00) or less, four (4)
2 apprentices;

3 3. For a production with Oklahoma expenditures greater than
4 Fifteen Million Dollars (\$15,000,000.00) and Twenty-five Million
5 Dollars (\$25,000,000.00) or less, eight (8) apprentices; and

6 4. For a production with Oklahoma expenditures greater than
7 Twenty-five Million Dollars (\$25,000,000.00), sixteen (16)
8 apprentices.

9 SECTION 7. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 3642 of Title 68, unless there
11 is created a duplication in numbering, reads as follows:

12 Every fiscal year the program shall designate Thirty-five
13 Thousand Dollars (\$35,000.00) from the top tier for the purpose of
14 economic impact reviews of the program.

15 SECTION 8. This act shall become effective July 1, 2025.

16 SECTION 9. It being immediately necessary for the preservation
17 of the public peace, health or safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

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21 60-1-12333 MAH 02/14/25

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