

1 STATE OF OKLAHOMA

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

3 SUBCOMMITTEE RECOMMENDATION
4 FOR

5 HOUSE BILL NO. 2374

6 By: Hill

7 SUBCOMMITTEE RECOMMENDATION

8 An Act relating to revenue and taxation; amending 68
9 O.S. 2021, Sections 3632, as last amended by Section
10 44, Chapter 59, O.S.L. 2024, 3633, and 3637 (68 O.S.
11 Supp. 2024, Section 3632), which relate to the Filmed
12 in Oklahoma Act of 2021; modifying definitions;
13 prescribing procedures for withholding tax;
14 prescribing income tax treatment; providing for set
15 aside amount for economic impact reviews; providing
16 for codification; providing an effective date; and
17 declaring an emergency.

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

19 SECTION 1. AMENDATORY 68 O.S. 2021, Section 3632, as
20 last amended by Section 44, Chapter 59, O.S.L. 2024 (68 O.S. Supp.
21 2024, Section 3632), is amended to read as follows:

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

23 1. "Above-the-line personnel" means producers, principal cast,
24 screenwriters, and directors who work on production of films or
television series. The qualifying salary of above-the-line
personnel may be included as crew, as defined in paragraph 3 of this
section, if the salaries are paid to loan-out corporations and

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

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. An apprentice shall be required to
13 complete safety training appropriate for the duties to be performed
14 in connection with a qualified project and also to complete a course
15 related to and with the objective of preventing workplace
16 misbehavior, such as bullying and sexual harassment;

17 3. "Crew" means any person who works on preproduction,
18 principal photography and post-production, with the exception of
19 above-the-line personnel;

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

24

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

- 3 a. wages or salaries of persons who are residents of this
4 state or who are enrolled as full-time students at a
5 college or university located in the state offering an
6 undergraduate degree program or who are on active
7 military duty and stationed in Oklahoma or involved in
8 a restorative workforce program and who have earned
9 income from working on a film in this state including
10 payments to personal services corporations with
11 respect to the services of qualified performing
12 artists, pursuant to the provisions of the Internal
13 Revenue Code, 26 U.S.C., Section 62(a)(2),
- 14 b. the cost of construction and operations, wardrobe,
15 accessories and related services,
- 16 c. the cost of photography, sound synchronization,
17 lighting and related services,
- 18 d. the cost of editing and related services,
- 19 e. rental of facilities and equipment,
- 20 f. other direct costs of producing a film, and
- 21 g. the wages and salaries of persons who are defined and
22 registered as an Oklahoma Expatriate by the Oklahoma
23 Film and Music Office;

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

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

21 8. "Loan-out corporation" or "loan-out company" means a
22 corporation or limited liability company actively registered with
23 the Oklahoma Secretary of State to do business in this state as a
24 foreign or domestic entity used by above-the-line personnel and crew

1 to report payments received from the production as Oklahoma earnings
2 for the personnel or crew member;

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

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

12 ~~9.~~ 11. "Production company" means a person, producer or company
13 who produces film for exhibition in theaters, on television or
14 elsewhere;

15 ~~10.~~ 12. "Qualified production expenditure amount" means an
16 expenditure defined pursuant to paragraph 5 of this section; and

17 ~~11.~~ 13. "Qualified soundstage facility" means a state-certified
18 industry standard soundstage facility having not less than seven
19 thousand five hundred (7,500) square feet of combined soundstage
20 space and with a total state rental cost to the production company
21 equal to at least three percent (3%) of the qualifying Oklahoma
22 expenditures with respect to a production.

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

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

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

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

14 D. The Oklahoma Department of Commerce and the Oklahoma Tax
15 Commission may promulgate rules to implement the provisions of this
16 act.

17 E. To be eligible for a rebate payment a production company
18 shall:

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

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

23
24

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

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

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

10 6. Provide evidence, as required by the Department, that the
11 projects pursuant to this act are completed; and

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

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

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

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

24

1 SECTION 3. AMENDATORY 68 O.S. 2021, Section 3637, is
2 amended to read as follows:

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

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

11 2. For a production with Oklahoma expenditures greater than
12 Seven Million Five Hundred Thousand Dollars (\$7,500,000.00) and
13 Fifteen Million Dollars (\$15,000,000.00) or less, four (4)
14 apprentices;

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

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

21 SECTION 4. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 3642 of Title 68, unless there
23 is created a duplication in numbering, reads as follows:

24

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

4 SECTION 5. This act shall become effective July 1, 2025.

5 SECTION 6. It being immediately necessary for the preservation
6 of the public peace, health or safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

9

10 60-1-12714 JL 02/17/25

11

12

13

14

15

16

17

18

19

20

21

22

23

24