

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 674

By: Leftwich of the Senate

and

Winchester, Corn, Coleman,
Dank, Nance and Ingmire of
the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; creating the Compete with Canada Film Act; providing short title; stating legislative findings and intent; defining terms; creating the Oklahoma film enhancement rebate program; providing for rebate of certain percentage of certain costs subject to availability of funds; providing for administration of program; providing for eligibility for rebate payments and requiring documentation of certain costs; specifying certain duties of Oklahoma Film Office and Oklahoma Tax Commission; limiting amount of payments and providing for priority of claims; creating Oklahoma Film Enhancement Rebate Program Revolving Fund; providing for expenditure of funds therein; providing for termination of certain provisions; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3621 of Title 68, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Compete with Canada Film Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3622 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Legislature hereby finds that the production of films in Oklahoma not only provides jobs for Oklahomans and dollars for

Oklahoma businesses, but also enhances the state's image nationwide. Recognizing that the high costs of film production are driving motion picture and television production out of the country, most notably to Canada, and that the film industry is always seeking attractive locations that can help cut the costs of production, the Legislature further finds that the State of Oklahoma, with the appropriate incentive, can become an attractive site for film production and that Oklahoma is presently among several states with minimal incentives to attract the film industry. It is therefore the intent of the Legislature that Oklahoma provide an incentive that will stand out among those of other states and increase film production in this state.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3623 of Title 68, unless there is created a duplication in numbering, reads as follows:

As used in this act:

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

- a. wages or salaries of persons who are residents of this state and who have earned income from working on a film in this state, including payments to personal services corporations with respect to the services of qualified performing artists, as determined under Section 62(a)(A) of the Internal Revenue Code,
- b. the cost of construction and operations, wardrobe, accessories and related services,
- c. the cost of photography, sound synchronization, lighting and related services,
- d. the cost of editing and related services,

- e. rental of facilities and equipment, and
- f. other direct costs of producing a film;

2. "Film" means a single media or multimedia program, which is not child pornography as defined in subsection A of Section 1024.1 of Title 21 of the Oklahoma Statutes or obscene material as defined in paragraph 1 of subsection B of Section 1024.1 of Title 21 of the Oklahoma Statutes, including but not limited to, national advertising messages, fixed on film or digital video, which can be viewed or reproduced and which is exhibited in theaters, licensed for exhibition by individual television stations, groups of stations, networks, cable television stations or other means or licensed for home viewing markets; and

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

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3624 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Oklahoma Film Enhancement Rebate Program. Subject to the availability of funds in the Oklahoma Film Enhancement Rebate Program Revolving Fund created in Section 5 of this act, a rebate in the amount of fifteen percent (15%) of documented expenditures made in Oklahoma directly attributable to the production of a long-form narrative film or television production in this state may be paid to the production company responsible for the production if the Oklahoma Film Office determines that the proposed project has a reasonable chance of economic success.

B. The rebate program shall be administered by the Oklahoma Film Office and the Oklahoma Tax Commission, as provided in this act.

C. To be eligible for a rebate payment, the production company responsible for a long-form narrative film or television production

made in this state shall submit documentation to the Oklahoma Film Office of the amount of wages paid for employment in this state by residents of this state directly relating to the production and the amount of other production costs incurred in this state directly relating to the production. To be eligible for a rebate payment, the production company shall also file an Oklahoma income tax return. A production company shall not be eligible to receive both a rebate payment pursuant to the provisions of this act and an exemption from sales taxes pursuant to the provisions of paragraph 21 of Section 1357 of Title 68 of the Oklahoma Statutes. If a production company has received such an exemption from sales taxes and submits a claim for rebate pursuant to the provisions of this act, the company shall be required to fully repay the amount of the exemption to the Oklahoma Tax Commission. A claim for a rebate shall include documentation from the Tax Commission that repayment has been made as required herein or shall include an affidavit from the production company that the company has not received an exemption from sales taxes pursuant to the provisions of paragraph 21 of Section 1357 of Title 68 of the Oklahoma Statutes. To be eligible for a rebate, the production company shall also submit a completion bond to the Oklahoma Film Commission.

D. The Oklahoma Film Office shall approve or disapprove all claims for rebate and shall notify the Oklahoma Tax Commission. The Tax Commission shall issue payment for all approved claims from funds in the Oklahoma Film Enhancement Rebate Program Revolving Fund created in Section 5 of this act. The amount of payments in any single fiscal year shall not exceed Two Million Dollars (\$2,000,000.00). If the amount of approved claims exceeds the amount of monies available for the making of rebate payments in the fund or exceeds the amount specified in this subsection in a fiscal year, payments shall be made in the order in which the claims are approved by the Oklahoma Film Office. If an approved claim is not

paid in whole or in part, the unpaid claim or unpaid portion may be paid in the following fiscal year subject to the limitations specified in this subsection.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3625 of Title 68, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Oklahoma Tax Commission to be designated the "Oklahoma Film Enhancement Rebate Program Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Tax Commission which are specifically required by law to be deposited in the fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Tax Commission for the purpose of paying rebates as provided in this act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3626 of Title 68, unless there is created a duplication in numbering, reads as follows:

The provisions of this act shall be terminated effective July 1, 2011, and no claim shall be paid thereafter.

SECTION 7. This act shall become effective July 1, 2001.

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