

1 ENGROSSED HOUSE
2 BILL NO. 2583

By: Hyman of the House

and

Bass of the Senate

3
4
5
6
7 (Revenue and taxation - Oklahoma Tourism Development
8 Act - film and music production - Compete with
9 Canada Film Act - effective date -
10 emergency)

11
12

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

14 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2357.35, as
15 amended by Section 1, Chapter 429, O.S.L. 2005 (68 O.S. Supp. 2007,
16 Section 2357.35), is amended to read as follows:

17 Section 2357.35 The Legislature hereby finds:

18 1. That the general welfare and material well-being of the
19 citizens of the State of Oklahoma depend, in large measure, upon the
20 development of tourism attractions and film, digital media or music
21 production facilities in this state;

22 2. That it is in the best interests of the citizens of this
23 state to induce the creation of new or the expansion of existing
24 tourism attractions and film, digital media or music production

1 facilities within this state in order to advance the public purposes
2 of relieving unemployment by preserving and creating jobs that would
3 not exist if not for the inducements to be offered by this state to
4 approved companies, and by preserving and creating sources of tax
5 revenues for the support of public services provided by this state;

6 3. That the authority prescribed by this act, and the purposes
7 to be accomplished under the provisions of this act, are proper
8 governmental and public purposes for which public funds may be
9 expended; and

10 4. That the inducement of the creation or expansion of tourism
11 attraction projects and film, digital media or music production
12 facility projects is of paramount importance, mandating that the
13 provisions of this act be liberally construed and applied in order
14 to advance public purposes.

15 SECTION 2. AMENDATORY 68 O.S. 2001, Section 2357.36, as
16 amended by Section 2, Chapter 429, O.S.L. 2005 (68 O.S. Supp. 2007,
17 Section 2357.36), is amended to read as follows:

18 Section 2357.36 As used in the Oklahoma Tourism Development
19 Act:

20 1. "Agreement" means an agreement entered into pursuant to
21 Section 2357.39 of this title, by and between the Director of the
22 Oklahoma Tourism and Recreation Department and an approved company,
23 with respect to a tourism attraction project or film, digital media
24 or music production and development facility project;

1 2. "Approved company" means any eligible company that is
2 seeking to undertake a tourism attraction or film, digital media or
3 music production and development facility project and is approved by
4 the Director pursuant to Sections 2357.38 and 2357.39 of this title;

5 3. "Approved costs" means:

6 a. obligations incurred for labor and to vendors,
7 contractors, subcontractors, builders and suppliers in
8 connection with the acquisition, construction,
9 equipping and installation of a tourism attraction
10 project or film, digital media or music production and
11 development facility project,

12 b. the costs of acquiring real property or rights in real
13 property in connection with a tourism attraction
14 project or film, digital media or music production and
15 development facility project, and any costs incidental
16 thereto,

17 c. the costs of contract bonds and of insurance of all
18 kinds that may be required or necessary during the
19 course of the acquisition, construction, equipping and
20 installation of a tourism attraction project or film,
21 digital media or music production and development
22 facility project which is not paid by the vendor,
23 supplier, contractor, or otherwise provided,

- 1 d. all costs of architectural and engineering services
2 including, but not limited to, estimates, plans and
3 specifications, preliminary investigations, and
4 supervision of construction and installation, as well
5 as for the performance of all the duties required by
6 or consequent to the acquisition, construction,
7 equipping and installation of a tourism attraction
8 project or film, digital media or music production and
9 development facility project,
- 10 e. all costs required to be paid under the terms of any
11 contract for the acquisition, construction, equipping
12 and installation of a tourism attraction project or
13 film, digital media or music production and
14 development facility project,
- 15 f. all costs required for the installation of utilities
16 in connection with a tourism attraction project or
17 film, digital media or music production and
18 development facility project including, but not
19 limited to, water, sewer, sewage treatment, gas,
20 electricity and communications, and including off-site
21 construction of utility extensions paid for by the
22 approved company, and
- 23 g. all other costs comparable with those described in
24 this paragraph;

1 4. "Director" means the Director of the Oklahoma Tourism and
2 Recreation Department or the Director's designated representative;

3 5. "Eligible company" means any corporation, limited liability
4 company, partnership, sole proprietorship, business trust or any
5 other entity, operating or intending to operate a tourism attraction
6 project or undertake film, digital media or music production and
7 development facility project, whether owned or leased, within this
8 state that meets the standards promulgated by the Director pursuant
9 to Section 2357.37 of this title;

10 6. "Final approval" means the action taken by the Director
11 authorizing the eligible company to receive inducements under
12 Section 2357.40 of this title;

13 7. "Increased state sales tax liability" means that portion of
14 an approved company's reported state sales tax liability resulting
15 from taxable sales of goods and services to its customers at the
16 tourist attraction or for purposes of a film, digital media or music
17 production and development facility project for any monthly sales
18 tax reporting period after the approved company provides the
19 certification required by subsection B of Section 2357.40 of this
20 title, which exceeds the reported state sales tax liability for
21 sales to its customers for the same month in the calendar year
22 immediately preceding the certification;

23 8. "Inducements" means the income tax credit or sales tax
24 credit as prescribed in Section 2357.40 of this title;

1 9. "Preliminary approval" means the action taken by the
2 Director conditioned upon final approval by the Director upon
3 satisfaction by the eligible company of the requirements of the
4 Oklahoma Tourism Development Act;

5 10. a. "Tourism attraction" means:

- 6 (1) a cultural or historical site,
- 7 (2) a recreational or entertainment facility,
- 8 (3) an area of natural phenomenon or scenic beauty,
- 9 (4) a theme park,
- 10 (5) an amusement or entertainment park,
- 11 (6) an indoor or outdoor play or music show,
- 12 (7) a botanical garden, or
- 13 (8) a cultural or educational center.

14 b. A tourism attraction shall not include:

- 15 (1) lodging facilities, unless the facilities
16 constitute a portion of a tourism attraction
17 project and represent less than fifty percent
18 (50%) of the total approved costs of the tourism
19 attraction project,
- 20 (2) facilities that are primarily devoted to the
21 retail sale of goods, unless the goods are
22 created at the site of the tourism attraction
23 project or if the sale of goods is incidental to
24 the tourism attraction project,

- 1 (3) facilities that are not open to the general
2 public,
- 3 (4) facilities that do not serve as a likely
4 destination where individuals who are not
5 residents of this state would remain overnight in
6 commercial lodging at or near the tourism
7 attraction project,
- 8 (5) facilities owned by the State of Oklahoma or a
9 political subdivision of this state, or
- 10 (6) facilities established for the purpose of
11 conducting legalized gambling. However, a
12 facility regulated under Section 200 et seq. of
13 Title 3A of the Oklahoma Statutes shall be a
14 tourism attraction for purposes of the Oklahoma
15 Tourism Development Act for any approved project
16 as outlined in subparagraph a of this paragraph
17 or for an approved project relating to pari-
18 mutuel racing at the facility and not for
19 establishing a casino or for offering casino-
20 style gambling; and

21 11. "Tourism attraction project", "film, digital media or music
22 production and development facility project" or "project" means:
23 a. the acquisition, including the acquisition of real
24 estate by leasehold interest with a minimum term of

1 ten (10) years, construction, and equipping of a
2 tourism attraction or film, digital media or music
3 production and development facility, and

4 b. the construction and installation of improvements to
5 facilities necessary or desirable for the acquisition,
6 construction, and installation of a tourism attraction
7 or film, digital media or music production and
8 development facility, including, but not limited to:

9 (1) surveys, and

10 (2) installation of utilities, which may include:

11 (a) water, sewer, sewage treatment, gas,
12 electricity, communications, and similar
13 facilities, and

14 (b) off-site construction of utility extensions
15 to the boundaries of the real estate on
16 which the facilities are located,

17 all of which are to be used to improve the economic
18 situation of the approved company in a manner that
19 shall allow the approved company to attract tourists.

20 SECTION 3. AMENDATORY 68 O.S. 2001, Section 2357.37, as
21 amended by Section 3, Chapter 429, O.S.L. 2005 (68 O.S. Supp. 2007,
22 Section 2357.37), is amended to read as follows:

23 Section 2357.37 A. The Director of the Oklahoma Tourism and
24 Recreation Department, with approval of the Oklahoma Tourism and

1 Recreation Commission, shall establish standards for the making of
2 applications for inducements to eligible companies and their tourism
3 attraction projects, or film, digital media and music production and
4 development facility projects by the promulgation of rules in
5 accordance with the Administrative Procedures Act.

6 B. With respect to each eligible company making an application
7 to the Director for inducements, and with respect to the tourism
8 attraction or film, digital media and music production and
9 development facility project described in the application, the
10 Director shall make inquiries and request materials of the applicant
11 that shall include, but shall not be limited to:

12 1. Marketing plans for the project that target individuals who
13 are not residents of this state;

14 2. A description and location of the project;

15 3. Capital and other anticipated expenditures for the project
16 that indicate that the total cost of the project shall exceed ~~Five~~
17 ~~Hundred Thousand Dollars (\$500,000.00)~~ the minimum amount set forth
18 in subsection C of this section and the anticipated sources of
19 funding therefor;

20 4. The anticipated employment and wages to be paid at the
21 project;

22 5. Business plans which indicate the average number of days in
23 a year in which the project will be in operation and open to the
24 public, if applicable; and

1 6. The anticipated revenues and expenses generated by the
2 project.
3 Based upon a review of these materials, if the Director determines
4 that the eligible company and the tourism attraction or film,
5 digital media and music production and development facility project
6 may reasonably be expected to satisfy the criteria for final
7 approval in subsection C of this section, then the Director may
8 consider granting a preliminary approval of the eligible company and
9 the tourism attraction project pursuant to subsection B of Section
10 2357.38 of this title.

11 C. 1. For a tourism attraction project, after granting a
12 preliminary approval, the Director shall engage the services of a
13 competent consulting firm which shall submit to the Director a
14 report analyzing the data made available by the eligible company and
15 which shall collect and analyze additional information necessary to
16 determine that, in the independent judgment of the consultant, the
17 tourism attraction project will:

- 18 a. attract at least twenty-five percent (25%) of its
19 visitors from among persons who are not residents of
20 this state;
- 21 b. have costs in excess of Five Hundred Thousand Dollars
22 (\$500,000.00);
- 23 c. have a significant and positive economic impact on
24 this state considering, among other factors, the

1 extent to which the tourism attraction project will
2 compete directly with existing tourism attractions in
3 this state, and the amount by which increased tax
4 revenues from the tourism attraction project will
5 exceed the sales tax credit or income tax credit
6 allowed pursuant to Section 2357.40 of this title;

7 d. produce sufficient revenues and public demand to be
8 operating and open to the public on a regular and
9 persistent basis; and

10 e. not adversely affect existing employment in this
11 state.

12 2. For a film, digital media or music production and
13 development facility project, after granting a preliminary approval,
14 the Director shall engage the services of a competent consulting
15 firm which shall submit to the Director a report analyzing the data
16 made available by the eligible company and which shall collect and
17 analyze additional information necessary to determine that, in the
18 independent judgment of the consultant, the film, digital media or
19 music production and development facility will:

20 a. for music production and postproduction facilities
21 have costs in excess of ~~Five Hundred Thousand Dollars~~
22 ~~(\$500,000.00)~~ One Hundred Thousand Dollars
23 (\$100,000.00), for film and digital media production

1 and postproduction facilities have costs in excess of
2 Three Hundred Fifty Thousand Dollars (\$350,000.00);

3 b. have a significant and positive economic impact on
4 this state considering, among other factors, the
5 extent to which the film, digital media or music
6 production and development facility will compete
7 directly with existing facilities in this state, and
8 the amount by which increased tax revenues from the
9 facility will exceed the sales tax credit or income
10 tax credit allowed pursuant to Section 2357.40 of this
11 title; and

12 c. not adversely affect existing employment in this
13 state.

14 D. The eligible company shall pay for the cost of the
15 consultant's report and shall cooperate with the consultant and
16 provide all of the data that the consultant deems necessary to make
17 a determination of this section.

18 SECTION 4. AMENDATORY 68 O.S. 2001, Section 2357.38, as
19 amended by Section 4, Chapter 429, O.S.L. 2005 (68 O.S. Supp. 2007,
20 Section 2357.38), is amended to read as follows:

21 Section 2357.38 A. The Director of the Oklahoma Tourism and
22 Recreation Department, with the approval of the Oklahoma Tourism and
23 Recreation Commission, shall establish standards for preliminary
24 approval and final approval of eligible companies and their projects

1 by the promulgation of rules in accordance with the Administrative
2 Procedures Act.

3 B. The Director may give preliminary approval by designating an
4 eligible company as a preliminarily approved company and
5 preliminarily authorizing the undertaking of the tourism attraction
6 project or film, digital media or music production and development
7 facility project.

8 C. The Director shall review the report of the consultant
9 prepared pursuant to subsection C of Section 2357.37 of this title
10 and other information that has been made available to the Director
11 in order to assist the Director in determining whether the tourism
12 attraction project or film, digital media and music production and
13 development facility project will further the purposes of the
14 Oklahoma Tourism Development Act.

15 D. The criteria for final approval of eligible companies and
16 tourism attraction projects or film, digital media and music
17 production and development facility projects shall include, but
18 shall not be limited to, the criteria set forth in subsection C of
19 Section 2357.37 of this title.

20 E. After a review of the relevant materials, the consultant's
21 report, other information made available to the Director, and
22 completion of other inquiries, the Director may give final approval
23 to the eligible company's application for a tourism attraction
24 project or film, digital media and music production and development

1 facility project and may grant to the eligible company the status of
2 an approved company. The decision reached by the Director may be
3 appealed by the eligible company to the Oklahoma Tourism and
4 Recreation Commission. The decision of the Oklahoma Tourism and
5 Recreation Commission shall constitute the final administrative
6 decision of the Oklahoma Tourism and Recreation Department.

7 SECTION 5. AMENDATORY 68 O.S. 2001, Section 2357.39, as
8 last amended by Section 5, Chapter 429, O.S.L. 2005 (68 O.S. Supp.
9 2007, Section 2357.39), is amended to read as follows:

10 Section 2357.39 A. Upon granting final approval, the Director
11 of the Oklahoma Tourism and Recreation Department may enter into an
12 agreement with an approved company with respect to its tourism
13 attraction project or film, digital media and music production and
14 development facility project. The terms and provisions of each
15 agreement shall include, but shall not be limited to:

16 1. The amount of approved costs, which shall be determined by
17 negotiations between the Director and the approved company;

18 2. A date certain by which the approved company shall have
19 completed the tourism attraction project or film, digital media and
20 music production and development facility project. Within three (3)
21 months of the completion date, the approved company shall document
22 the actual cost of the project through a certification of the costs
23 by an independent certified public accountant acceptable to the
24 Director; and

1 3. The following provisions:

2 a. the term of the agreement shall be ten (10) years from
3 the later of:

4 (1) the date of the final approval of the tourism
5 attraction project or film, digital media and
6 music production and development facility
7 project, or

8 (2) the completion date specified in the agreement,
9 if the completion date is within two (2) years of
10 the date of the final approval of the tourism
11 attraction project or film, digital media and
12 music production and development facility
13 project. However, the term of the agreement may
14 be extended for up to two (2) additional years by
15 the Director, with the advice and consent of the
16 Oklahoma Tax Commission, if the Director
17 determines that the failure to complete the
18 tourism attraction project or film, digital media
19 and music production and development facility
20 project within two (2) years resulted from:

21 (a) unanticipated and unavoidable delay in the
22 construction of the tourism attraction
23 project or film, digital media and music
24 production and development facility project,

1 (b) an original completion date for the tourism
2 attraction project or film, digital media
3 and music production and development
4 facility project, as originally planned,
5 which will be more than two (2) years from
6 the date construction began, or

7 (c) a change in business ownership or business
8 structure resulting from a merger or
9 acquisition,

10 b. in any tax year during which an agreement is in
11 effect, if the amount of income tax due from the
12 approved company exceeds the state income tax credit
13 available to the approved company, then the approved
14 company shall pay the excess to this state as income
15 tax, and if in any tax year during which an agreement
16 is in effect, if the amount of sales tax to be
17 remitted by the approved company exceeds the sales tax
18 credit available to the approved company, then the
19 approved company shall pay the excess to this state as
20 sales tax,

21 c. within forty-five (45) days after the end of each
22 calendar year, the approved company shall supply the
23 Director with such reports and certifications as the
24 Director may request demonstrating to the satisfaction

1 of the Director that the approved company is in
2 compliance with the provisions of the Oklahoma Tourism
3 Development Act, and

4 d. the approved company shall not receive an inducement
5 with respect to any calendar year if:

6 (1) for a tourism attraction project:

7 (a) in any calendar year following the fourth
8 year of the agreement, the tourism
9 attraction project fails to attract at least
10 fifteen percent (15%) of its visitors from
11 among persons who are not residents of this
12 state, or

13 (b) in any calendar year following the first
14 year of the agreement, the tourism
15 attraction project is not operating and open
16 to the public on a regular and consistent
17 basis, or

18 (2) for a film, digital media or music production and
19 development facility project, in any calendar
20 year following the fourth year of the agreement,
21 the facility fails to have a significant and
22 positive impact on the state.

23 B. The agreement shall not be transferable or assignable by the
24 approved company without the written consent of the Director.

1 C. If the approved company utilizes inducements which are
2 subsequently disallowed, then the approved company will be liable
3 for the payment to the Tax Commission of all taxes resulting from
4 the disallowance of the inducements plus applicable penalties and
5 interest.

6 D. The Director shall provide a copy of each agreement entered
7 into with an approved company to the Tax Commission.

8 SECTION 6. AMENDATORY 68 O.S. 2001, Section 2357.40, as
9 amended by Section 6, Chapter 429, O.S.L. 2005 (68 O.S. Supp. 2007,
10 Section 2357.40), is amended to read as follows:

11 Section 2357.40 A. Upon receiving notification from the
12 Director of the Oklahoma Tourism and Recreation Department that an
13 approved company has entered into a tourism project agreement or a
14 film, digital media and music production and development facility
15 project agreement and is entitled to the inducements provided by the
16 Oklahoma Tourism Development Act, the Oklahoma Tax Commission shall
17 provide the approved company with forms and instructions as
18 necessary to claim those inducements.

19 B. An approved company whose agreement provides that it shall
20 expend approved costs of more than One Hundred Thousand Dollars
21 (\$100,000.00) for music production and postproduction facilities,
22 Three Hundred Fifty Thousand Dollars (\$350,000.00) for film and
23 digital media production and postproduction facilities, and more
24 than Five Hundred Thousand Dollars (\$500,000.00) for a tourism

1 attraction project but less than One Million Dollars (\$1,000,000.00)
2 shall be entitled to an income tax credit or a sales tax credit if
3 the company certifies to the Tax Commission that it has expended at
4 least ~~Five Hundred Thousand Dollars (\$500,000.00)~~ the minimum amount
5 in approved costs, and the Director certifies that the approved
6 company is in compliance with the Oklahoma Tourism Development Act.
7 The Tax Commission shall then issue a tax credit memorandum to the
8 approved company granting an income tax credit or sales tax credit
9 in the amount of ten percent (10%) of the approved costs.
10 Subsequent requests for credit for additional certified approved
11 costs in excess of ~~Five Hundred Thousand Dollars (\$500,000.00)~~ the
12 minimum amount for each project as listed in this subsection but
13 less than One Million Dollars (\$1,000,000.00) shall result in an
14 income tax credit or sales tax credit in the amount of ten percent
15 (10%) of the approved costs. Income tax credits or sales tax
16 credits allowed pursuant to the provisions of the Oklahoma Tourism
17 Development Act shall not be transferable or assignable.

18 An approved company whose agreement provides that it shall
19 expend approved costs in excess of One Million Dollars
20 (\$1,000,000.00) shall be entitled to an income tax credit or sales
21 tax credit if the company certifies to the Tax Commission that it
22 has expended at least One Million Dollars (\$1,000,000.00) in
23 approved costs and the Director certifies that the approved company
24 is in compliance with the Oklahoma Tourism Development Act. The Tax

1 Commission shall then issue a tax credit memorandum to the approved
2 company granting an income tax credit or sales tax credit in the
3 amount of twenty-five percent (25%) of the approved costs. The
4 credit on all subsequent additional certified approved costs shall
5 be in the amount of twenty-five percent (25%) of the costs.

6 The Tax Commission may require proof of expenditures.
7 Additional credit memoranda may be issued as the approved company
8 certifies additional expenditures of approved costs.

9 No tax credit memorandum shall be issued for any approved costs
10 expended after the expiration of two (2) years from the date the
11 agreement was signed by the Director and the approved company.
12 However, the Director, with the advice and consent of the Tax
13 Commission, may authorize tax credits for approved costs expended up
14 to four (4) years from the date the agreement was signed if the
15 Director determines that the failure to complete the tourism
16 attraction project within two (2) years resulted from:

17 1. Unanticipated and unavoidable delay in the construction of
18 the tourism attraction or film, digital media and music production
19 and development facility project;

20 2. An original completion date for the tourism attraction or
21 film, digital media and music production and development facility
22 project, as originally planned, which will be more than two (2)
23 years from the date construction began; or
24

1 3. A change in business ownership or business structure
2 resulting from a merger or acquisition.

3 C. 1. An income tax credit allowed pursuant to the provisions
4 of this section shall be applied to the amount of income taxes due
5 from the approved company. If the amount of an income tax credit
6 allowed pursuant to the provisions of this section exceeds the
7 amount of income taxes due for the year in which the credit is
8 granted, the amount of the credit not used may be carried forward
9 for a period not to exceed ten (10) years.

10 2. A sales tax credit allowed pursuant to the provisions of
11 this section may be used to offset a portion of the reported state
12 sales tax liability of the approved company for all sales tax
13 reporting periods following the issuance of the credit memorandum
14 subject to the following limitations:

- 15 a. only increased state sales tax liability may be offset
16 by the issued credit,
- 17 b. an approved company whose agreement provides that it
18 shall expend approved costs in excess of One Million
19 Dollars (\$1,000,000.00) shall be entitled to use only
20 ten percent (10%) of the amount of each issued credit
21 to offset increased state sales tax liability during
22 each calendar year, plus the amount of any unused
23 credit carried forward from a prior calendar year, and
24 an approved company whose agreement provides that it

1 shall expend approved costs of more than ~~Five Hundred~~
2 ~~Thousand Dollars (\$500,000.00)~~ the minimum amount for
3 each project as listed in this subsection but less
4 than One Million Dollars (\$1,000,000.00) shall be
5 entitled to use only twenty percent (20%) of the
6 amount of each issued credit to offset increased state
7 sales tax liability during each calendar year, plus
8 the amount of any unused credit carried forward from a
9 prior calendar year, and

10 c. all issued credit memoranda shall expire at the end of
11 the month following the expiration of the agreement as
12 provided in Section 2357.39 of this title.

13 The approved company shall have no obligation to refund or
14 otherwise return any amount of this credit to the person from whom
15 the sales tax was collected.

16 D. The Tax Commission shall promulgate rules as are necessary
17 for the proper administration of the Oklahoma Tourism Development
18 Act. The Tax Commission may also develop forms and instructions as
19 necessary for an approved company to claim the income tax credit
20 provided by the Oklahoma Tourism Development Act.

21 E. The Tax Commission shall have the authority to obtain any
22 information necessary from the approved company and the Director to
23 verify that approved companies have received the proper amounts of
24 tax credits as authorized by the Oklahoma Tourism Development Act.

1 The Oklahoma Tax Commission shall demand the repayment of any
2 credits taken in excess of the credit allowed by the Oklahoma
3 Tourism Development Act.

4 SECTION 7. AMENDATORY 68 O.S. 2001, Section 3623, as
5 last amended by Section 1, Chapter 341, O.S.L. 2007 (68 O.S. Supp.
6 2007, Section 3623), is amended to read as follows:

7 Section 3623. As used in the Compete with Canada Film Act:

8 1. "Crew" means any person who works on preproduction,
9 principal photography, and postproduction, with the exception of
10 producers, principal cast, screenwriters, and the director. The
11 qualifying salary of producers, principal cast, screenwriters, and
12 the director, also known as "above-the-line personnel", may be
13 included as crew if the salaries are paid to loan-out corporations
14 and limited liability companies registered to do business in the
15 State of Oklahoma or the salaries are paid to Oklahoma-based above-
16 the-line personnel. The qualifying salary of above-the-line
17 personnel shall not comprise more than twenty-five percent (25%) of
18 total expenditures as defined in paragraph 2 of this section. For
19 purposes of this paragraph, "Oklahoma-based" means a company or
20 individual with an Oklahoma income tax ~~or corporate tax liability~~
21 requirement;

22 2. "Expenditure" or "production cost" includes but is not
23 limited to:
24

- 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,
- f. other direct costs of producing a film, and
- g. the wages and salaries of persons who are defined and registered as an Oklahoma Expatriate by the Office of the Oklahoma Film and Music Commission;

3. "Film" means a professional single media, multimedia program or feature, 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

1 of Title 21 of the Oklahoma Statutes, including, but not limited to,
2 national advertising messages that are broadcast on a national
3 affiliate or cable network, fixed on film or digital video, which
4 can be viewed or reproduced and which is exhibited in theaters,
5 licensed for exhibition by individual television stations, groups of
6 stations, networks, cable television stations or other means or
7 licensed for home viewing markets; and

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

10 SECTION 8. AMENDATORY 68 O.S. 2001, Section 3624, as
11 last amended by Section 2, Chapter 341, O.S.L. 2007 (68 O.S. Supp.
12 2007, Section 3624), is amended to read as follows:

13 Section 3624. A. There is hereby created the Oklahoma Film
14 Enhancement Rebate Program. A rebate in the amount of up to ~~fifteen~~
15 ~~percent (15%)~~ seventeen percent (17%) of documented expenditures
16 made in Oklahoma directly attributable to the production of a film,
17 television production, or television commercial, as defined in
18 Section 3623 of this title, in this state, may be paid to the
19 production company responsible for the production if the Office of
20 the Oklahoma Film and Music Commission determines that the proposed
21 project has a reasonable chance of economic success.

22 B. 1. The amount of rebate paid to the production company as
23 provided for in subsection A of this section shall be determined as
24 follows:

- 1 a. fifteen percent (15%) if fifty percent (50%) or more
2 of the crew are residents of Oklahoma and are employed
3 in this state,
4 b. ten percent (10%) if twenty-five percent (25%) to
5 forty-nine percent (49%) of the crew are residents of
6 Oklahoma and are employed in this state, and
7 c. five percent (5%) if less than twenty-five percent
8 (25%) of the crew are residents of Oklahoma and are
9 employed in this state.

10 2. For a production company that spends at least Twenty
11 Thousand Dollars (\$20,000.00) for the use of music created by an
12 Oklahoma resident that is recorded in Oklahoma or for the cost of
13 recording songs or music in Oklahoma for use in the production, a
14 two-percent rebate shall be paid which shall be in addition to the
15 rebate paid as provided for in paragraph 1 of this subsection.

16 3. For a production company with a minimum budget for a film of
17 Five Million Dollars (\$5,000,000.00) or more, the amount of rebate
18 paid as provided for in subsection A of this section shall be
19 fifteen percent (15%). The Oklahoma crew requirements set forth in
20 paragraph 1 of this subsection shall not apply to production
21 companies that meet the minimum budget requirements of this
22 paragraph.

23 ~~3.~~ 4. The Oklahoma crew requirements set forth in paragraph 1
24 of this subsection shall not apply if it is determined there is a

1 lack of available Oklahoma personnel to serve as crew. The lack of
2 available Oklahoma personnel to serve as crew shall be verified in
3 writing by the Office of the Oklahoma Film and Music Commission.
4 The amount of rebate paid as provided for in subsection A of this
5 section to a production company where the Oklahoma crew requirements
6 have been waived pursuant to this paragraph shall be fifteen percent
7 (15%).

8 C. The rebate program shall be administered by the Office of
9 the Oklahoma Film and Music Commission and the Oklahoma Tax
10 Commission, as provided in the Compete with Canada Film Act.

11 D. To be eligible for a rebate payment:

12 1. The production company responsible for a film, television
13 production, or television commercial, as defined in Section 3623 of
14 this title, made in this state shall submit documentation to the
15 Office of the Oklahoma Film and Music Commission of the amount of
16 wages paid for employment in this state to residents of this state
17 directly relating to the production and the amount of other
18 production costs incurred in this state directly relating to the
19 production;

20 2. The production company shall also file an Oklahoma income
21 tax return;

22 3. Except major studio productions, the production company
23 shall provide the name of the completion guarantor and a copy of the
24 bond guaranteeing the completion of the project or if a film has not

1 secured a completion bond, the production company shall provide
2 evidence that all Oklahoma crew and local vendors have been paid and
3 there are no liens against the production company pending in the
4 state;

5 4. The minimum budget for the film shall be Five Hundred
6 Thousand Dollars (\$500,000.00) of which not less than Three Hundred
7 Thousand Dollars (\$300,000.00) shall be expended in this state. The
8 minimum budget requirements of this paragraph shall be met by any
9 film, television, or commercial production company that produces
10 multiple film, television, or commercial projects within one (1)
11 year, if each project meets a minimum budget of Two Hundred Fifty
12 Thousand Dollars (\$250,000.00) and the total budget of all projects
13 in one (1) year is not less than Five Hundred Thousand Dollars
14 (\$500,000.00) of which not less than Three Hundred Thousand Dollars
15 (\$300,000.00) shall be expended in this state;

16 5. The production company shall provide evidence of a
17 recognizable domestic or foreign distribution agreement, provide
18 evidence of being selected as a pilot for a nationally recognized
19 network or cable television outlet, or provide evidence of being
20 accepted to at least one of the top fifteen film festivals or two or
21 more of the top thirty film festivals in the United States as
22 determined by the Office of the Oklahoma Film and Music Commission
23 within one (1) year from the end of principal photography;

24

1 6. The production company shall provide evidence of complete
2 financing for production prior to the commencement of principal
3 photography; and

4 7. The production company shall provide evidence of a
5 certificate of general liability insurance with a minimum coverage
6 of One Million Dollars (\$1,000,000.00) and a workers' compensation
7 policy pursuant to state law, which shall include coverage of
8 employer's liability.

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

22 F. The Office shall approve or disapprove all claims for rebate
23 and shall notify the Tax Commission. The Tax Commission shall issue
24 payment for all approved claims from funds in the Oklahoma Film

1 Enhancement Rebate Program Revolving Fund created in Section 3625 of
2 this title on or after July 1, 2006, and on or after each July 1
3 thereafter following the fiscal year in which the documented
4 expenditures were made. The amount of payments in any single fiscal
5 year shall not exceed Five Million Dollars (\$5,000,000.00). If the
6 amount of approved claims exceeds the amount specified in this
7 subsection in a fiscal year, payments shall be made in the order in
8 which the claims are approved by the Office. If an approved claim
9 is not paid in whole or in part, the unpaid claim or unpaid portion
10 may be paid in the following fiscal year subject to the limitations
11 specified in this subsection.

12 SECTION 9. This act shall become effective July 1, 2008.

13 SECTION 10. It being immediately necessary for the preservation
14 of the public peace, health and safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

17
18
19
20
21
22
23
24

1 Passed the House of Representatives the 11th day of March, 2008.

2
3
4 Presiding Officer of the House of
Representatives
5

6 Passed the Senate the ____ day of _____, 2008.

7
8
9 Presiding Officer of the Senate
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24