

An Act

ENROLLED HOUSE
BILL NO. 2374

By: Hill, Deck and Menz of the
House

and

Thompson of the Senate

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

SUBJECT: Revenue and taxation

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. "Above-the-line personnel" means producers, principal cast, 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 limited liability companies registered to do business in this state or the salaries are paid to Oklahoma-based above-the-line personnel. The qualifying salary of above-the-line personnel shall not comprise more than twenty-five percent (25%) of total expenditures as defined

in paragraph 5 of this section. For purposes of this paragraph, "Oklahoma-based" means a company or individual with an Oklahoma income tax requirement;

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

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

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

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

- a. wages or salaries of persons who are residents of this state or who are enrolled as full-time students at a college or university located in the state offering an undergraduate degree program or an Oklahoma Career Tech Certification Program or who are on active military duty and stationed in Oklahoma or involved in a restorative workforce program 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, pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 62(a)(2),
- 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 Oklahoma Film and Music Office;

6. "Film" means a professional single media, multimedia program or feature, which is not child sexual abuse material 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, animation, commercials, documentaries, feature films, game shows, pilots, reality television, scripted television, talk shows, national advertising messages that are broadcast on a national affiliate or cable network, 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. The term shall also include filming for interactive and video gaming including, but not limited to, green screen, motion capture and similar production techniques;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

F. 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 tax pursuant to the provisions of paragraph 23 of ~~section~~ Section 1357 of Title 68 of the Oklahoma Statutes. If a production company has received the 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 Tax Commission. A claim for a rebate shall include documentation from the Tax Commission that repayment has been made as required in this subsection or shall include an affidavit from the production company that the company has not received an

exemption from sales tax pursuant to the provisions of paragraph 23 of Section 1357 of Title 68 of the Oklahoma Statutes.

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

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

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

1. For a production with Oklahoma expenditures of Seven Million Five Hundred Thousand Dollars (\$7,500,000.00) or less, two (2) apprentices;
2. For a production with Oklahoma expenditures greater than Seven Million Five Hundred Thousand Dollars (\$7,500,000.00) and Fifteen Million Dollars (\$15,000,000.00) or less, four (4) apprentices;
3. For a production with Oklahoma expenditures greater than Fifteen Million Dollars (\$15,000,000.00) and Twenty-five Million Dollars (\$25,000,000.00) or less, eight (8) apprentices; and
4. For a production with Oklahoma expenditures greater than Twenty-five Million Dollars (\$25,000,000.00), sixteen (16) apprentices.

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

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

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

SECTION 6. It being immediately necessary for the preservation of the public peace, health or 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.

Passed the House of Representatives the 25th day of March, 2025.

Presiding Officer of the House
of Representatives

Passed the Senate the 6th day of May, 2025.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____

Approved by the Governor of the State of Oklahoma this _____
day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____