

1 **MOTION PICTURE INCENTIVE FUND**

2 2005 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Sheryl L. Allen**

5 David N. Cox

Steven R. Mascaro

LaWanna Lou Shurtliff

6 Brent H. Goodfellow

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8 **LONG TITLE**

9 **General Description:**

10 This bill creates a restricted account known as the Motion Picture Incentive Fund to  
11 provide incentives to motion picture companies that produce motion pictures, television  
12 series, or made-for-television movies within the state.

13 **Highlighted Provisions:**

14 This bill:

15 ▶ creates a restricted account within the General Fund known as the Motion Picture  
16 Incentive Fund, 2/3 of which shall be used to provide incentives for within-the-state  
17 production of television series and made-for-television movies and 1/3 of which  
18 shall be used to provide incentives for within-the-state productions of motion  
19 pictures;

20 ▶ provides for administration of the fund by the executive director of the Department  
21 of Community and Economic Development or the director's designee under the  
22 direction of the Board of Business and Economic Development;

23 ▶ provides for the executive director to determine the structure, amount, and nature of  
24 the incentive given to a motion picture company, subject to ratification by the  
25 board;

26 ▶ provides conditions upon which incentives may be granted and establishes caps on  
27 the incentives to be awarded; and



28           ▶ provides for an annual report to legislative committees on the economic impact of  
29 the incentive awards program.

30 **Monies Appropriated in this Bill:**

31           This bill appropriates:

32           ▶ as an ongoing appropriation subject to future budget constraints, \$3,000,000 from  
33 the General Fund for fiscal year 2005-06 to the Motion Picture Incentive Fund.

34 **Other Special Clauses:**

35           This bill takes effect on July 1, 2005.

36 **Utah Code Sections Affected:**

37 ENACTS:

38           **9-2-2101**, Utah Code Annotated 1953

39           **9-2-2102**, Utah Code Annotated 1953

40           **9-2-2103**, Utah Code Annotated 1953

41           **9-2-2104**, Utah Code Annotated 1953

42           **9-2-2105**, Utah Code Annotated 1953



44 *Be it enacted by the Legislature of the state of Utah:*

45           Section 1. Section **9-2-2101** is enacted to read:

46   **Part 21. Motion Picture Incentive Fund**

47           **9-2-2101. Purpose.**

48           (1) The Legislature finds that:

49           (a) the state's natural beauty, scenic wonders, and diverse topography provide a variety  
50 of magnificent settings from which the motion picture industry can choose to film part or all of  
51 major or independent motion pictures, made-for-television movies, and television series;

52           (b) the state has an abundance of resources, including a skilled and able workforce, the  
53 required infrastructure, and a friendly and hospitable populace that have been instrumental in  
54 the filming of several successful motion pictures and television series; and

55           (c) further development of the motion picture industry in Utah is a state public purpose  
56 that will significantly impact growth in the state's economy and contribute to the fiscal well  
57 being of the state and its people.

58           (2) The purpose of this part is to:

59 (a) encourage the use of Utah as a site for the production of motion pictures, television  
60 series, and made-for-television movies;

61 (b) provide a financial incentive to the film industry so that Utah might compete  
62 successfully with other states and countries for filming locations; and

63 (c) help develop a strong motion picture industry presence in the state that will  
64 contribute substantially to improving the state's economy.

65 Section 2. Section **9-2-2102** is enacted to read:

66 **9-2-2102. Definitions.**

67 As used in this part:

68 (1) "Administrator" means the executive director of the Department of Community and  
69 Economic Development or the executive director's designee.

70 (2) "Board" means the Board of Business and Economic Development.

71 (3) "Fund" means the restricted account known as the Motion Picture Incentive Fund  
72 created in Section 9-2-2103.

73 (4) "Motion picture company" means a company engaged in the production of motion  
74 pictures, television series, or made-for-television movies.

75 (5) "State-approved production" means a motion picture, television series, or  
76 made-for-television movie approved by the administrator and ratified by the board that is  
77 produced in the state by a motion picture company.

78 Section 3. Section **9-2-2103** is enacted to read:

79 **9-2-2103. Motion Picture Incentive Fund created.**

80 (1) There is created within the General Fund a restricted account known as the Motion  
81 Picture Incentive Fund:

82 (a) 2/3 of which shall be used to provide incentives for within-the-state production of  
83 television series and made-for-television movies; and

84 (b) 1/3 of which shall be used to provide incentives for within-the-state production of  
85 motion pictures, including feature films and independent films.

86 (2) (a) The fund shall be administered by the administrator under the direction of the  
87 board.

88 (b) The board shall approve fund policies and qualification criteria to receive an  
89 incentive award consistent with the provisions of this part.

90 (3) All interest generated from investment of money in the fund shall be deposited in  
91 the fund.

92 (4) The fund shall consist of an annual appropriation by the Legislature.

93 Section 4. Section **9-2-2104** is enacted to read:

94 **9-2-2104. Financial incentives for motion picture productions.**

95 (1) A motion picture company that has a state-approved production under this section  
96 may receive a financial incentive from the fund as provided in this section.

97 (2) (a) The administrator has authority to determine the structure, amount, and nature  
98 of the incentive given to a motion picture company, subject to ratification by the board and the  
99 limitations and considerations set out in Subsections (3) and (4).

100 (b) A financial incentive shall be paid to a motion picture company from the fund only  
101 after:

102 (i) the administrator has determined that the motion picture company has satisfied the  
103 conditions upon which the incentive is to be given; and

104 (ii) that determination has been ratified by the board.

105 (3) (a) In each fiscal year:

106 (i) 2/3 of the money in the fund shall be used for incentives to motion picture  
107 companies for state-approved productions that are either television series or made-for-television  
108 movies;

109 (ii) 1/3 of the money in the fund shall be used for incentives to motion picture  
110 companies for state-approved productions that are motion pictures, which may include both  
111 feature films and independent films; and

112 (iii) the administrator may reallocate incentive monies in the fund between the two  
113 categories listed in Subsections (3)(a)(i) and (ii) if:

114 (A) the total amount allocated under one of the categories has been committed to the  
115 awarding of postperformance incentive grants; and

116 (B) an uncommitted balance of money remains in the other category referred to in  
117 Subsection (3)(a)(i) or (ii).

118 (b) An incentive awarded under Subsection (3)(a)(i) for a television series may not:

119 (i) exceed \$100,000 per episode and \$750,000 per funding cycle; and

120 (ii) be given for more than two consecutive funding cycles.

121 (c) An incentive awarded under Subsection (3)(a)(ii) may not exceed \$500,000 per  
122 motion picture production.

123 (4) (a) The administrator shall enter into agreements with motion picture companies  
124 that represent postperformance incentive grants that take into consideration:

125 (i) the fact that financing has been obtained and is in place for the production;

126 (ii) distribution is in place, except that the administrator may make allowances for an  
127 independent filmmaker who plans to shop the production on a film festival circuit;

128 (iii) the economic impact of the production on the state; and

129 (iv) except as otherwise noted in Subsection (3)(b)(ii), the production represents new  
130 incremental economic activity in the state as opposed to existing economic activity.

131 (b) The administrator may also consider giving preference to a production that  
132 stimulates economic activity in rural areas of the state or that has Utah content, such as  
133 recognizing that the production was made in the state or uses Utah as Utah in the production.

134 Section 5. Section **9-2-2105** is enacted to read:

135 **9-2-2105. Annual report.**

136 (1) The administrator shall prepare an annual report for the board on the economic  
137 impact of this part.

138 (2) The board shall present the report to the Legislature's Workforce Services and  
139 Community and Economic Development Interim Committee and the Economic Development  
140 and Human Resources Appropriations Subcommittee, together with any proposed  
141 recommendations for modifications in this part or the annual ongoing appropriation for the  
142 fund.

143 Section 6. **Appropriation.**

144 As an ongoing appropriation subject to future budget constraints, there is appropriated  
145 from the General Fund for fiscal year 2005-06, \$3,000,000 to the Motion Picture Incentive  
146 Fund created in Section 9-2-2103 to fund the incentive program authorized under Title 9,  
147 Chapter 2, Part 21, Motion Picture Incentive Fund.

148 Section 7. **Effective date.**

149 This bill takes effect on July 1, 2005.

**Legislative Review Note**  
**as of 12-7-04 8:43 AM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

**Interim Committee Note**  
**as of 12-08-04 11:47 AM**

The Revenue and Taxation Interim Committee recommended this bill.

**Interim Committee Note**  
**as of 12-08-04 11:47 AM**

The Workforce Services and Community and Economic Development Interim Committee recommended this bill.

**Mixed Membership Committee Note**  
**as of 12-08-04 11:47 AM**

The Motion Picture Task Force recommended this bill.

Membership:	6 legislators	10 non-legislators	
Legislative Vote:	5 voting for	0 voting against	1 absent

**State Impact**

This bill appropriates \$3,000,000 from the General Fund to the Motion Picture Incentive Fund.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
General Fund	\$3,000,000	\$3,000,000	\$0	\$0
Restricted Funds	\$0	\$0	\$3,000,000	\$3,000,000
<b>TOTAL</b>	<b>\$3,000,000</b>	<b>\$3,000,000</b>	<b>\$3,000,000</b>	<b>\$3,000,000</b>

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**Individual and Business Impact**

Passage of this bill will create an incentive for the film industry up to \$750,000 a year.

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