

MOTION PICTURE INCENTIVE FUND

AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Fred R Hunsaker

LONG TITLE

General Description:

This bill modifies provisions of the Motion Picture Incentive Fund regarding administration of the fund.

Highlighted Provisions:

This bill:

- ▶ provides that the Governor's Office of Economic Development shall administer the Motion Picture Incentive Fund;

- ▶ provides for review of motion picture company reports by an independent certified public accountant;

- ▶ provides that the office shall make incentive payments from the fund to qualified motion picture companies; and

- ▶ makes certain technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-1-1803, as last amended by Laws of Utah 2009, Chapter 135

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

30 Section 1. Section **63M-1-1803** is amended to read:

31 **63M-1-1803. Motion Picture Incentive Fund created -- Cash rebate incentives --**
32 **Refundable tax credit incentives.**

33 (1) (a) There is created within the General Fund a restricted account known as the
34 Motion Picture Incentive Fund, which shall be used to provide cash rebate incentives for:

- 35 (i) within-the-state production of television series[;];
- 36 (ii) made-for-television movies[;]; and
- 37 (iii) motion pictures, including feature films and independent films.

38 (b) All interest generated from investment of money in the fund shall be deposited in
39 the fund.

40 (c) The fund shall consist of an annual appropriation by the Legislature.

41 (d) The [~~Division of Finance~~] office shall:

- 42 (i) with the advice of the board, administer the fund; and
- 43 (ii) make payments from the [account] fund as required under this section.

44 (2) (a) A motion picture company seeking disbursement of an incentive allowed under
45 an agreement with the office shall follow the procedures and requirements of this Subsection
46 (2).

47 (b) (i) The motion picture company shall provide the office with a report identifying
48 and documenting the dollars left in the state by the motion picture company for its
49 state-approved production, including any related tax returns by the motion picture company,
50 payroll company, or loan-out corporation under Subsection (2)(c).

51 (ii) An independent certified public accountant shall:

52 (A) [~~prepare~~] review the report [on behalf of] submitted by the motion picture
53 company; and

54 (B) attest to the accuracy and validity of the report, including the amount of dollars
55 left in the state.

56 (c) The motion picture company, payroll company, or loan-out corporation shall
57 provide the office with a document that expressly directs and authorizes the State Tax

58 Commission to disclose the entity's tax returns and other information concerning the entity
59 that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103,
60 Internal Revenue Code, to the office.

61 (d) The office shall submit the document described in Subsection (2)(c) to the State
62 Tax Commission.

63 (e) Upon receipt of the document described in Subsection (2)(c), the State Tax
64 Commission shall provide the office with the information requested by the office that the
65 motion picture company, payroll company, or loan-out corporation directed or authorized the
66 State Tax Commission to provide to the office in the document described in Subsection (2)(c).

67 (f) Subject to Subsection (3), the office shall:

68 (i) review the report from the motion picture company described in Subsection (2)(b)
69 and verify that it was ~~[prepared]~~ reviewed by an independent certified public accountant; and

70 (ii) based upon the certified public accountant's attestation under Subsection (2)(b),
71 determine the amount of the incentive that the motion picture company is entitled to under its
72 agreement with the office.

73 (g) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office
74 shall ~~[submit to the Division of Finance:]~~ pay the incentive from the fund to the motion picture
75 company, notwithstanding Subsections 51-5-3(23)(b) and 63J-1-104(4)(c).

76 ~~[(i) a request for payment of the cash rebate incentive to the motion picture company;]~~

77 ~~[(ii) the name and address of the payee; and]~~

78 ~~[(iii) any other information requested by the Division of Finance.]~~

79 ~~[(h) Upon receipt of a request for payment of a cash rebate incentive under Subsection~~
80 ~~(2)(g), the Division of Finance shall:]~~

81 ~~[(i) transfer from the General Fund to the restricted account the amount contained in~~
82 ~~the request for payment of a cash rebate incentive after reducing the amount transferred by any~~
83 ~~unencumbered balances in the restricted account; and]~~

84 ~~[(ii) notwithstanding Subsections 51-5-3(23)(b) and 63J-1-104(4)(c), after receiving a~~
85 ~~request for payment of a cash rebate incentive and making the transfer required by Subsection~~

86 ~~(2)(h)(i), pay the incentive from the restricted account.]~~

87 ~~[(†) (h) If the incentive is in the form of a refundable tax credit under Section~~
88 ~~59-7-614.5 or 59-10-1108, the office shall:~~

- 89 ~~(i) issue a tax credit certificate to the motion picture company; and~~
- 90 ~~(ii) provide a duplicate copy of the tax credit certificate to the State Tax Commission.~~

91 ~~[(†) (i) A motion picture company may not claim a motion picture tax credit under~~
92 ~~Section 59-7-614.5 or 59-10-1108 unless the motion picture company has received a tax credit~~
93 ~~certificate for the claim issued by the office under Subsection (2)[(†)](h)(i).~~

94 ~~[(†) (j) A motion picture company may claim a motion picture tax credit on its tax~~
95 ~~return for the amount listed on the tax credit certificate issued by the office.~~

96 ~~[(†) (k) A motion picture company that claims a tax credit under Subsection (2)[(†)](j)~~
97 ~~shall retain the tax credit certificate in accordance with Subsection 63M-1-1804(5)(d).~~

98 (3) (a) Subject to Subsection (3)(b), the office may issue up to:

- 99 (i) (A) \$7,793,700 in tax credit certificates under this part in fiscal year 2009-10; and
- 100 (B) \$7,793,700 in tax credit certificates under this part in fiscal year 2010-11; and
- 101 (ii) \$2,206,300 in motion picture cash rebates under this part in a fiscal year.

102 (b) If the total amount of tax credit certificates the office issues in a fiscal year is less
103 than the amount of tax credit certificates the office may issue in that fiscal year under
104 Subsection (3)(a)(i)(A) or (B), the office may issue the remaining amount of tax credit
105 certificates in a fiscal year after the fiscal year for which there is a remaining amount of tax
106 credit certificates.

107 (c) Notwithstanding any other provision of this part or Section 59-7-614.5 or
108 59-10-1108, beginning on July 1, 2011, the office may not issue a tax credit certificate unless:

109 (i) the Legislature expressly provides funding in the office's budget for the office to
110 issue the tax credit certificate; or

111 (ii) there is a remaining amount of tax credit that the office may issue in accordance
112 with Subsection (3)(b).