

**MOTION PICTURE TAX CREDIT AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jeremy A. Peterson**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill addresses income tax credits.

**Highlighted Provisions:**

This bill:

- ▶ phases out corporate and individual income tax credits for motion picture productions in the state; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**59-7-614.5**, as last amended by Laws of Utah 2015, Chapter 283

**59-10-1108**, as last amended by Laws of Utah 2015, Chapter 283

**63N-8-103**, as renumbered and amended by Laws of Utah 2015, Chapter 283

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

Section 1. Section **59-7-614.5** is amended to read:

**59-7-614.5. Refundable motion picture tax credit.**



28 (1) As used in this section:

29 (a) "Motion picture company" means a taxpayer that meets the definition of a motion  
30 picture company under Section [63N-8-102](#).

31 (b) "Office" means the Governor's Office of Economic Development.

32 (c) "State-approved production" has the same meaning as that term is defined in  
33 Section [63N-8-102](#).

34 (2) For a taxable [years] year beginning on or after January 1, 2009, a motion picture  
35 company may claim a refundable tax credit for a state-approved production in accordance with  
36 Section [63N-8-103](#).

37 (3) The tax credit under this section is the amount listed as the tax credit amount on the  
38 tax credit certificate that the office issues to a motion picture company under Section  
39 [63N-8-103](#) for the taxable year.

40 (4) (a) In accordance with any rules prescribed by the commission under Subsection  
41 (4)(b), the commission shall make a refund to a motion picture company that claims a tax  
42 credit under this section if the amount of the tax credit exceeds the motion picture company's  
43 tax liability for a taxable year.

44 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
45 commission may make rules providing procedures for making a refund to a motion picture  
46 company as required by Subsection (4)(a).

47 ~~[(5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the~~  
48 ~~Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and~~  
49 ~~make recommendations to the Legislative Management Committee concerning whether the tax~~  
50 ~~credit should be continued, modified, or repealed.]~~

51 ~~[(b) For purposes of the study required by this Subsection (5), the office shall provide~~  
52 ~~the following information to the Revenue and Taxation Interim Committee:]~~

53 ~~[(i) the amount of tax credit that the office grants to each motion picture company for~~  
54 ~~each calendar year;]~~

55 ~~[(ii) the criteria that the office uses in granting the tax credit;]~~

56 ~~[(iii) the dollars left in the state, as defined in Section [63N-8-102](#), by each motion~~  
57 ~~picture company for each calendar year;]~~

58 ~~[(iv) the information contained in the office's latest report to the Legislature under~~

59 Section ~~63N-8-105~~; and]

60 [~~(v) any other information requested by the Revenue and Taxation Interim Committee.~~]

61 [~~(c) The Revenue and Taxation Interim Committee shall ensure that its~~  
62 ~~recommendations under Subsection (5)(a) include an evaluation of:]~~

63 [~~(i) the cost of the tax credit to the state;~~]

64 [~~(ii) the effectiveness of the tax credit; and]~~

65 [~~(iii) the extent to which the state benefits from the tax credit.]~~

66 Section 2. Section **59-10-1108** is amended to read:

67 **59-10-1108. Refundable motion picture tax credit.**

68 (1) As used in this section:

69 (a) "Motion picture company" means a claimant, estate, or trust that meets the  
70 definition of a motion picture company under Section [63N-8-102](#).

71 (b) "Office" means the Governor's Office of Economic Development.

72 (c) "State-approved production" has the same meaning as that term is defined in  
73 Section [63N-8-102](#).

74 (2) For a taxable [~~years~~] year beginning on or after January 1, 2009, a motion picture  
75 company may claim a refundable tax credit for a state-approved production in accordance with  
76 Section [63N-8-103](#).

77 (3) The tax credit under this section is the amount listed as the tax credit amount on the  
78 tax credit certificate that the office issues to a motion picture company under Section  
79 [63N-8-103](#) for the taxable year.

80 (4) (a) In accordance with any rules prescribed by the commission under Subsection  
81 (4)(b), the commission shall make a refund to a motion picture company that claims a tax  
82 credit under this section if the amount of the tax credit exceeds the motion picture company's  
83 tax liability for the taxable year.

84 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
85 commission may make rules providing procedures for making a refund to a motion picture  
86 company as required by Subsection (4)(a).

87 [~~(5)(a) On or before October 1, 2014, and every five years after October 1, 2014, the~~  
88 ~~Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and~~  
89 ~~make recommendations to the Legislative Management Committee concerning whether the tax~~

90 credit should be continued, modified, or repealed.]

91 ~~[(b) For purposes of the study required by this Subsection (5), the office shall provide~~  
92 ~~the following information to the Revenue and Taxation Interim Committee:]~~

93 ~~[(i) the amount of tax credit the office grants to each taxpayer for each calendar year;]~~

94 ~~[(ii) the criteria the office uses in granting a tax credit;]~~

95 ~~[(iii) the dollars left in the state, as defined in Section 63N-8-102, by each motion~~  
96 ~~picture company for each calendar year;]~~

97 ~~[(iv) the information contained in the office's latest report to the Legislature under~~  
98 ~~Section 63N-8-105; and]~~

99 ~~[(v) any other information requested by the Revenue and Taxation Interim Committee.]~~

100 ~~[(c) The Revenue and Taxation Interim Committee shall ensure that its~~  
101 ~~recommendations under Subsection (5)(a) include an evaluation of:]~~

102 ~~[(i) the cost of the tax credit to the state;]~~

103 ~~[(ii) the effectiveness of the tax credit; and]~~

104 ~~[(iii) the extent to which the state benefits from the tax credit.]~~

105 Section 3. Section 63N-8-103 is amended to read:

106 **63N-8-103. Motion Picture Incentive Account created -- Cash rebate incentives --**  
107 **Refundable tax credit incentives.**

108 (1) (a) There is created within the General Fund a restricted account known as the  
109 Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives  
110 for state-approved productions by a motion picture company.

111 (b) All interest generated from investment of money in the restricted account shall be  
112 deposited in the restricted account.

113 (c) The restricted account shall consist of an annual appropriation by the Legislature.

114 (d) The office shall:

115 (i) with the advice of the board, administer the restricted account; and

116 (ii) make payments from the restricted account as required under this section.

117 (e) The cost of administering the restricted account shall be paid from money in the  
118 restricted account.

119 (2) (a) A motion picture company or digital media company seeking disbursement of  
120 an incentive allowed under an agreement with the office shall follow the procedures and

121 requirements of this Subsection (2).

122 (b) The motion picture company or digital media company shall provide the office with  
123 a report identifying and documenting the dollars left in the state [~~or~~] and new state revenues  
124 generated by the motion picture company or digital media company for its state-approved  
125 production, including any related tax returns by the motion picture company, payroll company,  
126 digital media company, or loan-out corporation under Subsection (2)(d).

127 (c) For a motion picture company, an independent certified public accountant shall:

128 (i) review the report submitted by the motion picture company; and

129 (ii) attest to the accuracy and validity of the report, including the amount of dollars left  
130 in the state.

131 (d) The motion picture company, digital media company, payroll company, or loan-out  
132 corporation shall provide the office with a document that expressly directs and authorizes the  
133 State Tax Commission to disclose the entity's tax returns and other information concerning the  
134 entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section  
135 6103, Internal Revenue Code, to the office.

136 (e) The office shall submit the document described in Subsection (2)(d) to the State  
137 Tax Commission.

138 (f) Upon receipt of the document described in Subsection (2)(d), the State Tax  
139 Commission shall provide the office with the information requested by the office that the  
140 motion picture company, digital media company, payroll company, or loan-out corporation  
141 directed or authorized the State Tax Commission to provide to the office in the document  
142 described in Subsection (2)(d).

143 (g) Subject to Subsection (3), for a motion picture company the office shall:

144 (i) review the report from the motion picture company described in Subsection (2)(b)  
145 and verify that it was reviewed by an independent certified public accountant as described in  
146 Subsection (2)(c); and

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

150 (h) Subject to Subsection (3), for a digital media company, the office shall:

151 (i) ensure the digital media project results in new state revenue; and

152 (ii) based upon review of new state revenue, determine the amount of the incentive that  
153 a digital media company is entitled to under its agreement with the office.

154 (i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office  
155 shall pay the incentive from the restricted account to the motion picture company,  
156 notwithstanding Subsections 51-5-3(23)(b) and 63J-1-104(4)(c).

157 (j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or  
158 59-10-1108, the office shall:

159 (i) issue a tax credit certificate to the motion picture company or digital media  
160 company; and

161 (ii) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

162 (k) A motion picture company or digital media company may not claim a motion  
163 picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company  
164 or digital media company has received a tax credit certificate for the claim issued by the office  
165 under Subsection (2)(j)(i).

166 (l) A motion picture company or digital media company may claim a motion picture  
167 tax credit on its tax return for the amount listed on the tax credit certificate issued by the office.

168 (m) A motion picture company or digital media company that claims a tax credit under  
169 Subsection (2)(l) shall retain the tax credit certificate and all supporting documentation in  
170 accordance with Subsection 63N-8-104(6).

171 (3) (a) Subject to Subsection (3)(b), the office may issue \$6,793,700 in tax credit  
172 certificates under this part [it] for a fiscal year beginning on or after July 1, 2009, but ending  
173 on or before June 30, 2017.

174 (b) If the office does not issue tax credit certificates in a fiscal year totaling the amount  
175 authorized under Subsection (3)(a), [it] the office may carry over that amount for issuance in a  
176 subsequent fiscal [~~years~~] year until the fiscal year ending on June 30, 2020.