

**MOTION PICTURE INCENTIVES AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel W. Thatcher**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to motion picture incentives.

**Highlighted Provisions:**

This bill:

- ▶ allows the Governor's Office of Economic Development to provide motion picture incentives for companies engaging in post-production work in Utah;
- ▶ removes the cap on cash rebate incentives allowed for any one motion picture; and
- ▶ defines terms.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**63N-8-101**, as renumbered and amended by Laws of Utah 2015, Chapter 283

**63N-8-102**, as renumbered and amended by Laws of Utah 2015, Chapter 283

**63N-8-104**, as renumbered and amended by Laws of Utah 2015, Chapter 283

**63N-8-105**, 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:*



28 Section 1. Section **63N-8-101** is amended to read:

29 **63N-8-101. Title -- Purpose.**

30 (1) This chapter is known as "Motion Picture Incentives."

31 (2) The Legislature finds that:

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

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

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

41 (3) The purpose of this chapter is to:

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

44 (b) provide financial incentives to the film industry so that Utah might compete  
45 successfully with other states and countries for filming locations and post-production work;  
46 and

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

49 Section 2. Section **63N-8-102** is amended to read:

50 **63N-8-102. Definitions.**

51 As used in this chapter:

52 (1) "Digital media company" means a company engaged in the production of a digital  
53 media project.

54 (2) "Digital media project" means all or part of a production of interactive  
55 entertainment or animated production that is produced for distribution in commercial or  
56 educational markets, which shall include projects intended for Internet or wireless distribution.

57 (3) "Dollars left in the state" means expenditures made in the state for a state-approved  
58 production, including:

- 59 (a) an expenditure that is subject to:
- 60 (i) a corporate franchise or income tax under Title 59, Chapter 7, Corporate Franchise  
61 and Income Taxes;
- 62 (ii) an individual income tax under Title 59, Chapter 10, Individual Income Tax Act;  
63 and
- 64 (iii) a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act,  
65 notwithstanding any sales and use tax exemption allowed by law; or
- 66 (iv) a combination of Subsections (3)(a)(i), (ii), and (iii);
- 67 (b) payments made to a nonresident only to the extent of the income tax paid to the  
68 state on the payments, the amount of per diems paid in the state, and other direct  
69 reimbursements transacted in the state; and
- 70 (c) payments made to a payroll company or loan-out corporation that is registered to do  
71 business in the state, only to the extent of the amount of withholding under Section [59-10-402](#).
- 72 (4) "Loan-out corporation" means a corporation owned by one or more artists that  
73 provides services of the artists to a third party production company.
- 74 (5) "Motion picture company" means a company engaged in the production of:
- 75 (a) motion pictures;
- 76 (b) television series; or
- 77 (c) made-for-television movies.
- 78 (6) "Motion picture incentive" means either a cash rebate from the Motion Picture  
79 Incentive Account or a refundable tax credit under Section [59-7-614.5](#) or [59-10-1108](#).
- 80 (7) "New state revenues" means:
- 81 (a) incremental new state sales and use tax revenues generated as a result of a digital  
82 media project that a digital media company pays under Title 59, Chapter 12, Sales and Use Tax  
83 Act;
- 84 (b) incremental new state tax revenues that a digital media company pays as a result of  
85 a digital media project under:
- 86 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
- 87 (ii) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and  
88 Information;
- 89 (iii) Title 59, Chapter 10, Part 2, Trusts and Estates;

90 (iv) Title 59, Chapter 10, Part 4, Withholding of Tax; or  
91 (v) a combination of Subsections (7)(b)(i), (ii), (iii), and (iv);  
92 (c) incremental new state revenues generated as individual income taxes under Title  
93 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, paid by  
94 employees of the new digital media project as evidenced by payroll records from the digital  
95 media company; or

96 (d) a combination of Subsections (7)(a), (b), and (c).

97 (8) "Payroll company" means a business entity that handles the payroll and becomes  
98 the employer of record for the staff, cast, and crew of a motion picture production.

99 (9) "Post-production work" means work undertaken on a state-approved production  
100 after filming or shooting is complete and includes film and video editing, sound editing, sound  
101 mixing, computer graphics services, visual effects services, and animation services.

102 [~~9~~] (10) "Refundable tax credit" means a refundable motion picture tax credit  
103 authorized under Section 63N-8-103 and claimed under Section 59-7-614.5 or 59-10-1108.

104 [~~10~~] (11) "Restricted account" means the Motion Picture Incentive Account created in  
105 Section 63N-8-103.

106 [~~11~~] (12) "State-approved production" means a production, or post-production work,  
107 under Subsections (2) and (5) that is:

108 (a) approved by the office and ratified by the board; and

109 (b) produced or carried out in the state by a motion picture company.

110 [~~12~~] (13) "Tax credit amount" means the amount the office lists as a tax credit on a  
111 tax credit certificate for a taxable year.

112 [~~13~~] (14) "Tax credit certificate" means a certificate issued by the office that:

113 (a) lists the name of the applicant;

114 (b) lists the applicant's taxpayer identification number;

115 (c) lists the amount of tax credit that the office awards the applicant for the taxable  
116 year; and

117 (d) may include other information as determined by the office.

118 Section 3. Section 63N-8-104 is amended to read:

119 **63N-8-104. Motion picture incentives -- Standards to qualify for an incentive --**

120 **Limitations -- Content of agreement between office and motion picture company or**

121 **digital media company.**

122 (1) In addition to the requirements for receiving a motion picture incentive as set forth  
123 in this part, the office, in accordance with Title 63G, Chapter 3, Utah Administrative  
124 Rulemaking Act, shall make rules establishing:

125 (a) the standards that a motion picture company or digital media company must meet to  
126 qualify for the motion picture incentive; and

127 (b) criteria for determining the amount of the incentive.

128 (2) The office shall ensure that those standards include the following:

129 (a) an incentive may only be issued for a [~~state-approved~~] state-approved production by  
130 a motion picture company or digital media company;

131 (b) financing has been obtained and is in place for the production; and

132 (c) the economic impact of the production on the state represents new incremental  
133 economic activity in the state as opposed to existing economic activity.

134 (3) With respect to a digital media project, the office shall consider economic  
135 modeling, including the costs and benefits of the digital media project to state and local  
136 governments in determining the motion picture incentive amount.

137 (4) The office may also consider giving preference to a production that stimulates  
138 economic activity in rural areas of the state, engages in post-production work in the state, or  
139 [~~that~~] has Utah content, such as recognizing that the production was made in the state or uses  
140 Utah as Utah in the production.

141 (5) (a) The office, with advice from the board, may enter into an agreement with a  
142 motion picture company or digital media company that meets the standards established under  
143 this section and satisfies the other qualification requirements under this part.

144 (b) Subject to Subsection [63N-8-103\(3\)](#), the office may commit or authorize a motion  
145 picture incentive:

146 (i) to a motion picture company of up to 20% of the dollars left in the state by the  
147 motion picture company, and a motion picture company can receive an additional 5%, not to  
148 exceed 25% of the dollars left in the state by the motion picture company if the company  
149 fulfills certain requirements determined by the office including:

150 (A) employing a significant percentage of cast and crew from Utah;

151 (B) highlighting the state of Utah and the Utah Film Commission in the motion picture

152 credits; [or]

153 (C) engaging in post-production work in Utah; or

154 ~~[(C)]~~ (D) other promotion opportunities as agreed upon by the office and the motion  
155 picture company; and

156 (ii) to a digital media company, if the incentive does not exceed 100% of the new state  
157 revenue less the considerations under Subsection (3), but not to exceed 20% of the dollars left  
158 in the state by the digital media company.

159 ~~[(c) A cash rebate incentive from the Motion Picture Incentive Restricted Account may  
160 not exceed \$500,000 per state approved production for a motion picture project.]~~

161 ~~[(d)]~~ (c) The office may not give a cash rebate incentive from the Motion Picture  
162 Incentive Restricted Account for a digital media project.

163 (6) The office shall ensure that the agreement entered into with a motion picture  
164 company or digital media company under Subsection (5)(a):

165 (a) details the requirements that the motion picture company or digital media company  
166 must meet to qualify for an incentive under this part;

167 (b) specifies:

168 (i) the nature of the incentive; and

169 (ii) the maximum amount of the motion picture incentive that the motion picture  
170 company or digital media company may earn for a taxable year and over the life of the  
171 production;

172 (c) establishes the length of time over which the motion picture company or digital  
173 media company may claim the motion picture incentive;

174 (d) requires the motion picture company or digital media company to retain records  
175 supporting its claim for a motion picture incentive for at least four years after the motion  
176 picture company or digital media company claims the incentive under this part; and

177 (e) requires the motion picture company or digital media company to submit to audits  
178 for verification of the claimed motion picture incentive.

179 Section 4. Section **63N-8-105** is amended to read:

180 **63N-8-105. Annual report.**

181 The office shall include the following information in the annual written report described  
182 in Section **63N-1-301**:

- 183 (1) the office's success in attracting within-the-state;
- 184 (a) production of television series, made-for-television movies, and motion pictures,
- 185 including feature films and independent films; and
- 186 (b) post-production work;
- 187 (2) the amount of incentive commitments made by the office under this part and the
- 188 period of time over which the incentives will be paid; and
- 189 (3) the economic impact on the state related to:
- 190 (a) dollars left in the state; and
- 191 (b) providing motion picture incentives under this part.