

1 ENGROSSED HOUSE  
2 BILL NO. 3921

By: Dunnington of the House

3 and

4 Thompson of the Senate

5  
6  
7 [ revenue and taxation - income tax - insurance  
8 premium tax - qualifying entertainment production  
9 expenses - base credit amount - additional credit  
10 amounts - maximum credits available - annual cap -  
11 administration of cap - Compete with Canada Film  
12 Act - renaming Compete with Canada Film Act to  
13 Oklahoma Film and Television Production Incentive  
14 Program ]

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17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 2357.1001 of Title 68, unless  
20 there is created a duplication in numbering, reads as follows:

21 A. As used in this section:

22 1. "Film production project" means a professional single media,  
23 multimedia program or feature, which is not child pornography as  
24 defined in subsection A of Section 1024.1 of Title 21 of the

1 Oklahoma Statutes or obscene material as defined in paragraph 1 of  
2 subsection B of Section 1024.1 of Title 21 of the Oklahoma Statutes,  
3 including, but not limited to, national advertising messages that  
4 are broadcast on a national affiliate or cable network, fixed on  
5 film or digital video, which can be viewed or reproduced and which  
6 is exhibited in theaters, licensed for exhibition by individual  
7 television stations, groups of stations, networks, cable television  
8 stations or other means or licensed for home viewing markets;

9 2. "Qualified entertainment industry expenditure" means either  
10 a film production project or television episode production project  
11 with a projected budget amount in excess of Five Million Dollars  
12 (\$5,000,000.00) and for which expenditures of the following type are  
13 made within the state during the production process:

14 a. wages or salaries of persons:

15 (1) with respect to the credit percentage authorized  
16 by subsection C of this section who are residents  
17 of this state and who have earned income from  
18 working on a film production project or a  
19 television episode production project in this  
20 state, including payments to personal services  
21 corporations with respect to the services of  
22 qualified performing artists, as determined under  
23 Section 62(a)(A) of the Internal Revenue Code, or  
24

1 (2) with respect to the credit percentage authorized  
2 by subsection E of this section who are  
3 nonresidents of this state and who have earned  
4 income from working on a film production project  
5 or a television episode production project in  
6 this state, including payments to personal  
7 services corporations with respect to the  
8 services of qualified performing artists, as  
9 determined under Section 62(a) (A) of the Internal  
10 Revenue Code,

11 b. the cost of construction and operations, wardrobe,  
12 accessories and related services,

13 c. the cost of photography, sound synchronization,  
14 lighting and related services,

15 d. the cost of editing and related services,

16 e. rental of facilities and equipment,

17 f. other direct costs of producing a film or television  
18 episode, and

19 g. the wages and salaries of a person who is defined and  
20 registered as an Oklahoma Expatriate by the Office of  
21 the Oklahoma Film and Music Commission; and

22 3. "Television episode production project" means a coherent  
23 narrative unit within a larger dramatic work and which is not  
24 defined as a "film production project" pursuant to paragraph 1 of

1 this subsection and the final content of which is intended for  
2 broadcast by conventional television stations, by cable television  
3 or through a streaming service by use of the Internet or similar  
4 technology.

5 B. Subject to the limitations imposed pursuant to subsections  
6 G, H, I, J, K and L of this section, for qualifying expenditures  
7 made on or after July 1, 2020, and ending not later than June 30,  
8 2030, there shall be allowed as a credit against the tax imposed  
9 pursuant to Section 2355 of Title 68 of the Oklahoma Statutes or the  
10 tax imposed pursuant to Section 624 or 628 of Title 36 of the  
11 Oklahoma Statutes for qualified entertainment industry project  
12 expenditures.

13 C. There shall be a base credit amount equal to twenty-five  
14 percent (25%) of the qualifying entertainment industry expenditure.

15 D. Subject to the limitations prescribed by subsections G, H,  
16 I, J, K and L of this section, in addition to the credit amount  
17 authorized by subsection C of this section, there shall be allowed  
18 an additional credit equal to:

19 1. One percent (1%) for a qualifying music expenditure equal to  
20 or greater than Fifteen Thousand Dollars (\$15,000.00);

21 2. One percent (1%) for a qualifying audio postproduction,  
22 visual postproduction and visual effects expenditure equal to or  
23 greater than Twenty Thousand Dollars (\$20,000.00);

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1           3. One percent (1%) for a qualifying soundstage expenditure  
2 equal to or greater than Ten Thousand Dollars (\$10,000.00);

3           4. One percent (1%) for use of a "filmed in Oklahoma" logo;

4           5. One percent (1%) for the use of an opening credit using the  
5 following language: "In Association With The State of Oklahoma"

6 which includes a logo and incorporates an animated sequenced  
7 approved by the Oklahoma Department of Tourism and Recreation; and

8           6. One percent (1%) for a qualifying film or television  
9 expenditure for a qualified environmental sustainability plan.

10          E. Subject to the limitations prescribed by subsections G, H,  
11 I, J, K and L of this section, in addition to the credits for  
12 qualifying entertainment industry expenditures as authorized by  
13 subsection C or D of this section, there shall be allowed as a  
14 credit against the tax imposed pursuant to Section 2355 of Title 68  
15 of the Oklahoma Statutes or Section 624 or 628 of Title 36 of the  
16 Oklahoma Statutes in an amount equal to fifteen percent (15%) of the  
17 qualifying expenditure for compensation paid to nonresidents.

18          F. All credits authorized pursuant to the provisions of this  
19 section shall be fully transferable to any subsequent transferee.

20          G. No credit authorized by the provisions of this section may  
21 be used to reduce an income tax or insurance premium tax liability  
22 for any period after June 30, 2030.

23          H. Subject to the provisions of subsections K and L of this  
24 section, the total amount of credits that may be earned/claimed

1 pursuant to the provisions of subsections C, D and E of this section  
2 shall not exceed Fifty Million Dollars (\$50,000,000.00) per year.

3 I. Notwithstanding any other provisions of this section, no  
4 film production project may qualify for more than Seven Million  
5 Dollars (\$7,000,000.00) in tax credits authorized by this section  
6 for a single income tax year. The maximum credit amount prescribed  
7 by this subsection shall be applicable with respect to the total  
8 amount of any and all credits available pursuant to subsections C, D  
9 and E of this section.

10 J. Notwithstanding any other provisions of this section, no  
11 television episode production project may qualify for more than One  
12 Million Two Hundred Thousand Dollars (\$1,200,000.00) in tax credits  
13 authorized by this section for a single income tax year. The  
14 maximum credit amount prescribed by this subsection shall be  
15 applicable with respect to the total amount of any and all credits  
16 available pursuant to subsections C, D and E of this section.

17 K. The total amount of credits authorized by this section used  
18 to offset tax shall be adjusted annually to limit the annual amount  
19 of credits to Fifty Million Dollars (\$50,000,000.00). The Tax  
20 Commission shall annually calculate and publish a percentage by  
21 which the credits authorized by this section shall be reduced so the  
22 total amount of credits used to offset tax does not exceed Fifty  
23 Million Dollars (\$50,000,000.00) per year. The formula to be used  
24 for the percentage adjustment shall be Fifty Million Dollars

1 (\$50,000,000.00) divided by the credits used to offset tax in the  
2 second preceding year.

3 L. Pursuant to subsection K of this section, in the event the  
4 total tax credits authorized by this section exceed Fifty Million  
5 Dollars (\$50,000,000.00) in any calendar year, the Tax Commission  
6 shall permit any excess over Fifty Million Dollars (\$50,000,000.00)  
7 but shall factor such excess into the percentage adjustment formula  
8 for subsequent years.

9 M. In order for the Tax Commission to administer the provisions  
10 of subsections K and L of this section with respect to insurance  
11 premium tax credits claimed, the Oklahoma Insurance Department shall  
12 provide such information to the Tax Commission as may be required  
13 regarding the amount of credits claimed against the tax imposed  
14 pursuant to Section 624 or 628 of Title 36 of the Oklahoma Statutes.  
15 Such information shall be provided to the Tax Commission not later  
16 than the date specified by the Tax Commission. The Tax Commission  
17 shall use the insurance premium tax credit information provided to  
18 it in order to compute the percentage adjustment as provided by  
19 subsection L of this section.

20 N. No taxpayer, whether claiming tax credits based upon its own  
21 expenditures or pursuant to a transferred tax credit, shall be  
22 allowed to claim any of the tax credits authorized by this section  
23 and the investment tax credit authorized pursuant to Section 2357.4  
24 of Title 68 of the Oklahoma Statutes.

1       O. No taxpayer, whether claiming tax credits based upon its own  
2 expenditures or pursuant to a transferred tax credit, shall be  
3 allowed to claim any of the tax credits authorized by this section  
4 and to receive payments authorized pursuant to the provisions of the  
5 Oklahoma Film and Television Production Incentive Program.

6       SECTION 2.       AMENDATORY       68 O.S. 2011, Section 3621, is  
7 amended to read as follows:

8       Section 3621. This act shall be known and may be cited as the  
9 "~~Compete with Canada~~ Oklahoma Film Act and Television Production  
10 Incentive Program".

11       SECTION 3.       AMENDATORY       68 O.S. 2011, Section 3622, is  
12 amended to read as follows:

13       Section 3622. The Legislature hereby finds that the production  
14 of films or television episode production projects in Oklahoma not  
15 only provides jobs for Oklahomans and dollars for Oklahoma  
16 businesses, but also enhances the state's image nationwide.  
17 Recognizing that the high costs of film production are driving  
18 motion picture and television production out of the country, most  
19 notably to Canada, and that the film industry is always seeking  
20 attractive locations that can help cut the costs of production, the  
21 Legislature further finds that the State of Oklahoma, with the  
22 appropriate incentive, can become an attractive site for film and  
23 television episode production ~~and that Oklahoma is presently among~~  
24 ~~several states with minimal incentives to attract the film industry.~~



1 It is therefore the intent of the Legislature that Oklahoma provide  
2 an incentive that will stand out among those of other states and  
3 increase film production in this state.

4 SECTION 4. AMENDATORY 68 O.S. 2011, Section 3623, as  
5 amended by Section 2, Chapter 313, O.S.L. 2019 (68 O.S. Supp. 2019,  
6 Section 3623), is amended to read as follows:

7 Section 3623. As used in the ~~Compete with Canada~~ Oklahoma Film  
8 ~~Act~~ and Television Production Incentive Program:

9 1. "Crew" means any person who works on preproduction,  
10 principal photography, and postproduction, with the exception of  
11 producers, principal cast, screenwriters, and the director. The  
12 qualifying salary of producers, principal cast, screenwriters, and  
13 the director, also known as "above-the-line personnel", may be  
14 included as crew if the salaries are paid to loan-out corporations  
15 and limited liability companies registered to do business in the  
16 State of Oklahoma or the salaries are paid to Oklahoma-based above-  
17 the-line personnel. The qualifying salary of above-the-line  
18 personnel shall not comprise more than twenty-five percent (25%) of  
19 total expenditures as defined in paragraph 2 of this section. For  
20 purposes of this paragraph, "Oklahoma-based" means a company or  
21 individual with an Oklahoma income tax requirement;

22 2. "Expenditure" or "production cost" includes but is not  
23 limited to:

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- a. wages or salaries of persons who are residents of this state 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, as determined under Section 62(a)(A) of the Internal Revenue Code,
- 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 a person who is defined and registered as an Oklahoma Expatriate by the Office of the Oklahoma Film and Music Commission;

3. "Film" means a professional single media, multimedia program or feature, which is not child pornography 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, 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,

1 licensed for exhibition by individual television stations, groups of  
2 stations, networks, cable television stations or other means or  
3 licensed for home viewing markets;

4 4. "High impact production" means a production for which total  
5 expenditures or production costs are equal to or greater than Fifty  
6 Million Dollars (\$50,000,000.00), with at least one-third (1/3) of  
7 total costs deemed Oklahoma expenditures by the Office of the  
8 Oklahoma Film and Music Commission; ~~and~~

9 5. "Production company" means a person or company who produces  
10 film for exhibition in theaters, on television or elsewhere; and

11 6. "Television episode production project" means a coherent  
12 narrative unit within a larger dramatic work and which is not  
13 defined as a "film" pursuant to paragraph 3 of this subsection and  
14 the final content of which is intended for broadcast by conventional  
15 television stations, by cable television or through a streaming  
16 service by use of the Internet or similar technology.

17 SECTION 5. AMENDATORY 68 O.S. 2011, Section 3624, as  
18 last amended by Section 3, Chapter 313, O.S.L. 2019 (68 O.S. Supp.  
19 2019, Section 3624), is amended to read as follows:

20 Section 3624. A. There is hereby created the Oklahoma Film  
21 Enhancement Rebate Program. A rebate in the amount of up to  
22 seventeen percent (17%) of documented expenditures made in Oklahoma  
23 directly attributable to the production of a film, television  
24 production, or television commercial, as defined in Section 3623 of

1 this title, in this state, may be paid to the production company  
2 responsible for the production. Provided, for documented  
3 expenditures made after July 1, 2009, the rebate amount shall be  
4 thirty-five percent (35%), except as provided in subsection B of  
5 this section.

6 B. The amount of rebate paid to the production company as  
7 provided for in subsection A of this section shall be increased by  
8 an additional two percent (2%) of documented expenditures if a  
9 production company spends at least Twenty Thousand Dollars  
10 (\$20,000.00) for the use of music created by an Oklahoma resident  
11 that is recorded in Oklahoma or for the cost of recording songs or  
12 music in Oklahoma for use in the production.

13 C. The rebate program shall be administered by the Office of  
14 the Oklahoma Film and Music Commission and the Oklahoma Tax  
15 Commission, as provided in the ~~Compete with Canada~~ Oklahoma Film Act  
16 and Television Production Incentive Program.

17 D. To be eligible for a rebate payment:

18 1. The production company responsible for a film, television  
19 production, or television commercial, as defined in Section 3623 of  
20 this title, made in this state shall submit documentation to the  
21 Office of the Oklahoma Film and Music Commission of the amount of  
22 wages paid for employment in this state to residents of this state  
23 directly relating to the production and the amount of other  
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1 production costs incurred in this state directly relating to the  
2 production;

3 2. The production company has filed or will file any Oklahoma  
4 tax return or tax document which may be required by law;

5 3. Except major studio productions, the production company  
6 shall provide the name of the completion guarantor and a copy of the  
7 bond guaranteeing the completion of the project or if a film has not  
8 secured a completion bond, the production company shall provide  
9 evidence that all Oklahoma crew and local vendors have been paid and  
10 there are no liens against the production company pending in the  
11 state;

12 4. The minimum budget for ~~the~~ a film or television episode  
13 production project shall be Fifty Thousand Dollars (\$50,000.00) of  
14 which not less than Twenty-five Thousand Dollars (\$25,000.00) shall  
15 be expended in this state;

16 5. The production company shall provide evidence of financing  
17 for production prior to the commencement of principal photography;  
18 and

19 6. The production company shall provide evidence of a  
20 certificate of general liability insurance with a minimum coverage  
21 of One Million Dollars (\$1,000,000.00) and a workers' compensation  
22 policy pursuant to state law, which shall include coverage of  
23 employer's liability.

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1 E. A production company shall not be eligible to receive both a  
2 rebate payment pursuant to the provisions of this act and an  
3 exemption from sales taxes pursuant to the provisions of paragraph  
4 23 of Section 1357 of this title. If a production company has  
5 received such an exemption from sales taxes and submits a claim for  
6 rebate pursuant to the provisions of the ~~Compete with Canada~~  
7 Oklahoma Film Act and Television Production Incentive Program, the  
8 company shall be required to fully repay the amount of the exemption  
9 to the Tax Commission. A claim for a rebate shall include  
10 documentation from the Tax Commission that repayment has been made  
11 as required herein or shall include an affidavit from the production  
12 company that the company has not received an exemption from sales  
13 taxes pursuant to the provisions of paragraph 21 of Section 1357 of  
14 this title.

15 F. The Office shall approve or disapprove all claims for rebate  
16 and shall notify the Tax Commission. The Tax Commission shall, upon  
17 notification of approval from the Office of the Film and Music  
18 Commission, issue payment for all approved claims from funds in the  
19 Oklahoma Film Enhancement Rebate Program Revolving Fund created in  
20 Section 3625 of this title. Excluding any rebate payments to high  
21 impact productions as provided for in subsection G of this section,  
22 the amount of payments in any single fiscal year shall not exceed  
23 Eight Million Dollars (\$8,000,000.00). If the amount of approved  
24 claims exceeds the amount specified in this subsection in a fiscal

1 year, payments shall be made in the order in which the claims are  
2 approved by the Office. If an approved claim is not paid in whole  
3 or in part, the unpaid claim or unpaid portion may be paid in the  
4 following fiscal year subject to the limitations specified in this  
5 subsection.

6 G. 1. At the time the Office of the Film and Music Commission  
7 issues a conditional prequalification for a production, such  
8 prequalification may include a proposed designation as a high impact  
9 production, as defined in Section 3623 of this title.

10 2. The proposed designation must be approved by the Cabinet  
11 Secretary for Commerce and Tourism.

12 3. If the high impact production otherwise meets all of the  
13 requirements of the ~~Compete With Canada Act~~ Oklahoma Film and  
14 Television Production Incentive Program and the Office gives final  
15 approval to rebate claims, such rebate claims shall not be subject  
16 to the Eight Million Dollar (\$8,000,000.00) cap provided for in  
17 subsection F of this section.

18 4. The payment of a rebate claim approved by the Office for a  
19 production designated as a high impact production by the Cabinet  
20 Secretary may be made as follows:

21 a. by special appropriation to the Oklahoma Film  
22 Enhancement Rebate Program Revolving Fund, if the  
23 claim is approved during a regular or special session  
24 of the Oklahoma Legislature, or

