

By: Representatives Peranich, Guice

To: Tourism; Ways and Means

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1190

1 AN ACT TO AMEND SECTION 57-89-3, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE DEFINITION OF THE TERMS "BASE INVESTMENT" AND  
3 "RESIDENT" OR "RESIDENT OF MISSISSIPPI" FOR PURPOSES OF THE  
4 MISSISSIPPI MOTION PICTURE INCENTIVE ACT; TO AMEND SECTION  
5 57-89-5, MISSISSIPPI CODE OF 1972, WHICH PROVIDES A TAX CREDIT FOR  
6 MOTION PICTURE PRODUCTION COMPANIES THAT PRODUCE MOTION PICTURES  
7 IN THIS STATE, TO PROVIDE FOR THE REPEAL OF SUCH SECTION; TO AMEND  
8 SECTION 57-89-7, MISSISSIPPI CODE OF 1972, TO REVISE THE BASE  
9 INVESTMENT REBATE AUTHORIZED FOR MOTION PICTURE PRODUCTION  
10 COMPANIES THAT PRODUCE MOTION PICTURES IN THIS STATE; AND FOR  
11 RELATED PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 **SECTION 1.** Section 57-89-3, Mississippi Code of 1972, is  
14 amended as follows:

15 57-89-3. As used in this chapter, the following terms shall  
16 have the meanings ascribed in this section unless the context  
17 clearly indicates otherwise:

18 (a) "Base investment" means the actual investment made  
19 and expended in Mississippi by a motion picture production company  
20 in connection with the production of a state-certified production  
21 in the state. The term "base investment" shall \* \* \* include  
22 payroll; however, for the purpose of determining the rebate  
23 authorized under Section 57-89-7(1)(a), the term "base investment"  
24 shall not include payroll paid for persons who are not residents.

25 (b) "Motion picture" means a nationally distributed  
26 feature-length film, video, television series or commercial made  
27 in Mississippi, in whole or in part, for theatrical or television  
28 viewing or as a television pilot. The term "motion picture" shall  
29 not include the production of television coverage of news and  
30 athletic events, or a film, video, television series or commercial

31 that contains any material or performance defined in Section  
32 97-29-103.

33 (c) "Motion picture production company" means a company  
34 engaged in the business of producing nationally distributed motion  
35 pictures, videos, television series or commercials intended for a  
36 theatrical release or for television viewing. The term "motion  
37 picture production company" shall not mean or include any company  
38 owned, affiliated, or controlled, in whole or in part, by any  
39 company or person which is in default on a loan made by the state  
40 or a loan guaranteed by the state, or any company or person who  
41 has ever declared bankruptcy under which an obligation of the  
42 company or person to pay or repay public funds or monies was  
43 discharged as a part of such bankruptcy.

44 (d) "Payroll" means salary, wages or other compensation  
45 including related benefits.

46 (e) "Resident" or "resident of Mississippi" means a  
47 natural person, and for the purpose of determining eligibility for  
48 the tax credit provided by Section 57-89-5 or the rebate provided  
49 by Section 57-89-7, any person domiciled in the State of  
50 Mississippi and any other person who maintains a permanent place  
51 of abode within the state and spends in the aggregate more than  
52 six (6) months of each year within the state.

53 (f) "State" means the State of Mississippi.

54 (g) "State-certified production" means a motion picture  
55 approved by the Mississippi Development Authority produced by a  
56 motion picture production company in the state. An application  
57 for approval as a state-certified production must be submitted to  
58 the Mississippi Development Authority before completion of the  
59 project.

60 **SECTION 2.** Section 57-89-5, Mississippi Code of 1972, is  
61 amended as follows:

62 57-89-5. (1) A motion picture production company shall be  
63 entitled to a tax credit for the employment of residents of

64 Mississippi in connection with production of a state-certified  
65 production in the state. The credit shall be equal to ten percent  
66 (10%) of the total aggregate payroll for residents employed in  
67 connection with such state-certified production during the taxable  
68 year.

69 (2) The credit may be applied to the tax liability  
70 applicable to the motion picture production company imposed by  
71 Chapter 7 of Title 27, Mississippi Code of 1972. The credit shall  
72 be limited to the tax liability created by the activity for which  
73 the credit is granted.

74 (3) If the motion picture production company is an entity  
75 not subject to the tax imposed by Chapter 7 of Title 27,  
76 Mississippi Code of 1972, the tax credit shall flow through to its  
77 partners or members as follows:

78 (a) Corporate partners or members shall claim their  
79 share of the credit on their corporation income tax return.

80 (b) Individual partners or members shall claim their  
81 share of the credit on their individual income tax returns.

82 (c) Partners or members that are estates or trusts  
83 shall claim their share of the credit on their fiduciary income  
84 tax returns.

85 (4) Any unused credit may be carried forward no more than  
86 ten (10) years from the date the credit was earned. The credit  
87 authorized in this section is not refundable.

88 (5) A motion picture production company desiring a tax  
89 credit under this section must submit an application to the State  
90 Tax Commission. The application must include a detailed  
91 accounting of the total aggregate payroll for residents employed  
92 in connection with such state-certified production during the  
93 taxable year and any other information required by the State Tax  
94 Commission.

95 (6) The State Tax Commission shall have all powers necessary  
96 to implement and administer the provisions of this section, and

97 the commission shall promulgate rules and regulations, in  
98 accordance with the Mississippi Administrative Procedures Law,  
99 necessary for the implementation of this section.

100 (7) This section shall stand repealed from and after the  
101 effective date of House Bill No. 1190, 2007 Regular Session.

102 **SECTION 3.** Section 57-89-7, Mississippi Code of 1972, is  
103 amended as follows:

104 57-89-7. (1) (a) A motion picture production company shall  
105 be entitled to a rebate of a portion of the base investment made  
106 by the motion picture production company. The amount of the  
107 rebate shall be equal to \* \* \*:

108 (i) Twenty percent (20%) of the base investment  
109 made by the motion picture production company if the base  
110 investment is less than One Million Dollars (\$1,000,000.00),

111 (ii) Twenty-five percent (25%) of the base  
112 investment made by the motion picture production company if the  
113 base investment is at least One Million Dollars (\$1,000,000.00),  
114 but not more than Five Million Dollars (\$5,000,000.00), and

115 (iii) Thirty percent (30%) of the base investment  
116 made by the motion picture production company if the base  
117 investment is greater than Five Million Dollars (\$5,000,000.00).

118 (b) In addition to the rebate authorized under  
119 paragraph (a) of this subsection, a motion picture production  
120 company may receive a rebate equal to ten percent (10%) of the  
121 portion of the base investment for payroll paid for any employee  
122 of the producer who is not a resident and whose wages are subject  
123 to the Mississippi Income Tax Withholding Law and are less than  
124 One Million Dollars (\$1,000,000.00).

125 (c) The total amount of rebates authorized for a motion  
126 picture project shall not exceed Five Million Dollars  
127 (\$5,000,000.00) in the aggregate. However, a motion picture  
128 production company that has received the maximum rebate authorized  
129 under this section for the production of a motion picture that is

130 a television series shall not be limited to the making of only one  
131 (1) application for the rebates authorized under this section, but  
132 may receive rebates upon one or more additional applications  
133 subject to the maximum limitation for each application.

134 (2) A motion picture production company desiring a rebate  
135 under this section must submit an application to the State Tax  
136 Commission before completion of the project. The application must  
137 include a detailed accounting of the base investment made by the  
138 motion picture production company and any other information  
139 required by the State Tax Commission. Rebates made by the State  
140 Tax Commission under this section shall be made from current  
141 income tax collections. The State Tax Commission shall not  
142 approve any application for a rebate under subsection (1)(b) of  
143 this section after July 1, 2012.

144 (3) The State Tax Commission shall have all powers necessary  
145 to implement and administer the provisions of this section, and  
146 the State Tax Commission shall promulgate rules and regulations,  
147 in accordance with the Mississippi Administrative Procedures Law,  
148 necessary for the implementation of this section.

149 **SECTION 4.** This act shall take effect and be in force from  
150 and after its passage.