

By: Representatives Smith, Baria, Anthony,  
Johnson (94th)

To: Ways and Means

HOUSE BILL NO. 1128

1 AN ACT TO AMEND SECTION 57-89-7, MISSISSIPPI CODE OF 1972, TO  
2 EXTEND TO JULY 1, 2024, THE AUTHORITY OF THE DEPARTMENT OF REVENUE  
3 TO APPROVE APPLICATIONS FOR CERTAIN REBATES UNDER THE MISSISSIPPI  
4 MOTION PICTURE INCENTIVE ACT; TO BRING FORWARD SECTION 57-89-3,  
5 MISSISSIPPI CODE OF 1972, WHICH DEFINES CERTAIN TERMS UNDER THE  
6 MISSISSIPPI MOTION PICTURE INCENTIVE ACT, FOR THE PURPOSES OF  
7 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 57-89-7, Mississippi Code of 1972, is  
10 amended as follows:

11 57-89-7. (1) (a) A motion picture production company that  
12 expends at least Fifty Thousand Dollars (\$50,000.00) in base  
13 investment, payroll and/or fringes, in the state shall be entitled  
14 to a rebate of a portion of the base investment made by the motion  
15 picture production company. Subject to the provisions of this  
16 section, the amount of the rebate shall be equal to twenty-five  
17 percent (25%) of the base investment made by the motion picture  
18 production company.

19 (b) In addition to the rebates authorized under  
20 paragraphs (a), (c) and (d) of this subsection, a motion picture



21 production company may receive a rebate equal to twenty-five  
22 percent (25%) of payroll and fringes paid for any employee who is  
23 not a resident and whose wages are subject to the Mississippi  
24 Income Tax Withholding Law of 1968. However, if the payroll and  
25 fringes paid for an employee exceeds Five Million Dollars  
26 (\$5,000,000.00), then the rebate is authorized only for the first  
27 Five Million Dollars (\$5,000,000.00) of such payroll and fringes.

28 (c) In addition to the rebates authorized under  
29 paragraphs (a), (b) and (d) of this subsection, a motion picture  
30 production company may receive a rebate equal to thirty percent  
31 (30%) of payroll and fringes paid for any employee who is a  
32 resident and whose wages are subject to the Mississippi Income Tax  
33 Withholding Law of 1968. However, if the payroll and fringes paid  
34 for an employee exceeds Five Million Dollars (\$5,000,000.00), then  
35 the rebate is authorized only for the first Five Million Dollars  
36 (\$5,000,000.00) of such payroll and fringes.

37 (d) In addition to the rebates authorized in paragraphs  
38 (a), (b) and (c) of this subsection, a motion picture production  
39 company may receive an additional rebate equal to five percent  
40 (5%) of the payroll and fringes paid for any employee who is an  
41 honorably discharged veteran of the United States Armed Forces and  
42 whose wages are subject to the Mississippi Income Tax Withholding  
43 Law of 1968.

44 (e) If a motion picture has physical production  
45 activities and/or post-production activities both inside and



46 outside the state, then the motion picture production company  
47 shall be required to provide an itemized accounting for each  
48 employee regarding such activities inside and outside the state  
49 for the purposes of proration of eligible payroll based on the  
50 percentage of activities performed in the state.

51 (f) The total amount of rebates authorized for a motion  
52 picture project shall not exceed Ten Million Dollars  
53 (\$10,000,000.00) in the aggregate.

54 (g) The total amount of rebates authorized in any  
55 fiscal year shall not exceed Twenty Million Dollars  
56 (\$20,000,000.00) in the aggregate.

57 (2) A motion picture production company desiring a rebate  
58 under this section must submit a rebate request to the Department  
59 of Revenue upon completion of the project. The request must  
60 include a detailed accounting of the base investment made by the  
61 motion picture production company and any other information  
62 required by the Department of Revenue. Rebates made by the  
63 Department of Revenue under this section shall be made from  
64 current income tax collections. The Department of Revenue shall  
65 not approve any application for a rebate under subsection (1)(b)  
66 of this section after July 1, \* \* \* 2024.

67 (3) The Department of Revenue shall have all powers  
68 necessary to implement and administer the provisions of this  
69 section, and the Department of Revenue shall promulgate rules and



70 regulations, in accordance with the Mississippi Administrative  
71 Procedures Law, necessary for the implementation of this section.

72 (4) The State Auditor may conduct performance and compliance  
73 audits under this chapter according to Section 7-7-211(o) and may  
74 bill the oversight agency.

75 **SECTION 2.** Section 57-89-3, Mississippi Code of 1972, is  
76 brought forward as follows:

77 57-89-3. As used in this chapter, the following terms shall  
78 have the meanings ascribed in this section unless the context  
79 clearly indicates otherwise:

80 (a) "Base investment" means the actual investment made  
81 and expended in Mississippi by a motion picture production company  
82 in connection with the production of a state-certified production  
83 in the state. The term "base investment" includes amounts  
84 expended in Mississippi by a motion picture production company as  
85 per diem and housing allowances in connection with the production  
86 of a state-certified production in the state. The term "base  
87 investment" shall not include payroll.

88 (b) "Employee" means an individual directly involved in  
89 the physical production and/or post-production of a motion picture  
90 produced in the state and who is employed by a:

91 (i) Motion picture production company that is  
92 directly involved in the physical production and/or  
93 post-production of a motion picture in the state;



94 (ii) Personal service corporation retained by a  
95 motion picture production company to provide persons used directly  
96 in the physical production and/or post-production of a motion  
97 picture in the state; or

98 (iii) Payroll service or loan-out company that is  
99 retained by a motion picture production company to provide  
100 employees who work directly in the physical production and/or  
101 post-production of a motion picture in the state.

102 (c) "Fringes" means costs paid by a motion picture  
103 production company on or after September 1, 2013, for employee  
104 benefits that are not subject to state income tax. Fringes may  
105 include, but are not limited to, payments by an employer for  
106 unemployment insurance, Federal Insurance Contribution Act (FICA),  
107 workers' compensation insurance, pension and welfare benefits and  
108 health insurance premiums.

109 (d) "Motion picture" means a nationally distributed  
110 feature-length film, video, DVD, television program or series,  
111 commercial, or computer or video game made in Mississippi, in  
112 whole or in part, for theatrical or DVD release or television  
113 viewing or as a television pilot or viewing through streaming  
114 video or Internet delivery, or for playing on a video game  
115 console, personal computer or handheld device. The term "motion  
116 picture" shall not include the production of television coverage  
117 of news and athletic events, or a film, video, DVD, television



118 program, series, or commercial that contains any material or  
119 performance defined in Section 97-29-103.

120 (e) "Motion picture production company" means a company  
121 engaged in the business of producing nationally distributed motion  
122 pictures, videos, DVDs, television programs or series,  
123 commercials, or computer or video games intended for a theatrical  
124 release, for television viewing or for playing on a video game  
125 console, personal computer or handheld device. The term "motion  
126 picture production company" includes a company engaged in the  
127 business of making such productions through the use of animation,  
128 interactive media, preproduction and post-production 3D  
129 applications, video game cinematics, virtual production, visual  
130 effects, and motion capture within the fields of feature film,  
131 television, commercials and games. The term "motion picture  
132 production company" shall not mean or include any company owned,  
133 affiliated, or controlled, in whole or in part, by any company or  
134 person which is in default on a loan made by the state or a loan  
135 guaranteed by the state, or any company or person who has ever  
136 declared bankruptcy under which an obligation of the company or  
137 person to pay or repay public funds or monies was discharged as a  
138 part of such bankruptcy.

139 (f) "Payroll" means salary, wages or other compensation  
140 including related benefits paid to employees upon which  
141 Mississippi income tax is due and has been withheld.



142 (g) "Resident" or "resident of Mississippi" means a  
143 natural person, and for the purpose of determining eligibility for  
144 the rebate provided by Section 57-89-7, any person domiciled in  
145 the State of Mississippi and any other person who maintains a  
146 permanent place of abode within the state and spends in the  
147 aggregate more than six (6) months of each year within the state.

148 (h) "State" means the State of Mississippi.

149 (i) "State-certified production" means a motion picture  
150 approved by the Mississippi Development Authority produced by a  
151 motion picture production company in the state. An application  
152 for approval as a state-certified production must be submitted to  
153 the Mississippi Development Authority before production of the  
154 project begins.

155 **SECTION 3.** This act shall take effect and be in force from  
156 and after July 1, 2019.

