

By: Senator(s) Fillingane, Jordan

To: Finance

SENATE BILL NO. 2603
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 57-89-3, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DEFINITION OF THE TERM "BASE INVESTMENT" UNDER THE
3 MISSISSIPPI MOTION PICTURE INCENTIVE ACT TO PROVIDE THAT BASE
4 INVESTMENT MAY INCLUDE CERTAIN PAYROLL AND FRINGES IN THE CASE OF
5 CERTAIN MOTION PICTURE PRODUCTION COMPANIES; AND FOR RELATED
6 PURPOSES.

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

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

10 57-89-3. As used in this chapter, the following terms shall
11 have the meanings ascribed in this section unless the context
12 clearly indicates otherwise:

13 (a) "Base investment" means the actual investment made
14 and expended in Mississippi by a motion picture production company
15 in connection with the production of a state-certified production
16 in the state. The term "base investment" includes amounts
17 expended in Mississippi by a motion picture production company as
18 per diem and housing allowances in connection with the production
19 of a state-certified production in the state. The term "base
20 investment" shall not include payroll. However, in the case of a



21 motion picture production company, or its owner, principal,
22 member, production partner, independent contractor director or
23 producer, or subsidiary company that (i) is designated and
24 pre-qualified by the Mississippi Development Authority as
25 Mississippi-based or a Mississippi resident; (ii) has filed income
26 taxes in the State of Mississippi during each of the previous
27 three (3) years; and (iii) has engaged in activities related to
28 the production of at least two (2) motion pictures in Mississippi
29 during the past ten (10) years, base investment may include
30 payroll and fringes paid for any employee who is not a resident
31 and whose wages are subject to the Mississippi Income Tax
32 Withholding Law of 1968, if so requested by the motion picture
33 production company. A motion picture production company must
34 submit such a request to the Mississippi Development Authority at
35 the time the company submits an application for approval as a
36 state-certified production. In addition, if base investment
37 includes payroll and fringes, and the payroll and fringes paid for
38 an employee exceeds Five Million Dollars (\$5,000,000.00), then
39 only the first Five Million Dollars (\$5,000,000.00) of such
40 payroll and fringes may be included in base investment.

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



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

47 (ii) Personal service corporation retained by a
48 motion picture production company to provide persons used directly
49 in the physical production and/or post-production of a motion
50 picture in the state; or

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

55 (c) "Fringes" means costs paid by a motion picture
56 production company on or after September 1, 2013, for employee
57 benefits that are not subject to state income tax. Fringes may
58 include, but are not limited to, payments by an employer for
59 unemployment insurance, Federal Insurance Contribution Act (FICA),
60 workers' compensation insurance, pension and welfare benefits and
61 health insurance premiums.

62 (d) "Motion picture" means a nationally distributed
63 feature-length film, video, DVD, television program or series,
64 commercial, or computer or video game made in Mississippi, in
65 whole or in part, for theatrical or DVD release or television
66 viewing or as a television pilot or viewing through streaming
67 video or internet delivery, or for playing on a video game
68 console, personal computer or handheld device. The term "motion



69 picture" shall not include the production of television coverage
70 of news and athletic events, or a film, video, DVD, television
71 program, series, or commercial that contains any material or
72 performance defined in Section 97-29-103.

73 (e) "Motion picture production company" means a company
74 engaged in the business of producing nationally distributed motion
75 pictures, videos, DVDs, television programs or series,
76 commercials, or computer or video games intended for a theatrical
77 release, for television viewing or for playing on a video game
78 console, personal computer or handheld device. The term "motion
79 picture production company" includes a company engaged in the
80 business of making such productions through the use of animation,
81 interactive media, preproduction and post-production 3D
82 applications, video game cinematics, virtual production, visual
83 effects, and motion capture within the fields of feature film,
84 television, commercials and games. The term "motion picture
85 production company" shall not mean or include any company owned,
86 affiliated, or controlled, in whole or in part, by any company or
87 person which is in default on a loan made by the state or a loan
88 guaranteed by the state, or any company or person who has ever
89 declared bankruptcy under which an obligation of the company or
90 person to pay or repay public funds or monies was discharged as a
91 part of such bankruptcy.



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

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

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

102 (i) "State-certified production" means a motion picture
103 approved by the Mississippi Development Authority produced by a
104 motion picture production company in the state. An application
105 for approval as a state-certified production must be submitted to
106 the Mississippi Development Authority before production of the
107 project begins.

108 **SECTION 2.** This act shall take effect and be in force from
109 and after its passage.

