

By: Senator(s) Chassaniol

To: Finance

SENATE BILL NO. 2859

1 AN ACT TO PROVIDE FOR THE REBATE OF A PORTION OF INVESTMENT
 2 AND EXPENDITURES MADE BY COMPANIES ENGAGED IN THE PRODUCTION OF
 3 NATIONALLY DISTRIBUTED CONNECTED SETS OF TELEVISION PROGRAM
 4 EPISODES, CONSISTING OF NOT LESS THAN TWO EPISODES MADE IN
 5 MISSISSIPPI, IN WHOLE OR IN PART, FOR VIEWING THROUGH TRADITIONAL
 6 TELEVISION THAT IS BROADCAST VIA CABLE, SATELLITE OR OVER-THE-AIR
 7 AERIAL ANTENNA SYSTEMS; THROUGH THE DIGITAL DISTRIBUTION OF
 8 TELEVISION CONTENT AS STREAMING MEDIA OVER THE INTERNET THROUGH
 9 STREAMING PLATFORMS, WHICH MAY BE VIEWED ON DIGITAL DEVICES, SUCH
 10 AS A PERSONAL COMPUTER OR HANDHELD DEVICE; OR THROUGH DVD RELEASE;
 11 TO PROVIDE FOR THE AMOUNT OF THE REBATES AUTHORIZED IN THIS ACT;
 12 TO DEFINE CERTAIN TERMS; TO AMEND SECTION 57-89-7, MISSISSIPPI
 13 CODE OF 1972, WHICH IS A SECTION OF THE MISSISSIPPI MOTION PICTURE
 14 INCENTIVE ACT, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR
 15 RELATED PURPOSES.

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

17 **SECTION 1.** (1) As used in this section, the following terms
 18 shall have the meanings ascribed in this subsection unless the
 19 context clearly indicates otherwise:

20 (a) "Base investment" means the actual investment made
 21 and expended in Mississippi by a production company in connection
 22 with the production of a state-certified production in the state.
 23 The term "base investment" includes amounts expended in
 24 Mississippi by a production company as per diem and housing



25 allowances in connection with the production of a state-certified
26 production in the state. The term "base investment" shall not
27 include payroll. However, in the case of a production company, or
28 its owner, principal, member, production partner, independent
29 contractor director or producer, or subsidiary company that (i) is
30 designated and pre-qualified by the Mississippi Development
31 Authority as Mississippi-based or a Mississippi resident; (ii) has
32 filed income taxes in the State of Mississippi during each of the
33 previous three (3) years; and (iii) has engaged in activities
34 related to the production of at least two (2) series in
35 Mississippi during the past ten (10) years, base investment may
36 include payroll and fringes paid for any employee who is not a
37 resident and whose wages are subject to the Mississippi Income Tax
38 Withholding Law of 1968, if so requested by the production
39 company. A production company must submit such a request to the
40 Mississippi Development Authority at the time the company submits
41 an application for approval as a state-certified production. In
42 addition, if base investment includes payroll and fringes, and the
43 payroll and fringes paid for an employee exceeds Three Million
44 Dollars (\$3,000,000.00), then only the first Three Million Dollars
45 (\$3,000,000.00) of such payroll and fringes may be included in
46 base investment.

47 (b) "Employee" means an individual directly involved in
48 the physical production and/or post-production of a series
49 produced in the state and who is employed by a:



50 (i) Production company that is directly involved
51 in the physical production and/or post-production of a series in
52 the state;

53 (ii) Personal service corporation retained by a
54 production company to provide persons used directly in the
55 physical production and/or post-production of a series in the
56 state; or

57 (iii) Payroll service or loan-out company that is
58 retained by a production company to provide employees who work
59 directly in the physical production and/or post-production of a
60 series in the state.

61 (c) "Fringes" means costs paid by a production company
62 for employee benefits that are not subject to state income tax.
63 Fringes may include, but are not limited to, payments by an
64 employer for unemployment insurance, Federal Insurance
65 Contribution Act (FICA), workers' compensation insurance, pension
66 and welfare benefits and health insurance premiums.

67 (d) "Series" means a nationally distributed connected
68 set of television program episodes, consisting of not less than
69 two (2) episodes made in Mississippi, in whole or in part, for
70 viewing through: traditional television that is broadcast via
71 cable, satellite or over-the-air aerial antenna systems; the
72 digital distribution of television content as streaming media over
73 the internet through streaming platforms, which may be viewed on
74 digital devices, such as a personal computer or handheld device;



75 or through DVD release. The term "series" shall not include any
76 production or work described in this paragraph (d) that contains
77 any material or performance defined in Section 97-29-103.

78 (e) "Production company" means a company engaged in the
79 business of producing series. The term "production company" shall
80 not mean or include any company owned, affiliated, or controlled,
81 in whole or in part, by any company or person which is in default
82 on a loan made by the state or a loan guaranteed by the state, or
83 any company or person who has ever declared bankruptcy under which
84 an obligation of the company or person to pay or repay public
85 funds or monies was discharged as a part of such bankruptcy.

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

89 (g) "Resident" or "resident of Mississippi" means a
90 natural person, and for the purpose of determining eligibility for
91 the rebate provided by this section, any person domiciled in the
92 State of Mississippi and any other person who maintains a
93 permanent place of abode within the state and spends in the
94 aggregate more than six (6) months of each year within the state.

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

96 (i) "State-certified production" means a series
97 approved by the Mississippi Development Authority produced by a
98 production company in the state. An application for approval as a



99 state-certified production must be submitted to the Mississippi
100 Development Authority before production of the project begins.

101 (2) (a) A production company that expends at least Fifty
102 Thousand Dollars (\$50,000.00) in base investment, payroll and/or
103 fringes, in the state shall be entitled to a rebate of a portion
104 of the base investment made by the production company. Subject to
105 the provisions of this section, the amount of the rebate shall be
106 equal to twenty-five percent (25%) of the base investment made by
107 the production company.

108 (b) In addition to the rebates authorized under
109 paragraphs (a), (c) and (d) of this subsection, a production
110 company may receive a rebate equal to twenty percent (20%) of
111 payroll and fringes paid for any employee who is not a resident
112 and whose wages are subject to the Mississippi Income Tax
113 Withholding Law of 1968. However, if the payroll and fringes paid
114 for an employee exceeds Three Million Dollars (\$3,000,000.00),
115 then the rebate is authorized only for the first Three Million
116 Dollars (\$3,000,000.00) of such payroll and fringes.

117 (c) In addition to the rebates authorized under
118 paragraphs (a), (b) and (d) of this subsection, a production
119 company may receive a rebate equal to thirty-five percent (35%) of
120 payroll and fringes paid for any employee who is a resident and
121 whose wages are subject to the Mississippi Income Tax Withholding
122 Law of 1968. However, if the payroll and fringes paid for an
123 employee exceeds Three Million Dollars (\$3,000,000.00), then the



124 rebate is authorized only for the first Three Million Dollars
125 (\$3,000,000.00) of such payroll and fringes.

126 (d) In addition to the rebates authorized in paragraphs
127 (a), (b) and (c) of this subsection, a production company may
128 receive an additional rebate equal to five percent (5%) of the
129 payroll and fringes paid for any employee who is an honorably
130 discharged veteran of the United States Armed Forces and whose
131 wages are subject to the Mississippi Income Tax Withholding Law of
132 1968.

133 (e) Base investment, payroll and/or fringes for which a
134 rebate may be requested under this section: (i) may not be used
135 or included for the purpose of satisfying any minimum investment
136 required in order to be eligible for a rebate under the
137 Mississippi Motion Picture Incentive Act and (ii) may not be used
138 for and shall not be eligible for any rebate authorized under the
139 Mississippi Motion Picture Incentive Act.

140 (f) If a series has physical production activities
141 and/or post-production activities both inside and outside the
142 state, then the production company shall be required to provide an
143 itemized accounting for each employee regarding such activities
144 inside and outside the state for the purposes of proration of
145 eligible payroll based on the percentage of activities performed
146 in the state.



147 (g) The total amount of rebates authorized for a series
148 project shall not exceed Ten Million Dollars (\$10,000,000.00) in
149 the aggregate.

150 (h) The total amount of rebates authorized in any
151 fiscal year shall not exceed Twenty Million Dollars
152 (\$20,000,000.00) in the aggregate.

153 (2) A production company desiring a rebate under this
154 section must submit a rebate request to the Department of Revenue
155 upon completion of the project. The request must include a
156 detailed accounting of the base investment made by the production
157 company and any other information required by the Department of
158 Revenue. Rebates made by the Department of Revenue under this
159 section shall be made from current income tax collections.

160 (3) The Department of Revenue shall have all powers
161 necessary to implement and administer the provisions of this
162 section, and the Department of Revenue shall promulgate rules and
163 regulations, in accordance with the Mississippi Administrative
164 Procedures Law, necessary for the implementation of this section.

165 **SECTION 2.** Section 57-89-7, Mississippi Code of 1972, is
166 amended as follows:

167 57-89-7. (1) (a) A motion picture production company that
168 expends at least Fifty Thousand Dollars (\$50,000.00) in base
169 investment, payroll and/or fringes, in the state shall be entitled
170 to a rebate of a portion of the base investment made by the motion
171 picture production company. Subject to the provisions of this



172 section, the amount of the rebate shall be equal to twenty-five
173 percent (25%) of the base investment made by the motion picture
174 production company.

175 (b) In addition to the rebates authorized under
176 paragraphs (a), (c) and (d) of this subsection, a motion picture
177 production company may receive a rebate equal to twenty-five
178 percent (25%) of payroll and fringes paid for any employee who is
179 not a resident and whose wages are subject to the Mississippi
180 Income Tax Withholding Law of 1968. However, if the payroll and
181 fringes paid for an employee exceeds Five Million Dollars
182 (\$5,000,000.00), then the rebate is authorized only for the first
183 Five Million Dollars (\$5,000,000.00) of such payroll and fringes.

184 (c) In addition to the rebates authorized under
185 paragraphs (a), (b) and (d) of this subsection, a motion picture
186 production company may receive a rebate equal to thirty percent
187 (30%) of payroll and fringes paid for any employee who is a
188 resident and whose wages are subject to the Mississippi Income Tax
189 Withholding Law of 1968. However, if the payroll and fringes paid
190 for an employee exceeds Five Million Dollars (\$5,000,000.00), then
191 the rebate is authorized only for the first Five Million Dollars
192 (\$5,000,000.00) of such payroll and fringes.

193 (d) In addition to the rebates authorized in paragraphs
194 (a), (b) and (c) of this subsection, a motion picture production
195 company may receive an additional rebate equal to five percent
196 (5%) of the payroll and fringes paid for any employee who is an



197 honorably discharged veteran of the United States Armed Forces and
198 whose wages are subject to the Mississippi Income Tax Withholding
199 Law of 1968.

200 (e) Base investment, payroll and/or fringes for which a
201 rebate may be requested under this section: (i) may not be used
202 or included for the purpose of satisfying any minimum investment
203 required in order to be eligible for a rebate under Section 1 of
204 this act and (ii) may not be used for and shall not be eligible
205 for any rebate authorized under Section 1 of this act.

206 (* * *f) If a motion picture has physical production
207 activities and/or post-production activities both inside and
208 outside the state, then the motion picture production company
209 shall be required to provide an itemized accounting for each
210 employee regarding such activities inside and outside the state
211 for the purposes of proration of eligible payroll based on the
212 percentage of activities performed in the state.

213 (* * *g) The total amount of rebates authorized for a
214 motion picture project shall not exceed Ten Million Dollars
215 (\$10,000,000.00) in the aggregate.

216 (* * *h) The total amount of rebates authorized in any
217 fiscal year shall not exceed Twenty Million Dollars
218 (\$20,000,000.00) in the aggregate.

219 (2) A motion picture production company desiring a rebate
220 under this section must submit a rebate request to the Department
221 of Revenue upon completion of the project. The request must



222 include a detailed accounting of the base investment made by the
223 motion picture production company and any other information
224 required by the Department of Revenue. Rebates made by the
225 Department of Revenue under this section shall be made from
226 current income tax collections. The Department of Revenue shall
227 not approve any application for a rebate under subsection (1)(b)
228 of this section after July 1, 2017.

229 (3) The Department of Revenue shall have all powers
230 necessary to implement and administer the provisions of this
231 section, and the Department of Revenue shall promulgate rules and
232 regulations, in accordance with the Mississippi Administrative
233 Procedures Law, necessary for the implementation of this section.

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

237 **SECTION 3.** This act shall take effect and be in force from
238 and after July 1, 2023.

