

By: Representatives Lamar, Johnson

To: Ways and Means

HOUSE BILL NO. 1880

1 AN ACT TO PROVIDE AN INCOME TAX CREDIT FOR A PORTION OF
2 CERTAIN EXPENDITURES MADE BY COMPANIES ENGAGED IN THE PRODUCTION
3 IN MISSISSIPPI OF SCRIPTED OR UNSCRIPTED SERIES, CONTENT OR PILOT
4 EPISODES INTENDED FOR BROADCAST OR STREAMING; TO DEFINE CERTAIN
5 TERMS; TO ESTABLISH THE AMOUNT OF THE TAX CREDIT; TO PROVIDE THAT,
6 IF THE AMOUNT OF THE TAX CREDIT CLAIMED BY A PRODUCTION COMPANY
7 EXCEEDS THE AMOUNT OF INCOME TAX LIABILITY OF THE PRODUCTION
8 COMPANY FOR A TAXABLE YEAR, THE PRODUCTION COMPANY MAY CARRY THE
9 EXCESS CREDIT FORWARD FOR TEN YEARS; TO PROVIDE THAT IN LIEU OF
10 CLAIMING A TAX CREDIT, THE PRODUCTION COMPANY MAY ELECT TO CLAIM A
11 REBATE IN THE AMOUNT OF 75% OF THE AMOUNT IT WOULD BE ELIGIBLE TO
12 CLAIM AS A CREDIT; TO AMEND SECTIONS 57-89-7 AND 57-89-51,
13 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS
14 ACT; AND FOR RELATED PURPOSES.

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

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

19 (a) "Employee" means an individual directly involved in
20 the physical production and/or post-production of a television
21 production produced in the state and who is employed by a:

22 (i) Production company that is directly involved
23 in the physical production and/or post-production of a television
24 production in the state;



25 (ii) Personal service corporation retained by a
26 production company to provide persons used directly in the
27 physical production and/or post-production of a television
28 production in the state; and/or

29 (iii) Payroll service or loan-out company that is
30 retained by a production company to provide employees who work
31 directly in the physical production and/or post-production of a
32 television production in the state.

33 (b) "Fringes" means costs paid by a production company
34 for employee benefits that are not subject to state income tax.
35 Fringes may include, but are not limited to, payments by an
36 employer for unemployment insurance, Federal Insurance
37 Contribution Act (FICA), workers' compensation insurance, pension
38 and welfare benefits and health insurance premiums.

39 (c) "Payroll" means salary, wages or other compensation
40 including related benefits paid to employees upon which
41 Mississippi income tax is due and has been withheld.

42 (d) "Production company" means a company engaged in the
43 business of producing television productions. The term
44 "production company" shall not mean or include any company owned,
45 affiliated, or controlled, in whole or in part, by any company or
46 person which is in default on a loan made by the state or a loan
47 guaranteed by the state, or any company or person who has ever
48 declared bankruptcy under which an obligation of the company or



49 person to pay or repay public funds or monies was discharged as a
50 part of such bankruptcy.

51 (e) "Qualified expenditures" means the actual expenses
52 incurred and paid in Mississippi by a production company in
53 connection with the production of a state-certified production in
54 the state. The term "qualified expenditures" includes amounts
55 expended in Mississippi by a production company as per diem and
56 housing allowances in connection with the production of a
57 state-certified production in the state. The term "qualified
58 expenditures" shall not include payroll.

59 (f) "Resident" or "resident of Mississippi" means a
60 natural person, and for the purpose of determining eligibility for
61 the tax credit provided by this section, any person domiciled in
62 the State of Mississippi and any other person who maintains a
63 permanent place of abode within the state and spends in the
64 aggregate more than six (6) months of each year within the state.

65 (g) "State" means the State of Mississippi.

66 (h) "State-certified production" means a television
67 production approved by the Mississippi Development Authority
68 produced by a production company in the state. An application for
69 approval as a state-certified production must be submitted to the
70 Mississippi Development Authority before production of the project
71 begins.

72 (i) "Television production" means any scripted or
73 unscripted series, content, or pilot episodes intended for



broadcast or streaming. The term "television production" shall not include any production or work described in this paragraph (d) that contains any material or performance defined in Section 97-29-103.

(2) (a) A production company that expends at least Four Million Dollars (\$4,000,000.00) in qualified expenditures, payroll and/or fringes, in the state for the production of a state-certified production in which at least sixty-five percent (65%) of the running time occurs from activities in Mississippi shall be entitled to a credit against the taxes imposed by Section 27-7-5. The amount of the tax credit shall be equal to twenty-five percent (25%) of the qualified expenditures made by the production company.

(b) In addition to the tax credits authorized under paragraphs (a), (c) and (d) of this subsection, a production company eligible for the credit provided for in paragraph (a) of this subsection (2), shall be entitled to a credit against the taxes imposed by Section 27-7-5 in an amount equal to twenty percent (20%) of payroll and fringes paid for any employee who is not a resident and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968. However, if the payroll and fringes paid for an employee exceeds Three Million Dollars (\$3,000,000.00), then the credit is authorized only for the first Three Million Dollars (\$3,000,000.00) of such payroll and fringes.



98 (c) In addition to the tax credits authorized under
99 paragraphs (a), (b) and (d) of this subsection, a production
100 company eligible for the credit provided for in paragraph (a) of
101 this subsection (2), shall be entitled to a credit against the
102 taxes imposed by Section 27-7-5 in an amount equal to thirty
103 percent (30%) of payroll and fringes paid for any employee who is
104 a resident and whose wages are subject to the Mississippi Income
105 Tax Withholding Law of 1968. However, if the payroll and fringes
106 paid for an employee exceeds Three Million Dollars
107 (\$3,000,000.00), then the credit is authorized only for the first
108 Three Million Dollars (\$3,000,000.00) of such payroll and fringes.

109 (d) In addition to the tax credits authorized in
110 paragraphs (a), (b) and (c) of this subsection, a production
111 company eligible for the credit provided for in paragraph (a) of
112 this subsection (2), shall be entitled to a credit against the
113 taxes imposed by Section 27-7-5 in an amount equal to five percent
114 (5%) of the payroll and fringes paid for employees, provided that
115 at least fifty percent (50%) of the employees are residents whose
116 wages are subject to the Mississippi Income Tax Withholding Law of
117 1968 and are employed as directors, producers and/or
118 cinematographers for the state-certified production.

119 (e) Qualified expenditures, payroll and/or fringes for
120 which a tax credit may be claimed under this section: (i) may not
121 be used or included for the purpose of satisfying any minimum
122 investment required in order to be eligible for a rebate under the



Mississippi Motion Picture Incentive Act or under Section 57-89-51 and (ii) may not be used for and shall not be eligible for any rebate authorized under the Mississippi Motion Picture Incentive Act or under Section 57-89-51.

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

(g) (i) If the amount of the tax credit authorized by this section exceeds the total state income tax liability of the production company for the credit year, the amount that exceeds the total state income tax liability may be carried forward for the ten (10) succeeding tax years.

(ii) In lieu of claiming a tax credit, the production company may elect to claim a rebate in the amount of seventy-five percent (75%) of the amount that would be eligible to claim as a credit. The election may be made at any time after the certification of the rebate. If the production company has utilized a credit on an income tax return before making an election to claim a rebate, then the available rebate will be reduced by the amount of credit utilized. If claiming a credit instead of a rebate, the production company shall claim the credit



on the income tax return for the tax year for which the credit is certified.

(iii) Credits authorized by this section that are earned by a partnership, limited liability company, S corporation or other similar pass-through entity, shall be allocated among all partners, members or shareholders, respectively, either in proportion to their ownership interest in such entity or as the partners, members or shareholders mutually agree as provided in an executed document. Partners, members or other owners of a pass-through entity are not eligible to elect a refund of excess credit in lieu of a carryforward of the credit. However, a partnership or limited liability company taxed as a partnership may elect to claim a rebate at the entity level on a form prescribed by the Department of Revenue.

(iv) Rebate requests must be submitted to the Department of Revenue on forms prescribed by the department. The Department of Revenue then will provide the production company with a voucher for the approved amount. Within twelve (12) months of the issuance of the voucher by the Department of Revenue, the production company may submit the voucher to the department to receive payment. Rebates shall be made from current tax collections.

(h) The total amount of credits and rebates authorized in any fiscal year shall not exceed Forty-two Million Dollars (\$42,000,000.00) in the aggregate.



173 (2) A production company desiring a credit under this
174 section must submit a request to the Department of Revenue upon
175 completion of the project. The request must include a detailed
176 accounting of the qualified expenditures made by the production
177 company, the amount of payroll and fringes paid by the production
178 company and any other information required by the Department of
179 Revenue.

180 (3) The Department of Revenue shall have all powers
181 necessary to implement and administer the provisions of this
182 section, and the Department of Revenue shall promulgate rules and
183 regulations, in accordance with the Mississippi Administrative
184 Procedures Law, necessary for the implementation of this section.

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

187 57-89-7. (1) (a) A motion picture production company that
188 expends at least Fifty Thousand Dollars (\$50,000.00) in base
189 investment, payroll and/or fringes, in the state shall be entitled
190 to a rebate of a portion of the base investment made by the motion
191 picture production company. Subject to the provisions of this
192 section, the amount of the rebate shall be equal to twenty-five
193 percent (25%) of the base investment made by the motion picture
194 production company.

195 (b) In addition to the rebates authorized under
196 paragraphs (a), (c) and (d) of this subsection, a motion picture
197 production company may receive a rebate equal to twenty-five



198 percent (25%) of payroll and fringes paid for any employee who is
199 not a resident and whose wages are subject to the Mississippi
200 Income Tax Withholding Law of 1968. However, if the payroll and
201 fringes paid for an employee exceeds Five Million Dollars
202 (\$5,000,000.00), then the rebate is authorized only for the first
203 Five Million Dollars (\$5,000,000.00) of such payroll and fringes.

204 (c) In addition to the rebates authorized under
205 paragraphs (a), (b) and (d) of this subsection, a motion picture
206 production company may receive a rebate equal to thirty percent
207 (30%) of payroll and fringes paid for any employee who is a
208 resident and whose wages are subject to the Mississippi Income Tax
209 Withholding Law of 1968. However, if the payroll and fringes paid
210 for an employee exceeds Five Million Dollars (\$5,000,000.00), then
211 the rebate is authorized only for the first Five Million Dollars
212 (\$5,000,000.00) of such payroll and fringes.

213 (d) In addition to the rebates authorized in paragraphs
214 (a), (b) and (c) of this subsection, a motion picture production
215 company may receive an additional rebate equal to five percent
216 (5%) of the payroll and fringes paid for any employee who is an
217 honorably discharged veteran of the United States Armed Forces and
218 whose wages are subject to the Mississippi Income Tax Withholding
219 Law of 1968.

220 (e) Base investment, payroll and/or fringes for which a
221 rebate may be requested under this section: (i) may not be used
222 or included for the purpose of satisfying any minimum investment



required in order to be eligible for a rebate under Section 57-89-51 or under Section 1 of this act and (ii) may not be used for and shall not be eligible for any rebate authorized under Section 57-89-51 or under Section 1 of this act.

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

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

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

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



not approve any application for a rebate under subsection (1)(b) of this section after July 1, 2017.

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

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

SECTION 3. Section 57-89-51, Mississippi Code of 1972, is amended as follows:

57-89-51. (1) As used in this section, the following terms shall have the meanings ascribed in this subsection unless the context clearly indicates otherwise:

(a) "Base investment" means the actual investment made and expended in Mississippi by a production company in connection with the production of a state-certified production in the state. The term "base investment" includes amounts expended in Mississippi by a production company as per diem and housing allowances in connection with the production of a state-certified production in the state. The term "base investment" shall not include payroll. However, in the case of a production company, or its owner, principal, member, production partner, independent contractor director or producer, or subsidiary company that (i) is



designated and pre-qualified by the Mississippi Development Authority as Mississippi-based or a Mississippi resident; (ii) has filed income taxes in the State of Mississippi during each of the previous three (3) years; and (iii) has engaged in activities related to the production of at least two (2) series in Mississippi during the past ten (10) years, base investment may include payroll and fringes paid for any employee who is not a resident and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968, if so requested by the production company. A production company must submit such a request to the Mississippi Development Authority at the time the company submits an application for approval as a state-certified production. In addition, if base investment includes payroll and fringes, and the payroll and fringes paid for an employee exceeds Three Million Dollars (\$3,000,000.00), then only the first Three Million Dollars (\$3,000,000.00) of such payroll and fringes may be included in base investment.

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

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

(ii) Personal service corporation retained by a production company to provide persons used directly in the



physical production and/or post-production of a series in the state; or

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

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

(d) "Series" means a nationally distributed connected set of television program episodes, consisting of not less than two (2) episodes made in Mississippi, in whole or in part, for viewing through: traditional television that is broadcast via cable, satellite or over-the-air aerial antenna systems; the digital distribution of television content as streaming media over the Internet through streaming platforms, which may be viewed on digital devices, such as a personal computer or handheld device; or through DVD release. The term "series" shall not include any production or work described in this paragraph (d) that contains any material or performance defined in Section 97-29-103.

(e) "Production company" means a company engaged in the business of producing series. The term "production company" shall



not mean or include any company owned, affiliated, or controlled, in whole or in part, by any company or person which is in default on a loan made by the state or a loan guaranteed by the state, or any company or person who has ever declared bankruptcy under which an obligation of the company or person to pay or repay public funds or monies was discharged as a part of such bankruptcy.

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

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

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

(i) "State-certified production" means a series approved by the Mississippi Development Authority produced by a production company in the state. An application for approval as a state-certified production must be submitted to the Mississippi Development Authority before production of the project begins.

(2) (a) A production company that expends at least Fifty Thousand Dollars (\$50,000.00) in base investment, payroll and/or fringes, in the state shall be entitled to a rebate of a portion of the base investment made by the production company. Subject to



the provisions of this section, the amount of the rebate shall be equal to twenty-five percent (25%) of the base investment made by the production company.

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

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

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



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

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

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

(g) The total amount of rebates authorized in any fiscal year shall not exceed Ten Million Dollars (\$10,000,000.00) in the aggregate.

(2) A production company desiring a rebate under this section must submit a rebate request to the Department of Revenue upon completion of the project. The request must include a detailed accounting of the base investment made by the production



398 company and any other information required by the Department of
399 Revenue. Rebates made by the Department of Revenue under this
400 section shall be made from current income tax collections.

401 (3) The Department of Revenue shall have all powers
402 necessary to implement and administer the provisions of this
403 section, and the Department of Revenue shall promulgate rules and
404 regulations, in accordance with the Mississippi Administrative
405 Procedures Law, necessary for the implementation of this section.

406 **SECTION 4.** This act shall take effect and be in force from
407 and after January 1, 2025.

