

HOUSE BILL NO. HB0070

Film incentives-production expense rebate.

Sponsored by: Representative(s) Berger, Gingery, Petersen
and Warren and Senator(s) Burns, Coe and
Peck

A BILL

for

1 AN ACT relating to film production incentives; creating the
2 entertainment industry financial incentives program;
3 providing for rebates on qualified expenditures on
4 qualified film productions; providing for rules and
5 regulations; providing penalties for false claims;
6 providing an appropriation; and providing for an effective
7 date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 9-12-402 through 9-12-406 are created
12 to read:

13

14 **9-12-402. Entertainment industry financial incentive**
15 **program; creation.**

16

1 There is created within the business council, the
2 entertainment industry financial incentive program to
3 encourage the use of this state as a site for filming and
4 providing production services for motion pictures, made for
5 television movies, commercials, music videos, industrial
6 and educational films and television programs by the
7 entertainment industry.

8
9 **9-12-403. Entertainment industry financial incentive**
10 **program; definitions.**

11
12 (a) As used in this act:

13
14 (i) "Filmed entertainment" means a motion
15 picture, tele-production, commercial, music video or
16 digital media effects production to be sold or displayed in
17 an electronic medium;

18
19 (ii) "Production costs" means the total cost of
20 producing filmed entertainment;

21
22 (iii) "Qualified expenditures" mean goods
23 purchased or leased or services purchased, leased or

1 employed from a resident of this state or a vendor or
2 supplier who is located and doing business in this state;

3
4 (iv) "Qualified production" means filmed
5 entertainment that makes qualified expenditures in this
6 state for the total or partial production of a motion
7 picture, made for television movie with a running time of
8 ninety (90) minutes or more, commercial music video,
9 industrial and education film, television series pilot or
10 television episode. Productions that are deemed by the
11 business council to contain obscene content, as defined by
12 the United States Supreme Court, shall not be considered
13 qualified productions;

14
15 (v) "Qualified relocation project" means a
16 corporation, limited liability company, partnership,
17 corporate headquarters or other private entity that is
18 domiciled in another state or country and relocates its
19 operations to this state and includes as one of its primary
20 purposes digital media effects or motion picture and
21 television production or post-production;

22
23 (vi) "This act" means W.S. 9-12-402 through
24 9-12-406.

1

2 **9-12-404. Entertainment industry financial incentive**
3 **program; application procedure; approval process.**

4

5 (a) Any entity engaged in this state in producing
6 filmed entertainment may submit an application to the
7 business council for the purpose of determining
8 qualification for receipt of reimbursement as provided in
9 this act. The council shall be provided information
10 required to determine if the production is a qualified
11 production and to determine the qualified expenditures,
12 production costs and other information necessary for the
13 council to determine both eligibility for and level of
14 reimbursement.

15

16 (b) A digital media effects entity in this state
17 which furnishes digital material to a qualified production
18 may submit an application to the business council for the
19 purpose of determining qualification for receipt of
20 reimbursement authorized under this act.

21

22 (c) Any qualified relocation project may submit an
23 application to the business council for the purpose of
24 determining qualification for reimbursement under this act.

1

2 (d) The business council shall establish a process by
3 which an application is accepted and reviewed,
4 reimbursement eligibility is certified and reimbursement
5 amounts are determined in accordance with W.S. 9-12-405.
6 The business council shall deny an application if it
7 determines that the application is not complete, is not in
8 accordance with this act or rules and regulations
9 promulgated under this act or if the application does not
10 meet the requirements of W.S. 9-12-405.

11

12 (e) The business council shall develop a standardized
13 application form for use in approving a qualified
14 production, a qualified relocation project or a company
15 qualifying under subsection (b) of this section. The
16 application form shall include, but is not limited to:

17

18 (i) Production related information on
19 employment;

20

21 (ii) Proposed total production budgets;

22

23 (iii) Planned expenditures in this state which
24 are intended for use exclusively as an integral part of

1 pre-production, production or post-production activities
2 engaged in primarily in this state; and
3

4 (iv) A signed affidavit by a person authorized
5 to commit the company that the information on the
6 application form has been verified and is correct.
7

8 (f) The council shall not certify any qualified
9 production, qualified relocation project or digital media
10 effects company expenditures under this act until the
11 council determines that the reimbursement authorized under
12 this act will:
13

14 (i) Further a legitimate public purpose
15 including:
16

17 (A) Providing public visibility of Wyoming
18 as a tourist or business destination; or
19

20 (B) Provide new employment opportunities
21 within Wyoming for Wyoming workers.
22

23 (ii) Not exceed the amount of benefit gained by
24 the state resulting from the qualified production,

1 qualified relocation project or digital media effects
2 company expenditures.

3

4 **9-12-405. Entertainment industry financial incentive**
5 **program; reimbursement eligibility; submission of required**
6 **documentation; payment.**

7

8 (a) A qualified production that is certified by the
9 business council is eligible for the following financial
10 incentives from the program:

11

12 (i) A reimbursement of up to fifteen percent
13 (15%) of its qualifying expenditures in this state on
14 qualified production that demonstrates a minimum of five
15 hundred thousand dollars (\$500,000.00) in total qualified
16 expenditures. Payments under this section in a fiscal year
17 shall be made by application on a first-come, first-served
18 basis until the appropriation for that fiscal year is
19 exhausted. Subject to subsequent appropriations, the
20 eligibility of qualified productions shall carry over from
21 year to year. The business council shall develop a
22 procedure to ensure that qualified productions continue on
23 a reasonable schedule until completion. If a qualified
24 production is not continued according to a reasonable

1 schedule, the council shall withdraw its eligibility and
2 reallocate the funds to other qualified productions;

3

4 (ii) Qualified expenditures for which
5 reimbursement may be made include:

6

7 (A) Salaries and employment benefits for
8 services rendered in this state, except that the salaries
9 for the two (2) highest paid actors may not be reimbursed;

10

11 (B) Rents for real and personal property
12 located in this state used in the production;

13

14 (C) Payments for pre-production,
15 production, post-production and digital media effects
16 services rendered in this state;

17

18 (D) Costs of set construction.

19

20 (b) A digital media effects company in the state
21 which furnishes digital material to a qualified production
22 may be eligible for a payment in an amount not to exceed
23 five percent (5%) of its annual gross revenues on qualified
24 expenditures listed in paragraph (a)(ii) of this section

1 before taxes or one hundred thousand dollars (\$100,000.00),
2 whichever is less. A company applying for payment under
3 this subsection shall submit documentation annually for
4 determination of eligibility of claimed billing and
5 determination of the amount of payment for which the
6 company is eligible.

7

8 (c) A qualified relocation project is eligible for a
9 one-time incentive payment in an amount equal to five
10 percent (5%) of its annual gross revenues before taxes for
11 the first twelve (12) months of conducting business in this
12 state or two hundred thousand dollars (\$200,000.00),
13 whichever is less. A company applying for payment under
14 this subsection shall submit documentation as required by
15 the council for determination of eligibility of claimed
16 billing and determination of the amount of payment for
17 which the company is eligible.

18

19 (d) A qualified production, digital media effects
20 company or a qualified relocation project applying for a
21 payment under this section must submit documentation for
22 claimed qualified expenditures to the council.

23

1 **9-12-406. Entertainment industry financial incentive**
2 **program; rules and regulations; fraudulent claims;**
3 **reporting.**

4
5 (a) The business council shall adopt rules and
6 regulations to implement this act, including, but not
7 limited to, requirements for the application and approval
8 process, records required for submission for substantiation
9 of reimbursement and determination of and qualification for
10 reimbursement.

11
12 (b) An eligible entity or company that obtains
13 payment under this act through a claim that is fraudulent
14 is liable for reimbursement of the amount paid plus a
15 penalty in an amount double the payment plus reimbursement
16 of reasonable costs, which penalty is in addition to any
17 criminal penalty for which the entity or company is liable
18 for the same acts. The entity or company shall also be
19 liable for costs and fees incurred by the state in
20 investigating and prosecuting the fraudulent claim.

21
22 (c) The business council shall provide an annual
23 report on January 1 to the governor and the legislature

1 outlining the return on investment to the state on funds
2 expended pursuant to this act.

3

4 **Section 2.** W.S. 9-12-104(a) by creating a new
5 paragraph (xxi) and 9-12-112(a) by creating a new paragraph
6 (v) are amended to read:

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8 **9-12-104. General powers and duties of the council.**

9

10 (a) Except as otherwise limited by this act, the
11 council may:

12

13 (xxi) Administer the entertainment industry
14 financial incentive program as provided in W.S. 9-12-402
15 through 9-12-406.

16

17 **9-12-112. Annual report and budget.**

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19 (a) The council shall submit an annual report in the
20 manner provided by W.S. 9-2-1014 and using the benchmarks
21 prescribed in this act. In addition to the requirements of
22 W.S. 9-2-1014, included within the annual report shall be:

23

(v) A report of annual expenditures under the entertainment industry financial incentive program as provided in W.S. 9-12-402 through 9-12-406 and a report of how individual recipients of rebates under the entertainment industry financial incentive program qualify for certification under W.S. 9-12-404(f).

Section 3. There is appropriated two million dollars (\$2,000,000.00) from the general fund for fiscal years 2007-2008 to the business council for purposes of providing entertainment industry financial incentive program rebates authorized under this act.

Section 4. This act is effective July 1, 2006.

(END)