

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 283

Senator Schuring

A BILL

To amend sections 122.85, 5726.98, 5747.98, and 1
5751.98 and to repeal sections 122.852, 5726.59, 2
5747.67, and 5751.55 of the Revised Code to 3
modify the film and theater production tax 4
credit and to repeal the film and theater 5
capital improvement tax credit. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 122.85, 5726.98, 5747.98, and 7
5751.98 of the Revised Code be amended to read as follows: 8

Sec. 122.85. (A) As used in this section and in sections 9
5726.55, 5733.59, 5747.66, and 5751.54 of the Revised Code: 10

(1) "Tax credit-eligible production" means a motion 11
picture or Broadway theatrical production certified by the 12
director of development under division (B) of this section as 13
qualifying the production company for a tax credit under section 14
5726.55, 5733.59, 5747.66, or 5751.54 of the Revised Code. 15

(2) "Certificate owner" means a production company to 16
which a tax credit certificate is issued. 17

(3) "Production company" means an individual, corporation, 18

partnership, limited liability company, or other form of 19
business association that is registered with the secretary of 20
state and that is producing a motion picture or Broadway 21
theatrical production. 22

(4) "Eligible expenditures" means expenditures made after 23
June 30, 2009, for goods or services purchased and consumed in 24
this state by a production company directly for the production 25
of a tax credit-eligible production, for postproduction 26
activities, or for advertising and promotion of the production. 27

~~"Eligible expenditures" do not include qualified 28
expenditures for which a production company receives a tax- 29
credit under section 122.852 of the Revised Code. 30~~

"Eligible expenditures" include expenditures for cast and 31
crew wages, accommodations, costs of set construction and 32
operations, editing and related services, photography, sound 33
synchronization, lighting, wardrobe, makeup and accessories, 34
film processing, transfer, sound mixing, special and visual 35
effects, music, location fees, and the purchase or rental of 36
facilities and equipment. 37

(5) "Motion picture" means entertainment content created 38
in whole or in part within this state for distribution or 39
exhibition to the general public, including, but not limited to, 40
feature-length films; documentaries; long-form, specials, 41
miniseries, series, and interstitial television programming; 42
interactive web sites; sound recordings; videos; music videos; 43
interactive television; interactive games; video games; 44
commercials; any format of digital media; and any trailer, 45
pilot, video teaser, or demo created primarily to stimulate the 46
sale, marketing, promotion, or exploitation of future investment 47
in either a product or a motion picture by any means and media 48

in any digital media format, film, or videotape, provided the 49
motion picture qualifies as a motion picture. "Motion picture" 50
does not include any television program created primarily as 51
news, weather, or financial market reports, a production 52
featuring current events or sporting events, an awards show or 53
other gala event, a production whose sole purpose is 54
fundraising, a long-form production that primarily markets a 55
product or service or in-house corporate advertising or other 56
similar productions, a production for purposes of political 57
advocacy, or any production for which records are required to be 58
maintained under 18 U.S.C. 2257 with respect to sexually 59
explicit content. 60

(6) "Broadway theatrical production" means a prebroadway 61
production, long run production, or tour launch that is 62
directed, managed, and performed by a professional cast and crew 63
and that is directly associated with New York city's Broadway 64
theater district. 65

(7) "Prebroadway production" means a live stage production 66
that is scheduled for presentation in New York city's Broadway 67
theater district after the original or adaptive version is 68
performed in a qualified production facility. 69

(8) "Long run production" means a live stage production 70
that is scheduled to be performed at a qualified production 71
facility for more than five weeks, with an average of at least 72
six performances per week. 73

(9) "Tour launch" means a live stage production for which 74
the activities comprising the technical period are conducted at 75
a qualified production facility before a tour of the original or 76
adaptive version of the production begins. 77

(10) "Qualified production facility" means a facility 78
located in this state that is used in the development or 79
presentation to the public of theater productions. 80

(B) For the purpose of encouraging and developing strong 81
film and theater industries in this state, the director of 82
development may certify a motion picture or Broadway theatrical 83
production produced by a production company as a tax credit- 84
eligible production. In the case of a television series, the 85
director may certify the production of each episode of the 86
series as a separate tax credit-eligible production. A 87
production company shall apply for certification of a motion 88
picture or Broadway theatrical production as a tax credit- 89
eligible production on a form and in the manner prescribed by 90
the director. Each application shall include the following 91
information: 92

(1) The name and telephone number of the production 93
company; 94

(2) The name and telephone number of the company's contact 95
person; 96

(3) A list of the first preproduction date through the 97
last production and postproduction dates in Ohio and, in the 98
case of a Broadway theatrical production, a list of each 99
scheduled performance in a qualified production facility; 100

(4) The Ohio production office or qualified production 101
facility address and telephone number; 102

(5) The total production budget; 103

(6) The total budgeted eligible expenditures and the 104
percentage that amount is of the total production budget of the 105
motion picture or Broadway theatrical production; 106

(7) In the case of a motion picture, the total percentage of the production being shot in Ohio;	107 108
(8) The level of employment of cast and crew who reside in Ohio;	109 110
(9) A synopsis of the script;	111
(10) In the case of a motion picture, the shooting script;	112
(11) A creative elements list that includes the names of the principal cast and crew and the producer and director;	113 114
(12) Documentation of financial ability to undertake and complete the motion picture or Broadway theatrical production, including documentation that shows that the company has secured funding equal to at least fifty per cent of the total production budget;	115 116 117 118 119
(13) Estimated value of the tax credit based upon total budgeted eligible expenditures;	120 121
(14) Estimated amount of state and local taxes to be generated in this state from the production;	122 123
(15) Estimated economic impact of the production in this state;	124 125
(16) Any other information considered necessary by the director.	126 127
Within ninety days after certification of a motion picture or Broadway theatrical production as a tax credit-eligible production, and any time thereafter upon the request of the director, the production company shall present to the director sufficient evidence of reviewable progress. If the production company fails to present sufficient evidence, the director may	128 129 130 131 132 133

rescind the certification. If the production of a motion picture 134
or Broadway theatrical production does not begin within ninety 135
days after the date it is certified as a tax credit-eligible 136
production, the director shall rescind the certification unless 137
the director finds that the production company shows good cause 138
for the delay, meaning that the production was delayed due to 139
unforeseeable circumstances beyond the production company's 140
control or due to action or inaction by a government agency. 141
Upon rescission, the director shall notify the applicant that 142
the certification has been rescinded. Nothing in this section 143
prohibits an applicant whose tax credit-eligible production 144
certification has been rescinded from submitting a subsequent 145
application for certification. 146

(C) (1) A production company whose motion picture or 147
Broadway theatrical production has been certified as a tax 148
credit-eligible production may apply to the director of 149
development on or after July 1, 2009, for a refundable credit 150
against the tax imposed by section 5726.02, 5733.06, 5747.02, or 151
5751.02 of the Revised Code. The director in consultation with 152
the tax commissioner shall prescribe the form and manner of the 153
application and the information or documentation required to be 154
submitted with the application. 155

The credit is determined as follows: 156

(a) If the total budgeted eligible expenditures stated in 157
the application submitted under division (B) of this section or 158
the actual eligible expenditures as finally determined under 159
division (D) of this section, whichever is least, is less than 160
or equal to three hundred thousand dollars, no credit is 161
allowed; 162

(b) If the total budgeted eligible expenditures stated in 163

the application submitted under division (B) of this section or 164
the actual eligible expenditures as finally determined under 165
division (D) of this section, whichever is least, is greater 166
than three hundred thousand dollars, the credit equals thirty 167
per cent of the least of such budgeted or actual eligible 168
expenditure amounts. 169

(2) Except as provided in division (C) (4) of this section, 170
if the director of development approves a production company's 171
application for a credit, the director shall issue a tax credit 172
certificate to the company. The director in consultation with 173
the tax commissioner shall prescribe the form and manner of 174
issuing certificates. The director shall assign a unique 175
identifying number to each tax credit certificate and shall 176
record the certificate in a register devised and maintained by 177
the director for that purpose. The certificate shall state the 178
amount of the eligible expenditures on which the credit is based 179
and the amount of the credit. Upon the issuance of a 180
certificate, the director shall certify to the tax commissioner 181
the name of the production company to which the certificate was 182
issued, the amount of eligible expenditures shown on the 183
certificate, the amount of the credit, and any other information 184
required by the rules adopted to administer this section. 185

(3) The amount of eligible expenditures for which a tax 186
credit may be claimed is subject to inspection and examination 187
by the tax commissioner or employees of the commissioner under 188
section 5703.19 of the Revised Code and any other applicable 189
law. Once the eligible expenditures are finally determined under 190
section 5703.19 of the Revised Code and division (D) of this 191
section, the credit amount is not subject to adjustment unless 192
the director determines an error was committed in the 193
computation of the credit amount. 194

(4) No tax credit certificate may be issued before the 195
completion of the tax credit-eligible production. The amount of 196
tax credit allowed per fiscal year shall not exceed the sum of 197
~~(a) fifty one hundred million dollars, (b) the difference~~ 198
~~between the maximum credit amount for that fiscal year under~~ 199
~~section 122.852 of the Revised Code and the amount the director~~ 200
~~of development elects to allow under this section pursuant to~~ 201
~~division (D) (1) of section 122.852 of the Revised Code, and (c)~~ 202
the difference between the maximum amount of credits that could 203
have been awarded in the previous fiscal year under this section 204
and the amount actually awarded. Out of that sum, five million 205
dollars shall be reserved for Broadway theatrical productions, 206
and the balance may be allowed for any tax credit-eligible 207
production. For any fiscal year in which less than five million 208
dollars of tax credits are allowed for Broadway theatrical 209
productions, the amount of the five million dollars not allowed 210
and added to the maximum annual amount for the following fiscal 211
year shall be reserved for Broadway theatrical productions in 212
the following fiscal year. 213

(5) ~~The~~ Except as otherwise provided in this division, the 214
director shall review and approve applications for tax credits 215
in two rounds each fiscal year on a first-come, first-served, 216
basis. ~~The first round of credits shall be awarded not later~~ 217
~~than the last day of July of the fiscal year, and the second~~ 218
~~round of credits shall be awarded not later than the last day of~~ 219
~~the ensuing January. The amount of credits awarded in the first~~ 220
~~round of applications each fiscal year shall not exceed one-half~~ 221
~~of the maximum allowance for the fiscal year calculated~~ 222

If, at any time, all complete and pending, but unapproved, 223
applications would, if all approved, result in awarded credits 224
in excess of the limit established under division (C) (4) of this 225

section, ~~two million five hundred thousand dollars of which~~ 226
~~shall be reserved for Broadway theatrical productions. For each~~ 227
~~round,~~ the director shall rank the complete and pending 228
applications on the basis of the extent of positive economic 229
impact each tax credit-eligible production is likely to have in 230
this state and the effect on developing a permanent workforce in 231
motion picture or theatrical production industries in the state. 232
For the purpose of such ranking, the director shall give 233
priority to tax-credit eligible productions that are television 234
series or miniseries due to the long-term commitment typically 235
associated with such productions. The economic impact ranking 236
shall be based on the production company's total expenditures in 237
this state directly associated with the tax credit-eligible 238
production. The effect on developing a permanent workforce in 239
the motion picture or theatrical production industries shall be 240
evaluated first by the number of new jobs created and second by 241
amount of payroll added with respect to employees in this state. 242

~~The~~ When ranking is required under this division, the 243
director shall approve productions in the order of their 244
ranking, from those with the greatest positive economic impact 245
and workforce development effect to those with the least 246
positive economic impact and workforce development effect. 247

(D) A production company whose motion picture or Broadway 248
theatrical production has been certified as a tax credit- 249
eligible production shall engage, at the company's expense, an 250
independent certified public accountant to examine the company's 251
production, postproduction, and advertising and promotion 252
expenditures to identify the expenditures that qualify as 253
eligible expenditures. The certified public accountant shall 254
issue a report to the company and to the director of development 255
certifying the company's eligible expenditures and any other 256

information required by the director. Upon receiving and 257
examining the report, the director may disallow any expenditure 258
the director determines is not an eligible expenditure. If the 259
director disallows an expenditure, the director shall issue a 260
written notice to the production company stating that the 261
expenditure is disallowed and the reason for the disallowance. 262
Upon examination of the report and disallowance of any 263
expenditures, the director shall determine finally the lesser of 264
the total budgeted eligible expenditures stated in the 265
application submitted under division (B) of this section or the 266
actual eligible expenditures for the purpose of computing the 267
amount of the credit. 268

(E) No credit shall be allowed under section 5726.55, 269
5733.59, 5747.66, or 5751.54 of the Revised Code unless the 270
director has reviewed the report and made the determination 271
prescribed by division (D) of this section. 272

(F) This state reserves the right to refuse the use of 273
this state's name in the credits of any tax credit-eligible 274
motion picture production or program of any Broadway theatrical 275
production. 276

(G) (1) The director of development in consultation with 277
the tax commissioner shall adopt rules for the administration of 278
this section, including rules setting forth and governing the 279
criteria for determining whether a motion picture or Broadway 280
theatrical production is a tax credit-eligible production; 281
activities that constitute the production or postproduction of a 282
motion picture or Broadway theatrical production; reporting 283
sufficient evidence of reviewable progress; expenditures that 284
qualify as eligible expenditures; a schedule and deadlines for 285
applications to be submitted and reviewed; a competitive process 286

for approving credits based on likely economic impact in this 287
state and development of a permanent workforce in motion picture 288
or theatrical production industries in this state; consideration 289
of geographic distribution of credits; and implementation of the 290
program described in division (H) of this section. The rules 291
shall be adopted under Chapter 119. of the Revised Code. 292

(2) To cover the administrative costs of the program, the 293
director shall require each applicant to pay an application fee 294
equal to the lesser of ten thousand dollars or one per cent of 295
the estimated value of the tax credit as stated in the 296
application. The fees collected shall be credited to the tax 297
incentives operating fund created in section 122.174 of the 298
Revised Code. All grants, gifts, fees, and contributions made to 299
the director for marketing and promotion of the motion picture 300
industry within this state shall also be credited to the fund. 301

(H) The director of development shall establish a program 302
for the training of Ohio residents who are or wish to be 303
employed in the film or multimedia industry. Under the program, 304
the director shall: 305

(1) Certify individuals as film and multimedia trainees. 306
In order to receive such a certification, an individual must be 307
an Ohio resident, have participated in relevant on-the-job 308
training or have completed a relevant training course approved 309
by the director, and have met any other requirements established 310
by the director. 311

(2) Accept applications from production companies that 312
intend to hire and provide on-the-job training to one or more 313
certified film and multimedia trainees who will be employed in 314
the company's tax credit-eligible production; 315

(3) Upon completion of a tax-credit eligible production, 316
and upon the receipt of any salary information and other 317
documentation required by the director, authorize a 318
reimbursement payment to each production company whose 319
application was approved under division (H) (2) of this section. 320
The payment shall equal fifty per cent of the salaries paid to 321
film and multimedia trainees employed in the production. 322

Sec. 5726.98. (A) To provide a uniform procedure for 323
calculating the amount of tax due under section 5726.02 of the 324
Revised Code, a taxpayer shall claim any credits to which the 325
taxpayer is entitled under this chapter in the following order: 326

The nonrefundable job retention credit under division (B) 327
of section 5726.50 of the Revised Code; 328

The nonrefundable credit for purchases of qualified low- 329
income community investments under section 5726.54 of the 330
Revised Code; 331

The nonrefundable credit for qualified research expenses 332
under section 5726.56 of the Revised Code; 333

The nonrefundable credit for qualifying dealer in 334
intangibles taxes under section 5726.57 of the Revised Code; 335

The nonrefundable Ohio low-income housing tax credit under 336
section 5726.58 of the Revised Code; 337

The nonrefundable affordable single-family home credit 338
under section 5726.60 of the Revised Code; 339

The nonrefundable welcome home Ohio (WHO) program credit 340
under section 122.633 of the Revised Code; 341

The refundable credit for rehabilitating an historic 342
building under section 5726.52 of the Revised Code; 343

The refundable job retention or job creation credit under division (A) of section 5726.50 of the Revised Code;	344 345
The refundable credit under section 5726.53 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	346 347 348
The refundable motion picture and Broadway theatrical production credit under section 5726.55 of the Revised Code;	349 350
The refundable credit for film and theater capital improvement projects under section 5726.59 of the Revised Code.	351 352
(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.	353 354 355 356 357 358 359 360 361
Sec. 5747.98. (A) To provide a uniform procedure for calculating a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code, a taxpayer shall claim any credits to which the taxpayer is entitled in the following order:	362 363 364 365
Either the retirement income credit under division (B) of section 5747.055 of the Revised Code or the lump sum retirement income credits under divisions (C), (D), and (E) of that section;	366 367 368 369
Either the senior citizen credit under division (F) of section 5747.055 of the Revised Code or the lump sum distribution credit under division (G) of that section;	370 371 372

The dependent care credit under section 5747.054 of the Revised Code;	373 374
The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	375 376
The campaign contribution credit under section 5747.29 of the Revised Code;	377 378
The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	379 380
The joint filing credit under division (G) -(E) of section 5747.05 of the Revised Code;	381 382
The earned income credit under section 5747.71 of the Revised Code;	383 384
The nonrefundable credit for education expenses under section 5747.72 of the Revised Code;	385 386
The nonrefundable credit for donations to scholarship granting organizations under section 5747.73 of the Revised Code;	387 388 389
The nonrefundable credit for tuition paid to a nonchartered nonpublic school under section 5747.75 of the Revised Code;	390 391 392
The nonrefundable vocational job credit under section 5747.057 of the Revised Code;	393 394
The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	395 396
The enterprise zone credit under section 5709.66 of the Revised Code;	397 398
The credit for beginning farmers who participate in a	399

financial management program under division (B) of section 5747.77 of the Revised Code;	400 401
The credit for commercial vehicle operator training expenses under section 5747.82 of the Revised Code;	402 403
The nonrefundable welcome home Ohio (WHO) program credit under section 122.633 of the Revised Code;	404 405
The credit for selling or renting agricultural assets to beginning farmers under division (A) of section 5747.77 of the Revised Code;	406 407 408
The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	409 410
The small business investment credit under section 5747.81 of the Revised Code;	411 412
The nonrefundable lead abatement credit under section 5747.26 of the Revised Code;	413 414
The opportunity zone investment credit under section 122.84 of the Revised Code;	415 416
The enterprise zone credits under section 5709.65 of the Revised Code;	417 418
The research and development credit under section 5747.331 of the Revised Code;	419 420
The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	421 422
The nonrefundable Ohio low-income housing tax credit under section 5747.83 of the Revised Code;	423 424
The nonrefundable affordable single-family home credit under section 5747.84 of the Revised Code;	425 426

The nonresident credit under division (A) of section 5747.05 of the Revised Code;	427 428
The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	429 430
The refundable motion picture and Broadway theatrical production credit under section 5747.66 of the Revised Code;	431 432
The refundable credit for film and theater capital improvement projects under section 5747.67 of the Revised Code;	433 434
The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	435 436 437
The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	438 439
The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;	440 441 442
The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	443 444 445
The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	446 447
The refundable credit under section 5747.39 of the Revised Code for taxes levied under section 5747.38 of the Revised Code paid by an electing pass-through entity.	448 449 450
(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (H) of section 5747.08 of the Revised Code, the amount of the	451 452 453

credit for a taxable year shall not exceed the taxpayer's 454
aggregate amount of tax due under section 5747.02 of the Revised 455
Code, after allowing for any other credit that precedes it in 456
the order required under this section. Any excess amount of a 457
particular credit may be carried forward if authorized under the 458
section creating that credit. Nothing in this chapter shall be 459
construed to allow a taxpayer to claim, directly or indirectly, 460
a credit more than once for a taxable year. 461

Sec. 5751.98. (A) To provide a uniform procedure for 462
calculating the amount of tax due under this chapter, a taxpayer 463
shall claim any credits to which it is entitled in the following 464
order: 465

The nonrefundable jobs retention credit under division (B) 466
of section 5751.50 of the Revised Code; 467

The nonrefundable credit for qualified research expenses 468
under division (B) of section 5751.51 of the Revised Code; 469

The nonrefundable credit for a borrower's qualified 470
research and development loan payments under division (B) of 471
section 5751.52 of the Revised Code; 472

The nonrefundable credit for calendar years 2010 to 2029 473
for unused net operating losses under division (B) of section 474
5751.53 of the Revised Code; 475

The refundable motion picture and Broadway theatrical 476
production credit under section 5751.54 of the Revised Code; 477

~~The refundable credit for film and theater capital 478
improvement projects under section 5751.55 of the Revised Code; 479~~

The refundable jobs creation credit or job retention 480
credit under division (A) of section 5751.50 of the Revised 481

Code;	482
The refundable credit for calendar year 2030 for unused	483
net operating losses under division (C) of section 5751.53 of	484
the Revised Code.	485
(B) For any credit except the refundable credits	486
enumerated in this section, the amount of the credit for a tax	487
period shall not exceed the tax due after allowing for any other	488
credit that precedes it in the order required under this	489
section. Any excess amount of a particular credit may be carried	490
forward if authorized under the section creating the credit.	491
Section 2. That existing sections 122.85, 5726.98,	492
5747.98, and 5751.98 of the Revised Code are hereby repealed.	493
Section 3. That sections 122.852, 5726.59, 5747.67, and	494
5751.55 of the Revised Code are hereby repealed.	495