

**As Introduced**

**131st General Assembly  
Regular Session  
2015-2016**

**S. B. No. 289**

**Senator Patton**

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**A BILL**

To amend section 122.85 of the Revised Code to 1  
increase the overall cap on the motion picture 2  
tax credit from \$40 million per fiscal biennium 3  
to \$100 million for the current fiscal biennium 4  
and \$160 million for all subsequent biennia. 5

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

**Section 1.** That section 122.85 of the Revised Code be 6  
amended to read as follows: 7

**Sec. 122.85.** (A) As used in this section and in sections 8  
5726.55, 5733.59, 5747.66, and 5751.54 of the Revised Code: 9

(1) "Tax credit-eligible production" means a motion 10  
picture production certified by the director of development 11  
services under division (B) of this section as qualifying the 12  
motion picture company for a tax credit under section 5726.55, 13  
5733.59, 5747.66, or 5751.54 of the Revised Code. 14

(2) "Certificate owner" means a motion picture company to 15  
which a tax credit certificate is issued. 16

(3) "Motion picture company" means an individual, 17  
corporation, partnership, limited liability company, or other 18

form of business association producing a motion picture. 19

(4) "Eligible production expenditures" means expenditures 20  
made after June 30, 2009, for goods or services purchased and 21  
consumed in this state by a motion picture company directly for 22  
the production of a tax credit-eligible production. 23

"Eligible production expenditures" includes, but is not 24  
limited to, expenditures for resident and nonresident cast and 25  
crew wages, accommodations, costs of set construction and 26  
operations, editing and related services, photography, sound 27  
synchronization, lighting, wardrobe, makeup and accessories, 28  
film processing, transfer, sound mixing, special and visual 29  
effects, music, location fees, and the purchase or rental of 30  
facilities and equipment. 31

(5) "Motion picture" means entertainment content created 32  
in whole or in part within this state for distribution or 33  
exhibition to the general public, including, but not limited to, 34  
feature-length films; documentaries; long-form, specials, 35  
miniseries, series, and interstitial television programming; 36  
interactive web sites; sound recordings; videos; music videos; 37  
interactive television; interactive games; video games; 38  
commercials; any format of digital media; and any trailer, 39  
pilot, video teaser, or demo created primarily to stimulate the 40  
sale, marketing, promotion, or exploitation of future investment 41  
in either a product or a motion picture by any means and media 42  
in any digital media format, film, or videotape, provided the 43  
motion picture qualifies as a motion picture. "Motion picture" 44  
does not include any television program created primarily as 45  
news, weather, or financial market reports, a production 46  
featuring current events or sporting events, an awards show or 47  
other gala event, a production whose sole purpose is 48

fundraising, a long-form production that primarily markets a product or service or in-house corporate advertising or other similar productions, a production for purposes of political advocacy, or any production for which records are required to be maintained under 18 U.S.C. 2257 with respect to sexually explicit content.

(B) For the purpose of encouraging and developing a strong film industry in this state, the director of development services may certify a motion picture produced by a motion picture company as a tax credit-eligible production. In the case of a television series, the director may certify the production of each episode of the series as a separate tax credit-eligible production. A motion picture company shall apply for certification of a motion picture as a tax credit-eligible production on a form and in the manner prescribed by the director. Each application shall include the following information:

(1) The name and telephone number of the motion picture production company;

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

(3) A list of the first preproduction date through the last production date in Ohio;

(4) The Ohio production office address and telephone number;

(5) The total production budget of the motion picture;

(6) The total budgeted eligible production expenditures and the percentage that amount is of the total production budget of the motion picture;

(7) The total percentage of the motion picture being shot	78
in Ohio;	79
(8) The level of employment of cast and crew who reside in	80
Ohio;	81
(9) A synopsis of the script;	82
(10) The shooting script;	83
(11) A creative elements list that includes the names of	84
the principal cast and crew and the producer and director;	85
(12) Documentation of financial ability to undertake and	86
complete the motion picture;	87
(13) Estimated value of the tax credit based upon total	88
budgeted eligible production expenditures;	89
(14) Any other information considered necessary by the	90
director.	91
Within ninety days after certification of a motion picture	92
as a tax credit-eligible production, and any time thereafter	93
upon the request of the director of development services, the	94
motion picture company shall present to the director sufficient	95
evidence of reviewable progress. If the motion picture company	96
fails to present sufficient evidence, the director may rescind	97
the certification. Upon rescission, the director shall notify	98
the applicant that the certification has been rescinded. Nothing	99
in this section prohibits an applicant whose tax credit-eligible	100
production certification has been rescinded from submitting a	101
subsequent application for certification.	102
(C) (1) A motion picture company whose motion picture has	103
been certified as a tax credit-eligible production may apply to	104
the director of development services on or after July 1, 2009,	105

for a refundable credit against the tax imposed by section 106  
5726.02, 5733.06, 5747.02, or 5751.02 of the Revised Code. The 107  
director in consultation with the tax commissioner shall 108  
prescribe the form and manner of the application and the 109  
information or documentation required to be submitted with the 110  
application. 111

The credit is determined as follows: 112

(a) If the total budgeted eligible production expenditures 113  
stated in the application submitted under division (B) of this 114  
section or the actual eligible production expenditures as 115  
finally determined under division (D) of this section, whichever 116  
is least, is less than or equal to three hundred thousand 117  
dollars, no credit is allowed; 118

(b) If the total budgeted eligible production expenditures 119  
stated in the application submitted under division (B) of this 120  
section or the actual eligible production expenditures as 121  
finally determined under division (D) of this section, whichever 122  
is least, is greater than three hundred thousand dollars, the 123  
credit equals the sum of the following, subject to the 124  
limitation in division (C)(4) of this section: 125

(i) Twenty-five per cent of the least of such budgeted or 126  
actual eligible expenditure amounts excluding budgeted or actual 127  
eligible expenditures for resident cast and crew wages; 128

(ii) Thirty-five per cent of budgeted or actual eligible 129  
expenditures for resident cast and crew wages. 130

(2) Except as provided in division (C)(4) of this section, 131  
if the director of development services approves a motion 132  
picture company's application for a credit, the director shall 133  
issue a tax credit certificate to the company. The director in 134

consultation with the tax commissioner shall prescribe the form 135  
and manner of issuing certificates. The director shall assign a 136  
unique identifying number to each tax credit certificate and 137  
shall record the certificate in a register devised and 138  
maintained by the director for that purpose. The certificate 139  
shall state the amount of the eligible production expenditures 140  
on which the credit is based and the amount of the credit. Upon 141  
the issuance of a certificate, the director shall certify to the 142  
tax commissioner the name of the applicant, the amount of 143  
eligible production expenditures shown on the certificate, and 144  
any other information required by the rules adopted to 145  
administer this section. 146

(3) The amount of eligible production expenditures for 147  
which a tax credit may be claimed is subject to inspection and 148  
examination by the tax commissioner or employees of the 149  
commissioner under section 5703.19 of the Revised Code and any 150  
other applicable law. Once the eligible production expenditures 151  
are finally determined under section 5703.19 of the Revised Code 152  
and division (D) of this section, the credit amount is not 153  
subject to adjustment unless the director determines an error 154  
was committed in the computation of the credit amount. 155

(4) No tax credit certificate may be issued before the 156  
completion of the tax credit-eligible production. Not more than 157  
forty million dollars of tax ~~credit~~ credits may be allowed per 158  
fiscal biennium beginning on or after July 1, 2011, but before 159  
July 1, 2015, and not more than twenty million dollars may be 160  
allowed in the first year of ~~the~~ any such biennium. For the 161  
fiscal biennium beginning July 1, 2015, not more than one 162  
hundred million dollars of tax credits may be allowed, and not 163  
more than twenty million dollars may be allowed in the first 164  
year of the biennium. Not more than one hundred sixty million 165

dollars of tax credits may be allowed per fiscal biennium 166  
beginning on or after July 1, 2017, and not more than eighty 167  
million dollars may be allowed in the first year of any such 168  
biennium. At any time, not more than five million dollars of tax 169  
credit may be allowed per tax credit-eligible production. 170

(D) A motion picture company whose motion picture has been 171  
certified as a tax credit-eligible production shall engage, at 172  
the company's expense, an independent certified public 173  
accountant to examine the company's production expenditures to 174  
identify the expenditures that qualify as eligible production 175  
expenditures. The certified public accountant shall issue a 176  
report to the company and to the director of development 177  
services certifying the company's eligible production 178  
expenditures and any other information required by the director. 179  
Upon receiving and examining the report, the director may 180  
disallow any expenditure the director determines is not an 181  
eligible production expenditure. If the director disallows an 182  
expenditure, the director shall issue a written notice to the 183  
motion picture production company stating that the expenditure 184  
is disallowed and the reason for the disallowance. Upon 185  
examination of the report and disallowance of any expenditures, 186  
the director shall determine finally the lesser of the total 187  
budgeted eligible production expenditures stated in the 188  
application submitted under division (B) of this section or the 189  
actual eligible production expenditures for the purpose of 190  
computing the amount of the credit. 191

(E) No credit shall be allowed under section 5726.55, 192  
5733.59, 5747.66, or 5751.54 of the Revised Code unless the 193  
director has reviewed the report and made the determination 194  
prescribed by division (D) of this section. 195

(F) This state reserves the right to refuse the use of 196  
this state's name in the credits of any tax credit-eligible 197  
motion picture production. 198

(G) (1) The director of development services in 199  
consultation with the tax commissioner shall adopt rules for the 200  
administration of this section, including rules setting forth 201  
and governing the criteria for determining whether a motion 202  
picture production is a tax credit-eligible production; 203  
activities that constitute the production of a motion picture; 204  
reporting sufficient evidence of reviewable progress; 205  
expenditures that qualify as eligible production expenditures; a 206  
competitive process for approving credits; and consideration of 207  
geographic distribution of credits. The rules shall be adopted 208  
under Chapter 119. of the Revised Code. 209

(2) The director may require a reasonable application fee 210  
to cover administrative costs of the tax credit program. The 211  
fees collected shall be credited to the business assistance fund 212  
created in section 122.174 of the Revised Code. All grants, 213  
gifts, fees, and contributions made to the director for 214  
marketing and promotion of the motion picture industry within 215  
this state shall also be credited to the fund. The director 216  
shall use money in the fund to pay expenses related to the 217  
administration of the Ohio film office and the credit authorized 218  
by this section and sections 5726.55, 5733.59, 5747.66, and 219  
5751.54 of the Revised Code. 220

**Section 2.** That existing section 122.85 of the Revised 221  
Code is hereby repealed. 222