

Representative Stephen G. Handy proposes the following substitute bill:

STATE FILM PRODUCTION INCENTIVES AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronald M. Winterton

House Sponsor: Stephen G. Handy

Cosponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill modifies provisions related to motion picture incentives.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows the Governor's Office of Economic Opportunity to issue an additional amount of tax credit incentives each fiscal year only for rural film productions;
- ▶ establishes a sunset date for the additional amount of tax credit incentives for rural film productions; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



25 **63I-1-263**, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196,
26 260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws
27 of Utah 2021, Chapter 382

28 **63N-8-102**, as last amended by Laws of Utah 2021, Chapter 282

29 **63N-8-103**, as last amended by Laws of Utah 2021, Chapters 282 and 436

30

31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **63I-1-263** is amended to read:

33 **63I-1-263. Repeal dates, Titles 63A to 63N.**

34 (1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

35 (a) Section **63A-16-102** is repealed;

36 (b) Section **63A-16-201** is repealed; and

37 (c) Section **63A-16-202** is repealed.

38 (2) Subsection **63A-5b-405(5)**, relating to prioritizing and allocating capital
39 improvement funding, is repealed July 1, 2024.

40 (3) Section **63A-5b-1003**, State Facility Energy Efficiency Fund, is repealed July 1,
41 2023.

42 (4) Sections **63A-9-301** and **63A-9-302**, related to the Motor Vehicle Review
43 Committee, are repealed July 1, 2023.

44 (5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
45 1, 2028.

46 (6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,
47 2025.

48 (7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1,
49 2024.

50 (8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is
51 repealed July 1, 2023.

52 (9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed
53 July 1, 2023.

54 (10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is
55 repealed July 1, 2026.

56 (11) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed
57 July 1, 2025.

58 (12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities
59 Advisory Board, is repealed July 1, 2026.

60 (13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,
61 2025.

62 (14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
63 2024.

64 (15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

65 (16) Subsection 63J-1-602.1(17), Nurse Home Visiting Restricted Account is repealed
66 July 1, 2026.

67 (17) (a) Subsection 63J-1-602.1(61), relating to the Utah Statewide Radio System
68 Restricted Account, is repealed July 1, 2022.

69 (b) When repealing Subsection 63J-1-602.1(61), the Office of Legislative Research and
70 General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make
71 necessary changes to subsection numbering and cross references.

72 (18) Subsection 63J-1-602.2(5), referring to dedicated credits to the Utah Marriage
73 Commission, is repealed July 1, 2023.

74 (19) Subsection 63J-1-602.2(6), referring to the Trip Reduction Program, is repealed
75 July 1, 2022.

76 (20) Subsection 63J-1-602.2(24), related to the Utah Seismic Safety Commission, is
77 repealed January 1, 2025.

78 (21) [~~Title 63J, Chapter 4, Part 5~~] 63L, Chapter 11, Part 4, Resource Development
79 Coordinating Committee, is repealed July 1, 2027.

80 (22) In relation to the advisory committee created in Subsection 63L-11-305(3), on
81 July 1, 2022:

82 (a) Subsection 63L-11-305(1)(a), which defines "advisory committee," is repealed; and

83 (b) Subsection 63L-11-305(3), which creates the advisory committee, is repealed.

84 (23) In relation to the Utah Substance Use and Mental Health Advisory Council, on
85 January 1, 2023:

86 (a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are

87 repealed;

88 (b) Section 63M-7-305, the language that states "council" is replaced with
89 "commission";

90 (c) Subsection 63M-7-305(1) is repealed and replaced with:

91 "(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

92 (d) Subsection 63M-7-305(2) is repealed and replaced with:

93 "(2) The commission shall:

94 (a) provide ongoing oversight of the implementation, functions, and evaluation of the
95 Drug-Related Offenses Reform Act; and

96 (b) coordinate the implementation of Section 77-18-104 and related provisions in
97 Subsections 77-18-103(2)(c) and (d)."

98 (24) The Crime Victim Reparations and Assistance Board, created in Section
99 63M-7-504, is repealed July 1, 2027.

100 (25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July
101 1, 2022.

102 (26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

103 [~~(27) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating
104 Council, is repealed July 1, 2024.~~]

105 [(~~28~~) (27) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

106 [(~~29~~) (28) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed
107 July 1, 2028.

108 [(~~30~~) (29) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed
109 January 1, 2021.

110 (b) Section 59-9-107 regarding tax credits against premium taxes is repealed for
111 calendar years beginning on or after January 1, 2021.

112 (c) Notwithstanding Subsection [(~~30~~) (29)](b), an entity may carry forward a tax credit
113 in accordance with Section 59-9-107 if:

114 (i) the person is entitled to a tax credit under Section 59-9-107 on or before December
115 31, 2020; and

116 (ii) the qualified equity investment that is the basis of the tax credit is certified under
117 Section 63N-2-603 on or before December 31, 2023.

118 ~~[(31)]~~ (30) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is
119 repealed July 1, 2023.

120 ~~[(32)]~~ (31) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed
121 July 1, 2025.

122 (32) In relation to motion picture incentives, on July 1, 2024:

123 (a) Subsection 63N-8-102(11), which defines "rural production," is repealed; and

124 (b) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic
125 Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed.

126 (33) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program,
127 is repealed January 1, 2028.

128 Section 2. Section **63N-8-102** is amended to read:

129 **63N-8-102. Definitions.**

130 As used in this chapter:

131 (1) "Digital media company" means a company engaged in the production of a digital
132 media project.

133 (2) "Digital media project" means all or part of a production of interactive
134 entertainment or animated production that is produced for distribution in commercial or
135 educational markets, which shall include projects intended for Internet or wireless distribution.

136 (3) "Dollars left in the state" means expenditures made in the state for a state-approved
137 production, including:

138 (a) an expenditure that is subject to:

139 (i) a corporate franchise or income tax under Title 59, Chapter 7, Corporate Franchise
140 and Income Taxes;

141 (ii) an individual income tax under Title 59, Chapter 10, Individual Income Tax Act;
142 and

143 (iii) a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act,
144 notwithstanding any sales and use tax exemption allowed by law; or

145 (iv) a combination of Subsections (3)(a)(i), (ii), and (iii);

146 (b) payments made to a nonresident only to the extent of the income tax paid to the
147 state on the payments, the amount of per diems paid in the state, and other direct
148 reimbursements transacted in the state; and

149 (c) payments made to a payroll company or loan-out corporation that is registered to do
150 business in the state, only to the extent of the amount of withholding under Section 59-10-402.

151 (4) "Loan-out corporation" means a corporation owned by one or more artists that
152 provides services of the artists to a third party production company.

153 (5) "Motion picture company" means a company engaged in the production of:

154 (a) motion pictures;

155 (b) television series; or

156 (c) made-for-television movies.

157 (6) "Motion picture incentive" means either a cash rebate from the Motion Picture
158 Incentive Account or a refundable tax credit under Section 59-7-614.5 or 59-10-1108.

159 (7) "New state revenues" means:

160 (a) incremental new state sales and use tax revenues generated as a result of a digital
161 media project that a digital media company pays under Title 59, Chapter 12, Sales and Use Tax
162 Act;

163 (b) incremental new state tax revenues that a digital media company pays as a result of
164 a digital media project under:

165 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

166 (ii) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and
167 Information;

168 (iii) Title 59, Chapter 10, Part 2, Trusts and Estates;

169 (iv) Title 59, Chapter 10, Part 4, Withholding of Tax; or

170 (v) a combination of Subsections (7)(b)(i), (ii), (iii), and (iv);

171 (c) incremental new state revenues generated as individual income taxes under Title
172 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, paid by
173 employees of the new digital media project as evidenced by payroll records from the digital
174 media company; or

175 (d) a combination of Subsections (7)(a), (b), and (c).

176 (8) "Payroll company" means a business entity that handles the payroll and becomes
177 the employer of record for the staff, cast, and crew of a motion picture production.

178 (9) "Refundable tax credit" means a refundable motion picture tax credit authorized
179 under Section 63N-8-103 and claimed under Section 59-7-614.5 or 59-10-1108.

180 (10) "Restricted account" means the Motion Picture Incentive Account created in
181 Section [63N-8-103](#).

182 (11) "Rural production" means a state-approved production in which at least 75% of
183 the total number of production days occur within a county of the third, fourth, fifth, or sixth
184 class.

185 [~~(11)~~] (12) "State-approved production" means a production under Subsections (2) and
186 (5) that is:

- 187 (a) approved by the office and ratified by the GO Utah board; and
- 188 (b) produced in the state by a motion picture company.

189 [~~(12)~~] (13) "Tax credit amount" means the amount the office lists as a tax credit on a
190 tax credit certificate for a taxable year.

191 [~~(13)~~] (14) "Tax credit certificate" means a certificate issued by the office that:

- 192 (a) lists the name of the applicant;
- 193 (b) lists the applicant's taxpayer identification number;
- 194 (c) lists the amount of tax credit that the office awards the applicant for the taxable
195 year; and

196 (d) may include other information as determined by the office.

197 Section 3. Section **63N-8-103** is amended to read:

198 **63N-8-103. Motion Picture Incentive Account created -- Cash rebate incentives --**
199 **Refundable tax credit incentives.**

200 (1) (a) There is created within the General Fund a restricted account known as the
201 Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives
202 for state-approved productions by a motion picture company.

203 (b) All interest generated from investment of money in the restricted account shall be
204 deposited in the restricted account.

205 (c) The restricted account shall consist of an annual appropriation by the Legislature.

206 (d) The office shall:

- 207 (i) with the advice of the GO Utah board, administer the restricted account; and
- 208 (ii) make payments from the restricted account as required under this section.

209 (e) The cost of administering the restricted account shall be paid from money in the
210 restricted account.

211 (2) (a) A motion picture company or digital media company seeking disbursement of
212 an incentive allowed under an agreement with the office shall follow the procedures and
213 requirements of this Subsection (2).

214 (b) The motion picture company or digital media company shall provide the office with
215 an incentive request form, provided by the office, identifying and documenting the dollars left
216 in the state and new state revenues generated by the motion picture company or digital media
217 company for state-approved production, including any related tax returns by the motion picture
218 company, payroll company, digital media company, or loan-out corporation under Subsection
219 (2)(d).

220 (c) For a motion picture company, an independent certified public accountant shall:

221 (i) review the incentive request form submitted by the motion picture company; and

222 (ii) provide a report on the accuracy and validity of the incentive request form,

223 including the amount of dollars left in the state, in accordance with the agreed upon procedures
224 established by the office by rule.

225 (d) The motion picture company, digital media company, payroll company, or loan-out
226 corporation shall provide the office with a document that expressly directs and authorizes the
227 State Tax Commission to disclose the entity's tax returns and other information concerning the
228 entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section
229 6103, Internal Revenue Code, to the office.

230 (e) The office shall submit the document described in Subsection (2)(d) to the State
231 Tax Commission.

232 (f) Upon receipt of the document described in Subsection (2)(d), the State Tax
233 Commission shall provide the office with the information requested by the office that the
234 motion picture company, digital media company, payroll company, or loan-out corporation
235 directed or authorized the State Tax Commission to provide to the office in the document
236 described in Subsection (2)(d).

237 (g) Subject to Subsection (3), for a motion picture company the office shall:

238 (i) review the incentive request form from the motion picture company described in
239 Subsection (2)(b) and verify that the incentive request form was reviewed by an independent
240 certified public accountant as described in Subsection (2)(c); and

241 (ii) based upon the independent certified public accountant's report under Subsection

242 (2)(c), determine the amount of the incentive that the motion picture company is entitled to
243 under the motion picture company's agreement with the office.

244 (h) Subject to Subsection (3), for a digital media company, the office shall:

245 (i) ensure the digital media project results in new state revenues; and

246 (ii) based upon review of new state revenues, determine the amount of the incentive
247 that a digital media company is entitled to under the digital media company's agreement with
248 the office.

249 (i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office
250 shall pay the incentive from the restricted account to the motion picture company,
251 notwithstanding Subsections 51-5-3(23)(b) and 63J-1-105(6).

252 (j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or
253 59-10-1108, the office shall:

254 (i) issue a tax credit certificate to the motion picture company or digital media
255 company; and

256 (ii) provide a digital record of the tax credit certificate to the State Tax Commission.

257 (k) A motion picture company or digital media company may not claim a motion
258 picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company
259 or digital media company has received a tax credit certificate for the claim issued by the office
260 under Subsection (2)(j)(i).

261 (l) A motion picture company or digital media company may claim a motion picture
262 tax credit on the motion picture company's or the digital media company's tax return for the
263 amount listed on the tax credit certificate issued by the office.

264 (m) A motion picture company or digital media company that claims a tax credit under
265 Subsection (2)(l) shall retain the tax credit certificate and all supporting documentation in
266 accordance with Subsection 63N-8-104(6).

267 (3) (a) Subject to [~~Subsections (3)(b) and (c)~~] this Subsection (3), the office may issue
268 \$6,793,700 in tax credit certificates under this part in each fiscal year.

269 (b) For the fiscal year ending June 30, 2022, the office may issue \$8,393,700 in tax
270 credit certificates under this part.

271 (c) For a fiscal year beginning on or after July 1, 2022, in addition to the amount of tax
272 credit certificates authorized under Subsection (3)(a), the office may issue \$12,000,000 in tax

273 credit certificates under this part only for rural productions.

274 [~~(c)~~] (d) If the office does not issue tax credit certificates in a fiscal year totaling the
275 amount authorized under [~~Subsections (3)(a) and (b)~~] this Subsection (3), the office may carry
276 over that amount for issuance in subsequent fiscal years.