

By: Price

H.B. No. 3472

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the Texas Media Production Enticement Program; providing tax credits; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle F, Title 4, Government Code, is amended by adding Chapter 485B to read as follows:

CHAPTER 485B. TEXAS MEDIA PRODUCTION ENTICEMENT PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 485B.001. DEFINITIONS. (a) Except as otherwise provided by this chapter, terms used in this chapter have the meanings assigned by Chapters 485 and 485A, and rules adopted under those chapters, as those chapters and rules existed on January 1, 2022.

(b) In this chapter:

(1) "Moving image project" means a visual and sound production, including a film, television program, national or multistate commercial, or education or instructional video. The term does not include a production that is obscene, as defined by Section 43.21, Penal Code.

(2) "Production company" means a film production company, television production company, or film and television production company.

SUBCHAPTER B. TAX CREDIT FOR CERTAIN MEDIA PRODUCTIONS

Sec. 485B.051. TAX CREDIT PROGRAM. (a) The office shall

1 implement and administer a tax credit program for production  
2 companies that produce moving image projects in this state.

3 (b) The office shall develop a procedure by which a  
4 production company may apply to the office for a certificate of  
5 eligibility for the tax credit program authorized by this  
6 subchapter. The procedure must:

7 (1) specify the method by which an applicant must  
8 demonstrate that an individual is a Texas resident; and

9 (2) require the submission, before production of a  
10 moving image project begins, of:

11 (A) an estimate of the applicant's total in-state  
12 spending related to the project;

13 (B) the shooting script or story board, as  
14 applicable, for the project;

15 (C) the estimated number of jobs for cast and  
16 production crew during the production and completion of the  
17 project; and

18 (D) any other information required by the office  
19 to determine the amount of in-state spending by the applicant.

20 (c) The office may award a certificate of eligibility to a  
21 production company based only on in-state spending by the company  
22 that has been verified by the office.

23 (d) The office is not required to act on an application, and  
24 shall deny an application, for a production that the office finds to  
25 be obscene, as defined by Section 43.21, Penal Code. The office  
26 must provide written notice of the finding to the applicant not  
27 later than the seventh business day after the date the office makes

1 the finding.

2 (e) The office may not award a certificate of eligibility  
3 under this subchapter unless the office:

4 (1) reviews a copy of the final script of the moving  
5 image project to which the certificate of eligibility relates; and

6 (2) determines whether a substantial change occurred  
7 during production of the moving image project such that the  
8 production is ineligible for the certificate under Subsection (d).

9 (f) The office shall include the amount of the tax credit,  
10 as determined under Sections 485B.053 and 485B.054, on the face of a  
11 certificate of eligibility. An applicant who receives a  
12 certificate of eligibility must provide the certificate to the  
13 comptroller, along with any other information required by the  
14 comptroller, to receive a tax credit under Subchapter O, Chapter  
15 171, Tax Code.

16 (g) The office by rule may impose an application fee in an  
17 amount sufficient to offset the administrative costs to the office  
18 and to the comptroller in administering this chapter.

19 Sec. 485B.052. QUALIFICATION. (a) To qualify for a  
20 certificate of eligibility under this subchapter for a moving image  
21 project, a production company must:

22 (1) demonstrate to the office that the production  
23 company made at least \$15 million in in-state spending for the  
24 project;

25 (2) film at least 25 percent of the project in this  
26 state, including additional pick-up days and second unit days;

27 (3) submit to the office a ledger of expenses, in a

1 format prescribed by the office, that lists all in-state spending  
2 and includes all receipts, invoices, pay orders, and other  
3 documentation required by the office to determine the amount of the  
4 production company's in-state spending;

5 (4) meet the requirements of Section 485B.055; and

6 (5) meet the requirements of Subsection (b).

7 (b) Unless the office determines and certifies in writing  
8 that a sufficient number of qualified crew, actors, and extras are  
9 not available to a production company at the time principal  
10 photography begins:

11 (1) for the first 12 months of production, at least 25  
12 percent of the total number of individuals employed or used as  
13 production crew, actors, and extras for a moving image project must  
14 be Texas residents;

15 (2) for the 12 months of production following the  
16 period described by Subdivision (1), at least 50 percent of the  
17 total number of individuals employed or used as production crew,  
18 actors, and extras for a moving image project must be Texas  
19 residents; and

20 (3) for any period of production following the period  
21 described by Subdivision (2), at least 70 percent of the total  
22 number of individuals employed or used as production crew, actors,  
23 and extras for a moving image project must be Texas residents.

24 Sec. 485B.053. AMOUNT OF TAX CREDIT. (a) The office shall  
25 adopt rules prescribing the method the office will use to calculate  
26 the amount of credit to list on a certificate of eligibility awarded  
27 to a production company under this subchapter for a moving image

1 project. The office shall publish a written summary of the method  
2 the office develops to determine the amount of credit before the  
3 date the office begins to award certificates of eligibility.

4 (b) The method adopted by the office under Subsection (a)  
5 must provide that the amount of credit listed on a certificate of  
6 eligibility awarded to a production company for a moving image  
7 project is equal to the sum of:

8 (1) subject to Subsection (c), 20 percent of the  
9 production company's in-state spending for the project, not  
10 including wages;

11 (2) 25 percent of the wages paid by the production  
12 company to individuals who are not Texas residents while working in  
13 this state on the project;

14 (3) 35 percent of the wages paid by the production  
15 company to Texas residents who do not reside in underutilized and  
16 economically distressed areas;

17 (4) 38 percent of the wages paid by the production  
18 company to Texas residents who reside in underutilized and  
19 economically distressed areas;

20 (5) if applicable, 10 percent of the production  
21 company's in-state spending for an episodic television pilot and  
22 series; and

23 (6) if the production company spends at least 25  
24 percent of the project's filming days in an underutilized and  
25 economically distressed area, 2.5 percent of the production  
26 company's in-state spending for the project.

27 (c) The office may not consider the amount described by

1 Subsection (b)(1) when calculating the amount of credit to list on a  
2 certificate of eligibility awarded to a production company for a  
3 moving image project under Subsection (b) unless the production  
4 company provides to the office promotional materials that may be  
5 used by the office to promote economic development and tourism in  
6 this state, including a promotional video that:

7 (1) uses an image of this state in its end credits; and

8 (2) includes at least:

9 (A) 30 behind-the-scenes stills of the  
10 production during principal photography for the project;

11 (B) 10 behind-the-scenes stills of the lead  
12 actors during principal photography for the project; and

13 (C) three minutes of behind-the-scenes video  
14 footage of principal photography for the project.

15 Sec. 485B.054. REDUCTION OF TAX CREDIT FOR STATE DEBT.  
16 Notwithstanding Section 485B.053, the office shall reduce the  
17 amount of credit listed on a certificate of eligibility awarded to a  
18 production company by an amount equal to any delinquent amount owed  
19 by the production company to this state.

20 Sec. 485B.055. TRAINEE PROGRAM. (a) The office shall  
21 collaborate with an industry coalition to develop a media trainee  
22 program in cooperation with the Texas Workforce Commission.

23 (b) In addition to any other requirement imposed by this  
24 chapter, to receive a certificate of eligibility under this chapter  
25 a production company must participate in the program developed  
26 under this section and agree to meet the requirements of Subsection  
27 (c).



1 conditions provided by this subchapter against the tax imposed  
2 under this chapter.

3 Sec. 171.753. QUALIFICATION. (a) An entity qualifies for a  
4 credit under this subchapter if the entity submits to the  
5 comptroller with the application required by Section 171.756:

6 (1) a certificate of eligibility awarded by the  
7 office;

8 (2) an audited cost report prepared by a certified  
9 public accountant, as defined by Section 901.002, Occupations Code,  
10 that itemizes the costs and expenses incurred by a production  
11 company to make the certified production and on which the amount of  
12 the credit is based; and

13 (3) an attestation from the production company as to  
14 the total costs and expenses incurred to make the certified  
15 production.

16 (b) An entity that sells or assigns a credit under this  
17 subchapter to another entity shall provide a copy of the  
18 certificate of eligibility, audited cost report, and attestation to  
19 the purchaser or assignee.

20 Sec. 171.754. AMOUNT OF CREDIT; LIMITATIONS. (a) Subject  
21 to Subsection (b), the amount of the credit under this subchapter is  
22 the amount listed by the office on the certificate of eligibility  
23 awarded to a production company for a certified production.

24 (b) The total credit claimed for a report, including the  
25 amount of any carryforward under Section 171.755, may not exceed  
26 the amount of franchise tax due for the report after any other  
27 applicable tax credits.



1       (c) An entity may not claim a credit under this subchapter  
2 on a report that is originally due before September 1, 2025.

3       Sec. 171.755. CARRYFORWARD. (a) If an entity is eligible  
4 for a credit that exceeds the limitation under Section 171.754(b),  
5 the entity may carry the unused credit forward for not more than  
6 five consecutive reports.

7       (b) A carryforward is considered the remaining portion of a  
8 credit that cannot be claimed in the current year because of the  
9 limitation under Section 171.754(b).

10       Sec. 171.756. APPLICATION FOR CREDIT. (a) An entity must  
11 apply to the comptroller for a credit under this subchapter on or  
12 with the report for the period for which the credit is claimed.

13       (b) An entity shall submit with an application the  
14 information required under Section 171.753 and any other  
15 information the comptroller determines is necessary to determine  
16 whether the entity qualifies for the credit.

17       (c) The burden of establishing eligibility for and the  
18 amount of the credit is on the entity.

19       Sec. 171.757. SALE OR ASSIGNMENT OF CREDIT. (a) An entity  
20 awarded a certificate of eligibility by the office may sell or  
21 assign all or part of the credit to one or more entities. An entity  
22 to which all or part of a credit is sold or assigned may sell or  
23 assign all or part of the credit to another entity. There is no  
24 limit on the total number of transactions for sale or assignment of  
25 all or part of the total credit authorized under this subchapter.

26       (b) An entity that sells or assigns a credit under this  
27 section, and the entity to which the credit is sold or assigned,

1 shall jointly submit written notice of the sale or assignment to the  
2 comptroller on a form prescribed by the comptroller not later than  
3 the 30th day after the date of the sale or assignment. The notice  
4 must include:

- 5           (1) the date of the sale or assignment;  
6           (2) the amount of the credit sold or assigned;  
7           (3) the names and federal tax identification numbers

8 of:

9           (A) the entity that sold or assigned the credit  
10 or part of the credit; and

11           (B) the entity to which the credit or part of the  
12 credit was sold or assigned;

13           (4) the amount of the credit owned by the selling or  
14 assigning entity before the sale or assignment; and

15           (5) the amount of the credit the selling or assigning  
16 entity retained, if any, after the sale or assignment.

17           (c) The sale or assignment of a credit under this section  
18 does not increase the total amount of the credit that may be  
19 claimed. After an entity claims a credit for a production company  
20 expenditure that formed the basis for the certificate of  
21 eligibility awarded by the office, another entity may not use the  
22 same expenditure as the basis for another certificate of  
23 eligibility or credit.

24           (d) Notwithstanding the requirements of this subchapter, a  
25 credit earned or purchased by, or assigned to, a partnership,  
26 limited liability company, S corporation, or other pass-through  
27 entity, may be allocated to the partners, members, or shareholders

1 of that entity and claimed under this subchapter in accordance with  
2 the provisions of any agreement among the partners, members, or  
3 shareholders, and without regard to the ownership interest of the  
4 partners, members, or shareholders in the certified production,  
5 provided that the entity that claims the credit must be subject to  
6 the tax imposed under this chapter.

7 (e) An entity to which all or part of a credit is sold or  
8 assigned and that is subject to a premium tax imposed under Chapter  
9 221, 222, 223, or 224, Insurance Code, may claim all or part of the  
10 credit against that tax. The provisions of this subchapter,  
11 including provisions relating to the total amount of the credit  
12 that may be claimed for a report, the carryforward of the credit,  
13 and the sale or assignment of the credit, apply with respect to a  
14 credit claimed against a tax imposed under Chapter 221, 222, 223, or  
15 224, Insurance Code, to the same extent those provisions apply to a  
16 credit claimed against the tax imposed under this chapter. An  
17 entity claiming all or part of a credit as authorized by this  
18 subsection is not required to pay any additional retaliatory tax  
19 levied under Chapter 281, Insurance Code, as a result of claiming  
20 that credit.

21 Sec. 171.758. RULES. The comptroller shall adopt rules and  
22 forms necessary to implement this subchapter.

23 SECTION 3. Subchapter O, Chapter 171, Tax Code, as added by  
24 this Act, applies only to a report originally due on or after  
25 September 1, 2025.

26 SECTION 4. This Act takes effect September 1, 2023.