

AMENDMENTS TO LB1022

Introduced by Sanders, 45.

1 1. Strike original sections 2, 3, 4, 5, 6, 7, 9, 11, and 17 and
2 insert the following new sections:

3 Sec. 2. (1) The Legislature finds that:

4 (a) Film and television production in Nebraska not only provides
5 jobs for residents of Nebraska and dollars for Nebraska businesses but
6 also enhances the state's image nationwide;

7 (b) The high cost of film and television production is driving such
8 production to other states, and the industry is always seeking attractive
9 locations that can help cut the costs of production;

10 (c) The retention of Nebraska's youth is one of the top priorities
11 in growing the state's economy. Film studies and creative arts students
12 from the universities and colleges in Nebraska are taking their talents
13 to other states due to the lack of strongly developed media production
14 facilities within the state;

15 (d) The State of Nebraska, with a competitive incentive, can build
16 on past success as an attractive site for film and television production;

17 (e) Nebraska is presently among several states with minimal
18 incentives to attract the film and television industry; and

19 (f) A new and attractive film incentive should be used in
20 conjunction with the Local Option Municipal Economic Development Act,
21 passed by the Ninety-Second Legislature, First Session, 1991, as
22 Legislative Bill 840, for municipalities that have included production of
23 films or television programs as a qualifying business expense.

24 (2) It is the intent of the Legislature to provide an incentive that
25 will allow the state to compete with other states and increase film and
26 television production in this state.

27 Sec. 3. For purposes of the Cast and Crew Nebraska Act:

1 (1) Above-the-line employee means production company employees
2 involved in the creative development, direct production, and direction of
3 a production activity including screenwriters, producers, directors,
4 casting directors, and cast;

5 (2) Below-the-line employee means production company employees that
6 are responsible for keeping production operations on schedule and
7 preparing all lights, sets, props, and all other aspects for production;

8 (3) Department means the Department of Economic Development;

9 (4)(a) Expatriate means a person that previously resided in Nebraska
10 for at least one year but does not currently reside in Nebraska.

11 (b) The Nebraska Film Office shall partner with other in-state film
12 offices, production companies, chambers of commerce, and convention and
13 visitors bureaus in the state to maintain a roster of cast and crew who
14 are expatriates and shall make such roster available to any production
15 company upon request;

16 (5) Film office means a specialized office under the authority of a
17 government entity or an administrative office with the purpose of
18 promoting the local region through the development of film, video, and
19 multimedia productions;

20 (6) Full-length means a production at least sixty minutes in length
21 including credits;

22 (7) Loan out means payments to a loan out company by a production
23 company if the production company withheld and remitted Nebraska
24 applicable income tax on all payments to the loan out company for
25 services performed in this state. The amount withheld is considered to
26 have been withheld by the loan out company on wages paid to its employees
27 for services performed in this state. Loan out company nonresident
28 employees performing services in this state must be considered taxable
29 nonresidents and the loan out company is subject to income taxation in
30 the taxable year in which the loan out company's employees perform
31 services in this state;

1 (8) Loan out company means a United States business entity in which
2 the creator is an employee whose services are loaned out by the corporate
3 body;

4 (9) Nebraska Film Office means the Nebraska Film Office within the
5 Department of Economic Development or its successor;

6 (10) Nebraska supplier means a brick and mortar Nebraska-based
7 corporation or limited liability company registered, licensed, and in
8 good standing with the Secretary of State;

9 (11) Post-production means the time period after the production is
10 completed and the editing of the visual and audio materials begins. Post-
11 production includes, but is not limited to, all of the tasks associated
12 with cutting raw footage, assembling that footage, and adding and dubbing
13 music, sound effects, and visual effects;

14 (12) Pre-production means the planning process and execution of
15 every task that must take place before production begins;

16 (13) Principal photography means the creative execution phase of
17 film production between pre-production and post-production;

18 (14)(a) Production activity means production of a new film, video,
19 or digital project in this state. This includes the scouting, pre-
20 production, principal photography, and post-production of projects filmed
21 or recorded in this state, in whole or in part and in short or long form
22 and animation, fixed on a delivery system, including film, videotape,
23 computer disc, laser disc, and any element of the digital domain, from
24 which the program is viewed or reproduced and which is intended for
25 multimarket commercial distribution via a theater, video on demand,
26 digital or fiber optic distribution platforms, digital video recording, a
27 digital platform designed for distribution of interactive games,
28 licensing for exhibition by individual television stations, groups of
29 stations, networks, advertiser-supported sites, cable television
30 stations, streaming services, or public broadcasting station.

31 (b) Production activity includes full-length films, animation

1 projects, documentaries, short-length films, and over-the-air and
2 streaming television programming, except those television programs that
3 are exclusively for news, weather, sports, financial market reports or
4 instructional videos, and also includes commercial advertisements, except
5 commercials containing political promotions, infomercials, or commercials
6 distributed only on the Internet.

7 (c) Production activity does not include any project with sexually
8 explicit or obscene material;

9 (15) Production company means a corporation, partnership, limited
10 liability company, or other business entity engaged in the business of
11 creating productions and registered with the Secretary of State to engage
12 in business in Nebraska;

13 (16)(a) Production expenditure report means a report issued and
14 submitted by a certified public accountant that verifies all expenses of
15 a production activity and ensures all expenses have been paid in full.

16 (b) The production company shall pay the certified public accountant
17 for preparation of the report and such payment is a qualifying
18 expenditure under section 4 of this act;

19 (17) Qualified production activity means any production activity
20 approved by the department after application for qualification;

21 (18) Resident means any individual domiciled in the State of
22 Nebraska and any other individual who maintains a permanent place of
23 residence within the state even though temporarily absent from the state
24 and who has not established a residence elsewhere;

25 (19) Scouting means finding places to shoot commercials, television
26 shows, or movies and searching for interior and exterior venues to serve
27 as the setting for scenes depicted in a script during pre-production;

28 (20) Screen credit means a logo developed by the Nebraska Film
29 Office and mentioned in the production credits and end titles declaring
30 the production activity was filmed in Nebraska;

31 (21) Screenplay means a film, movie, television show, or other

1 motion picture in written form; and

2 (22) Short-length means a production more than thirty seconds and
3 less than forty minutes including credits.

4 Sec. 4. (1) For purposes of the Cast and Crew Nebraska Act,
5 qualifying expenditure includes:

6 (a) Pre-production, production, and post-production expenditures
7 made in Nebraska that are subject to taxation by the state;

8 (b) Scouting and spending related to the production activity in the
9 state prior to application for qualification;

10 (c)(i) Above-the-line employee wages for residents of Nebraska or
11 paid through a Nebraska loan out company.

12 (ii) Loan out companies will be required to pay applicable Nebraska
13 income taxes.

14 (iii) The total above-the-line employee wages and related expenses
15 shall be not more than twenty-five percent of the total instate
16 expenditures of a production activity;

17 (d) Below-the-line employee wages;

18 (e) Per diems of up to thirty dollars per day per employee; and

19 (f) Expenditures not otherwise available for rental or purchase
20 within Nebraska and paid for via a Nebraska supplier.

21 (2) Qualifying expenditures do not include:

22 (a) Wages paid to independent contractors, or self-employed
23 individuals, except that wages shown to be paid by a Nebraska-based
24 production company for a commercial production activity and wages the
25 taxes of which are shown to be withheld by the employer may be approved
26 by the department on the application for the tax credit;

27 (b) Above-the-line employee per diems or living allowance expenses;

28 (c) Taxes imposed pursuant to the Federal Insurance Contributions
29 Act and other payroll taxes;

30 (d) Contributions under the Federal Unemployment Tax Act and the
31 Employment Security Law; and

1 (e) Union dues and benefits.

2 Sec. 5. (1) For taxable years beginning or deemed to begin on or
3 after January 1, 2024, a production company shall be eligible to receive
4 tax credits under the Cast and Crew Nebraska Act for qualifying
5 expenditures incurred by the production company in Nebraska directly
6 attributable to a qualified production activity.

7 (2) The tax credit under the Cast and Crew Nebraska Act shall be a
8 refundable tax credit allowed against the income tax imposed by the
9 Nebraska Revenue Act of 1967 in an amount equal to twenty percent of the
10 qualifying expenditures incurred by the production company directly
11 attributable to a qualified production activity.

12 (3) The amount of the tax credit may be increased by any or all of
13 the following amounts:

14 (a) An additional five percent of the qualifying expenditures
15 incurred by the production company directly attributable to a qualified
16 production activity if the qualified production activity films Nebraska
17 as Nebraska in Nebraska, contains a minimum of seventy percent of the
18 principal photography from the original submitted screenplay based in
19 Nebraska, and uses a screen credit;

20 (b) An additional five percent of the qualifying expenditures
21 incurred by the production company directly attributable to a full-length
22 qualified production activity if the qualified production activity films
23 entirely in areas at least thirty miles from the corporate limits of a
24 city of the metropolitan or primary class; and

25 (c)(i) An additional five percent of qualified expenditures incurred
26 by the production company directly attributable to a full-length
27 qualified production activity that are wages paid, at a rate of at least
28 the Nebraska minimum wage, to Nebraska residents who are employed as
29 first-time actors or first-time below-the-line employees.

30 (ii) For purposes of subdivision (3)(c)(i) of this section, first-
31 time means the individual's first-time receiving compensation and wages

1 as either an actor or as a below-the-line employee on a full-length film
2 in the State of Nebraska.

3 (iii) The total combined wages of a maximum of ten first-time actors
4 and below-the-line employees per full-length film can be used in
5 calculating the tax credit in subdivision (3)(c)(i) of this section.

6 Sec. 6. (1) The total amount of tax credits allowed in any year
7 under the Cast and Crew Nebraska Act shall not exceed twenty-five million
8 dollars.

9 (2) The maximum allowable project tax credit claimed under the act
10 in any single taxable year for any single qualified production activity
11 that is a full-length film, made-for-television movie, television series
12 of at least five episodes, or streaming television series shall not
13 exceed fifteen million dollars.

14 Sec. 7. (1) For a production activity to qualify as a qualified
15 production activity under the Cast and Crew Nebraska Act, a production
16 company must file an application for qualification of a production
17 activity to the department at least:

18 (a) Thirty days prior to the start of principal photography for a
19 full-length film, documentary, or television programming; and

20 (b) Ten days prior to the start of filming for a short-length film,
21 animation project, or commercial.

22 (2) The application shall be submitted on a form prescribed by the
23 department and shall include the following:

24 (a) A nonrefundable fee of five hundred dollars;

25 (b) A detailed description of the production activity;

26 (c) An estimate of expected qualifying expenditures for the
27 production activity;

28 (d) A certificate of general liability insurance with a minimum
29 coverage of one million dollars;

30 (e) A worker's compensation policy;

31 (f)(i) Except as provided in subdivision (2)(f)(ii) of this section,

1 documentation that shows the production activity is fully funded other
2 than post-production expenditures.

3 (ii) If a production activity is a commercial production activity,
4 documentation showing full funding for post-production expenditures shall
5 be included; and

6 (g) Any other information or documentation required by the
7 department.

8 Sec. 9. To receive tax credits under the Cast and Crew Nebraska
9 Act, the production company shall submit an application to the department
10 on a form prescribed by the department after the completion of the
11 qualified production activity. Such application shall contain the
12 following information:

13 (1) The total amount of qualifying expenditures for the qualified
14 production activity;

15 (2) The production expenditure report for the qualified production
16 activity;

17 (3) Documentation showing the total expenditures for the qualified
18 production activity are greater or equal to:

19 (a) Five hundred thousand dollars for a full-length film or made-
20 for-television movie;

21 (b) Five hundred thousand dollars per over-the-air and streaming
22 television programing episode; or

23 (c) Twenty-five thousand dollars per short-length film, documentary,
24 animation project, or commercial;

25 (4) Documentation showing the total amount of individual or loan out
26 company wages or earnings paid during the qualified production activity
27 is five hundred thousand dollars or less;

28 (5) Documentation showing at least forty percent of the production
29 days for the qualified production activity were in Nebraska and, for
30 full-length films only, at least ten days of production were in Nebraska;

31 (6) Documentation showing at least forty percent of the below-the-

1 line employees of the qualified production activity were Nebraska
2 residents with expatriates included in the percentage but not exceeding
3 fifteen percent of the total below-the-line employees;

4 (7) Documentation showing at least fifteen percent of the cast of
5 the qualified production activity were Nebraska residents with
6 expatriates included in the percentage;

7 (8) If applying for the tax credit under subdivision (3)(c)(i) of
8 section 5 of this act, proof of Nebraska residency for all employees
9 whose wages will be part of the calculation of such credit for the
10 qualified production activity; and

11 (9) Any other information or documentation required by the
12 department.

13 Sec. 11. (1) A taxpayer shall claim the tax credit under the Cast
14 and Crew Nebraska Act by attaching the tax credit certification received
15 from the department under section 10 of this act to its tax return for
16 the taxable year in which the tax credit certification was issued or in
17 the three taxable years immediately following the taxable year in which
18 the tax credit certification was issued.

19 (2) The tax credits allowed under the Cast and Crew Nebraska Act may
20 be transferred by the production company to any Nebraska taxpayer at any
21 time during the taxable year in which the tax credit certification was
22 issued to the transferor or in the three taxable years immediately
23 following the taxable year in which the tax credit certification was
24 issued to the transferor. The transferee shall pay the transferor at
25 least eighty-five percent of the value of the transferred tax credits in
26 order to acquire such credits.

27 Sec. 17. Section 81-1220, Revised Statutes Cumulative Supplement,
28 2022, is amended to read:

29 81-1220 (1)(a) The Nebraska Film Office Fund is created. The fund
30 shall be administered by the Department of Economic Development and used
31 for grants for Nebraska-based films, Nebraska filmmakers, and tribal

1 communities in Nebraska as provided in this section.

2 (b) The fund shall consist of funds transferred by the Legislature,
3 gifts, grants, and bequests. ~~It is the intent of the Legislature to~~
4 ~~transfer the unexpended and unobligated balance in the Nebraska Film~~
5 ~~Office Fund on June 30, 2025, to the General Fund.~~

6 (c) Any money in the Nebraska Film Office Fund available for
7 investment shall be invested by the state investment officer pursuant to
8 the Nebraska Capital Expansion Act and the Nebraska State Funds
9 Investment Act.

10 (2)(a) The department shall administer a grant program for Nebraska-
11 based films and shall require applications to be submitted to the
12 department prior to beginning production.

13 (b) To be eligible for a grant under the program, the applicant
14 shall verify that:

15 (i) The film is to be produced in Nebraska;

16 (ii) The film tells a Nebraska story; and

17 (iii) At least fifty percent of the workforce for film production
18 will be composed of Nebraska residents for the duration of the production
19 except as otherwise provided in subdivision (c) of this subsection.

20 (c) The department may lower the fifty-percent requirement in
21 subdivision (b)(iii) of this subsection but shall not waive the
22 requirement. The applicant shall apply to the department to lower the
23 requirement and provide a certification that the requirement is an
24 unreasonable impediment to production of the film. The department shall
25 notify the applicant of the decision under this subdivision.

26 (d) The department shall review each application to determine
27 whether the film qualifies for a grant under this subsection ~~section~~ and
28 ~~shall not award a grant that exceeds twenty-five percent of the projected~~
29 ~~production cost of the film.~~

30 (3)(a) The department shall administer a grant program for Nebraska
31 filmmakers with the intention to create Nebraska film industry jobs and

1 shall require applications to be submitted to the department prior to
2 beginning production.

3 (b) To be eligible for a grant under the program, the applicant
4 shall verify that:

5 (i) One hundred percent of the principal photography of the film
6 will be in Nebraska;

7 (ii) The applicant is a resident that has a financially validated
8 credit as a producer, director, director of photography, or screenwriter
9 for the film;

10 (iii) The film will be a full-length or short-length film or
11 documentary;

12 (iv) The film will not contain any obscene or sexually explicit
13 material;

14 (v) At least fifty percent of all employees who will work on the
15 film are residents; and

16 (vi) The total budget of the film is at least:

17 (A) For full-length films or documentaries, fifty thousand dollars;
18 or

19 (B) For short-length films or documentaries, five thousand dollars;

20 (c) The department shall review each application to determine
21 whether the film qualifies for a grant under this subsection.

22 (d) The department shall review applications for grants under this
23 subsection in the order in which the applications are received.

24 (e) The department may award grants under this subsection for a
25 total of four full-length films or documentaries and ten short-length
26 films or documentaries each calendar year.

27 (f) The department shall not award a grant that exceeds two hundred
28 fifty thousand dollars for a full-length film or documentary or twenty-
29 five thousand dollars for a short-length film or documentary.

30 (g) The department shall not award total grants exceeding one
31 million three hundred twenty-five thousand dollars in any calendar year.

1 (h) The first grant awarded for each individual film shall not
2 exceed:

3 (i) For full-length films or documentaries, two hundred fifty
4 thousand dollars; or

5 (ii) For short-length films or documentaries, twenty-five thousand
6 dollars.

7 (i) If an applicant who receives a grant under this subsection does
8 not meet the requirements for eligibility under subdivision (b) of this
9 subsection during the entirety of the production of the film, the
10 applicant shall repay the entirety of the grant.

11 (j) For purposes of this subsection:

12 (i) Full-length means a production at least sixty minutes in length
13 including credits;

14 (ii) Resident means any individual domiciled in the State of
15 Nebraska and any other individual who maintains a permanent place of
16 residence within the state even though temporarily absent from the state
17 and who has not established a residence elsewhere; and

18 (iii) Short-length means a production more than thirty seconds and
19 less than forty minutes in length.

20 (4)(a) The department shall administer a grant program for film and
21 entertainment education programs in tribal communities in Nebraska.

22 (b) The department shall award total grants of at least seventy-five
23 thousand dollars each calendar year.