

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 370\*  
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Short Title: Motion Picture Tax Credit.

(Public)

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Sponsors: Representatives Payne, Barnes, Colton, B. Ethridge, Grimmer, Jack Hunt, Redwine; Hall and Justus.

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Referred to: Commerce.

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February 27, 1989

A BILL TO BE ENTITLED

AN ACT TO ALLOW STATE INCOME TAX CREDITS FOR CORPORATIONS  
AND INDIVIDUALS WHO INVEST IN QUALIFIED MOTION PICTURES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-163.010 is amended by adding a new subdivision to read:

"(9a) Qualified Motion Picture Company. – Any partnership, corporation, or other business entity whose sole proprietary function is to produce an audiovisual work consisting of a series of related images, either on film, video tape, or other audiovisual embodiment, for showing on screen or television for theatrical, commercial, or educational purposes; provided that seventy-five percent (75%) of the 'below-the-line' costs associated with the audiovisual work are spent in North Carolina. 'Below-the-line' costs mean the actual costs of producing an audiovisual work."

Sec. 2. G.S. 105-163.011 reads as rewritten:

**"§ 105-163.011. Tax credits allowed.**

(a) Corporations. – Subject to the limitations contained in G.S. 105-163.012, a corporation that invests in the equity securities of a North Carolina Capital Resource Corporation, a North Carolina Enterprise Corporation, or a qualified investment organization or invests in a qualified motion picture company is allowed as a credit against the tax imposed by Division I of this Article or the tax imposed by G.S. 105-116, 105-120.2, and 105-122 for the taxable year an amount equal to twenty-five percent (25%) of the amount invested or seven hundred fifty thousand dollars

1 (\$750,000), whichever is less. The credit may not be taken for the year in which the  
2 investment is made but shall be taken for the taxable year beginning during the calendar  
3 year following the calendar year in which the investment was made.

4 (b) Individuals. – Subject to the limitations contained in G.S. 105-163.012, an  
5 individual who invests in the equity securities or subordinated debt of (i) a North  
6 Carolina Capital Resource Corporation, (ii) a qualified investment organization, (iii) a  
7 qualified business venture, (iv) a qualified grantee business, or (v) a North Carolina  
8 Enterprise Corporation or invests in a qualified motion picture company is allowed as a  
9 credit against the tax imposed by Division II of this Article for the taxable year an  
10 amount equal to twenty-five percent (25%) of the amount invested or one hundred  
11 thousand dollars (\$100,000), whichever is less. The credit may not be taken for the year  
12 in which the investment is made but shall be taken for the taxable year beginning during  
13 the calendar year following the calendar year in which the investment was made.

14 (c) Application. – To be eligible for the tax credit provided in this section, the  
15 taxpayer must file an application for the credit with the Secretary of Revenue on or  
16 before April 15 of the year following the calendar year in which the investment was  
17 made. The application shall be on a form prescribed by the Secretary and shall include  
18 any supporting documentation that the Secretary may require.

19 In order to claim credit for an investment in a qualified motion picture company the  
20 applicant must attach to the application a statement from the production company  
21 certifying the amount of the investment and that it was made in a qualified motion  
22 picture company as defined in G.S. 105-163.010(9a).

23 (d) Penalties. – The penalties provided in G.S. 105-236 apply in this Division."

24 Sec. 3. G.S. 105-163.012 reads as rewritten:

25 "**§ 105-163.012. Limit; carry-over; ceiling.**

26 (a) The credit allowed a taxpayer under G.S. 105-163.011 may not exceed the  
27 amount of tax imposed by Division I or II of this Article or by Article 3 of this Chapter,  
28 as appropriate, for the taxable year reduced by the sum of all other credits allowable  
29 except tax payments made by or on behalf of the taxpayer. The amount of unused credit  
30 allowed under G.S. 105-163.011 may be carried forward for the next five succeeding  
31 years.

32 (b) The total amount of all tax credits allowed to taxpayers under G.S. 105-  
33 163.011 for investments made in a calendar year may not exceed twelve million dollars  
34 (\$12,000,000). The Secretary of Revenue shall calculate the total amount of tax credits  
35 claimed from the applications filed pursuant to G.S. 105-163.011(c). If the total amount  
36 of tax credits claimed for investments made in a calendar year exceeds twelve million  
37 dollars (\$12,000,000), the Secretary shall allow a portion of the credits claimed on the  
38 following basis:

39 (1) A total of six million dollars (\$6,000,000) in tax credits for  
40 investments in North Carolina Enterprise Corporations or North  
41 Carolina Capital Resource Corporations shall be allocated among all  
42 taxpayers claiming the credits in proportion to the size of the credit  
43 claimed by each taxpayer.

- 1           (2) A total of six million dollars (\$6,000,000) in tax credits for  
2           investments in qualified investment organizations, qualified business  
3           ventures, ~~and~~—qualified grantee businesses, and qualified motion  
4           picture companies shall be allocated among all taxpayers claiming the  
5           credits in proportion to the size of the credit claimed by each taxpayer.  
6           (3) If the total amount of the credits claimed by taxpayers for the  
7           investments described in either subdivision (1) or (2) is less than six  
8           million dollars (\$6,000,000), the Secretary shall allow additional  
9           credits for the investments described in the other subdivision until the  
10          total amount of all tax credits allowed equals twelve million dollars  
11          (\$12,000,000).
- 12          (c) If a credit claimed under G.S. 105-163.011 is reduced as provided in this  
13          section, the Secretary shall notify the taxpayer of the amount of the reduction of the  
14          credit on or before December 31 of the year following the calendar year in which the  
15          investment was made. The Secretary's allocations based on applications filed pursuant  
16          to G.S. 105-163.011(c) are final and shall not be adjusted to account for credits applied  
17          for but not claimed."
- 18                Sec. 4. This act is effective for taxable years beginning on or after January 1,  
19          1989, but shall apply to investments in a qualified motion picture company made  
20          pursuant to this act on or after July 1, 1989.