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## SENATE BILL NO. 257

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance  
on February 3, 2010)

(Patron Prior to Substitute—Senator Lucas)

A BILL to amend the Code of Virginia by adding a section numbered 2.2-2319.1, relating to motion picture film production incentives.

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 2.2-2319.1 as follows:**

§ 2.2-2319.1. Grants for motion picture film production filmed in the Commonwealth.

A. As used in this section, unless the context clearly shows otherwise:

"Qualifying expenses" means the sum of the following amounts spent in the Commonwealth by a production company in connection with the production of a motion picture film production filmed in the Commonwealth:

1. Goods and services leased or purchased. For goods with a purchase price of \$25,000 or more, the amount included in qualifying expenses shall be the purchase price less the fair market value of the good at the time the production is completed.

2. Compensation and wages, except in the case of each individual who directly or indirectly receives compensation in excess of \$1 million for personal services with respect to a single production. In such a case, only the first \$1 million of salary shall be considered a qualifying expense. An individual is deemed to receive compensation indirectly when a production company pays a personal service company or an employee leasing company that pays the individual.

B. A motion picture film production company with qualifying expenses of at least \$250,000 with respect to a motion picture film production filmed in the Commonwealth shall be eligible for a grant to be paid from the Motion Picture Film Production Incentive Grant Fund (the Fund) established under subsection G. All grants under this section shall be subject to the appropriation of moneys by the General Assembly to the Fund for payment of the grants. For purposes of eligibility for grants, a motion picture film production shall include digital interactive media production.

1. The grant shall be equal to 15 percent of the production company's qualifying expenses or 20 percent of such expenses if the production is filmed in an economically distressed area of the Commonwealth. The Virginia Economic Development Partnership Authority shall designate which areas of the Commonwealth are deemed to be economically distressed areas.

2. In addition to the grant described under subdivision 1, such production company shall be eligible for an additional grant equal to 10 percent of the total aggregate payroll for Virginia residents employed in connection with the production of a film production in the Commonwealth by such production company when its total production costs in the Commonwealth are at least \$250,000 but not more than \$1 million. This additional grant shall be equal to 20 percent of the total aggregate payroll for Virginia residents employed in connection with such film production when the production company's total production costs in the Commonwealth exceed \$1 million.

3. In addition to the grants described in subdivisions 1 and 2, such production company shall be eligible for an additional grant equal to 10 percent of the total aggregate payroll for Virginia residents employed for the first time as actors or members of a production crew in connection with the production of a film production in the Commonwealth by such production company.

C. For purposes of this section, in the case of an episodic television series, an entire season of episodes shall be deemed to be one production.

No grants shall be paid under this section for any production that (i) is political advertising; (ii) is a television production of a news program or live sporting event; (iii) contains obscene material; or (iv) is a reality television production.

D. 1. The process for applying for grants and the awarding of grants under this section shall be in accordance with procedures and deadlines established by the Virginia Film Office. The motion picture film production company shall apply for a grant by submitting such forms as prescribed by the Virginia Film Office prior to the start of production in Virginia.

2. Any motion picture film production company seeking a grant under this section shall enter into a memorandum of understanding with the Virginia Film Office that at a minimum provides the requirements that the production company shall meet in order to receive the grants, including but not limited to the estimated amount of money to be spent in the Commonwealth and the timeline for completing production in the Commonwealth. The memorandum of understanding shall also include the anticipated schedule for the payment of the grants and the maximum amount of grants to be awarded to the production company.

60 3. No grants shall be paid under this section until the motion picture film production company has  
61 satisfied all of the requirements in the memorandum of understanding to the satisfaction of the Virginia  
62 Film Office and completed production in the Commonwealth. Such production company shall provide a  
63 detailed accounting of the qualifying expenses upon which the grant payments shall be computed.

64 E. The aggregate amount of grants that may be awarded by the Virginia Film Office under this  
65 section shall not exceed \$5 million in the 2010-2012 biennium and any biennium thereafter. The  
66 Virginia Film Office shall not award any grant under this section unless sufficient moneys have been  
67 appropriated to the Fund such that full payment of the grant can be made.

68 F. The Virginia Film Office shall publish by November 1 of each year for the 12-month period  
69 ending the preceding December 31 the following information:

70 1. Location of sites used in a production for which a grant was awarded;

71 2. Qualifying expenses for which a grant was awarded classified by whether the expenses were for  
72 goods, services, or compensation paid by the motion picture film production company; and

73 3. Number of people employed in the Commonwealth with respect to grants awarded.

74 G. There is hereby created in the state treasury a special nonreverting fund to be known as the  
75 Motion Picture Film Production Incentive Grant Fund (the Fund). The Fund shall be established on the  
76 books of the Comptroller. All moneys as may be appropriated by the General Assembly and all other  
77 revenues from any other source, public or private, designated for the Fund shall be paid into the state  
78 treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and  
79 be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each  
80 fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall  
81 be used solely for the purposes of making grant payments awarded under this section. Expenditures and  
82 disbursements from the Fund shall be made by the State Treasurer on warrants issued by the  
83 Comptroller upon written request signed by the Executive Director of the Authority.