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H.P. 656

House of Representatives, March 9, 2017

An Act Requiring a Dynamic Fiscal Analysis of Changes to Visual Media Production Tax Credits and Reimbursements

(EMERGENCY)

Reference to the Committee on Taxation suggested and ordered printed.

R(+ B. Hunt

ROBERT B. HUNT Clerk

Presented by Representative PICCHIOTTI of Fairfield. Cosponsored by Senator WHITTEMORE of Somerset and Representatives: COLLINGS of Portland, CRAIG of Brewer, FOLEY of Wells, LONGSTAFF of Waterville, PRESCOTT of Waterboro, SEAVEY of Kennebunkport, WALLACE of Dexter, Senator: KATZ of Kennebec.

- 1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not 2 become effective until 90 days after adjournment unless enacted as emergencies; and
- Whereas, Resolve 2011, chapter 114 required the Department of Administrative and
 Financial Services, Bureau of Revenue Services to develop a pilot project for a tax
 simulation model for state dynamic fiscal analysis; and
- 6 Whereas, the pilot project was not completed and final reports not submitted; and
- 7 **Whereas,** this legislation seeks to perform dynamic fiscal analyses of proposed 8 changes to the certified visual media production tax credit using a 3rd-party independent 9 reviewer that must be completed by August 1, 2017; and
- 10 **Whereas,** the changes made to the certified visual media production tax credit and 11 reimbursement are dependent upon the outcome of the pilot project and cannot occur 12 before the pilot project is completed; and
- Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,
- 17 Be it enacted by the People of the State of Maine as follows:

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- PART A
- 19 Sec. A-1. Pilot project for a tax simulation model for state dynamic fiscal 20 analysis. The Department of Economic and Community Development, referred to in 21 this section as "the department," shall undertake a pilot project to develop and evaluate a tax simulation model for state dynamic fiscal analysis, which is analysis to estimate the 22 23 effect a change in the tax laws would have on state revenue as well as the fiscal impact of the changes in taxpayer behavior and overall economic activity that may occur due to the 24 25 tax law change. The department may enter into a memorandum of understanding with the 26 University of Maine to develop and evaluate the pilot project model for a state dynamic 27 fiscal analysis of the impact of the changes proposed in this Act to the certified visual media production credit established in the Maine Revised Statutes, Title 36, section 28 29 5219-Y and the visual media production reimbursement established in Title 36, section 30 The Department of Administrative and Financial Services, Maine Revenue 6902. 31 Services may disclose information otherwise protected under Title 36, section 191 to 32 specific University of Maine staff members identified in the memorandum of 33 understanding for the purpose of developing and evaluating the pilot project model for 34 state dynamic fiscal analysis of the changes proposed in this Act to the certified visual media production credit and the visual media production reimbursement. 35 The memorandum of understanding must include a completion date of August 1, 2017 and a 36 37 requirement to report the findings of the pilot project to the department, Maine Revenue 38 Services and the Office of Fiscal and Program Review.

1 Sec. A-2. Findings and report. No later than August 15, 2017, the Department 2 of Administrative and Financial Services, Maine Revenue Services and the Office of 3 Fiscal and Program Review each shall evaluate the completed pilot project model under section 1 and submit a joint report to the Joint Standing Committee on Taxation that 4 5 includes the findings of the evaluation and a determination of whether the changes proposed in this Act to the certified visual media production credit and the visual media 6 7 production reimbursement will have a negative or a positive fiscal impact on state 8 revenue. Maine Revenue Services and the Office of Fiscal and Program Review also 9 shall file a copy of the report, including the determination of fiscal impact, with the 10 Secretary of State and the Office of the Revisor of Statutes.

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PART B

Sec. B-1. 5 MRSA §13090-L, sub-§§1, 3, 5 and 7, as amended by PL 2009, c. 470, §1, are further amended to read:

Generally. A visual media production company that intends to undertake a visual
 media production in this State may apply to the department to have the production, or a
 portion of the production, certified under subsection 3 for purposes of the visual media
 production reimbursement pursuant to Title 36, chapter 919-A and the credit under Title
 36, section 5219-Y.

- **3. Requirements for visual media production certificate.** Applications for a
 visual media production certificate must be made on a form prescribed and furnished by
 the department. The applicant must:
- A. Provide the names of the principals involved in the visual media production and contact information for them;
- 24 B. Provide a certificate of insurance for the visual media production;
- 25 C. Provide financial information that demonstrates that the visual media production 26 is fully financed and that at least \$75,000 of visual media production expense will be 27 incurred for the visual media production certified in accordance with this subsection;
- D. Provide data demonstrating that the visual media production will benefit the
 people of the State by increasing opportunities for employment and will strengthen
 the economy of the State;
- E. Agree to include, in the certified visual media production, an on-screen credit for the State of Maine. The exact wording and size of that credit must be determined in rules adopted by the Maine State Film Office and the department. The Maine State Film Office or the department may, at its discretion, exempt visual media productions from this requirement. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter 2-A;
- F. Provide evidence that the visual media production company is not owned by,
 affiliated with or controlled by, in whole or in part, a person that is in default on a
 loan made by the State or a loan guaranteed by the State;
- 40 G. Provide any other information required by the department; and

1 H. Provide a projected schedule for preproduction, production and postproduction of 2 the visual media production that shows that the production will begin within 60 days 3 after certification pursuant to this subsection.

4 To qualify for a visual media production certificate, a visual media production company 5 must demonstrate to the satisfaction of the commissioner that the visual media production company has met, or will meet, the requirements of this subsection. If the department 6 7 determines that the applicant does not qualify for a visual media production certificate, it 8 must inform the applicant of that determination in writing within 4 weeks of receiving the 9 application. As soon as practicable, the department shall issue a visual media production 10 certificate for a visual media production that qualifies. The department shall include with the certificate information regarding the tax credit report under subsection 4 and 11 procedures for claiming reimbursement under Title 36, chapter 919-A and the credit 12 under Title 36, section 5219-Y. 13

5. Department to provide information to State Tax Assessor. The department shall provide to the State Tax Assessor copies of the visual media production certificate issued pursuant to subsection 3, together with any other information reasonably required by the State Tax Assessor for the administration of visual media production reimbursement under Title 36, chapter 919-A and the credit under Title 36, section 5219-Y.

20 7. Report. The Maine State Film Office shall submit a report by January 15th 21 annually to the joint standing committee of the Legislature having jurisdiction over 22 taxation matters regarding the certification and reporting process pursuant to this section 23 and the visual media production tax credit and reimbursement activities pursuant to Title 36, section 5219-Y and Title 36, chapter 919-A. The report must include a description of 24 25 any rule-making activity related to the implementation of the credit and reimbursement activities, outreach efforts to visual media production companies, the number of 26 27 applications for the visual media production eredit and tax reimbursement, the number of 28 eredits and reimbursements granted, the revenue loss associated with the eredit and 29 reimbursement and the amount of visual media production expenses generated in the 30 State as a result of the credit and reimbursement.

Sec. B-2. 36 MRSA §191, sub-§2, ¶MM, as amended by PL 2009, c. 652, Pt. A, §51, is further amended to read:

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- MM. The disclosure to an authorized representative of the Department of Economic and Community Development of information required for the administration of the visual media production credit under section 5219-Y, the employment tax increment financing program under chapter 917, the visual media production reimbursement program under chapter 919-A or the Pine Tree Development Zone program under Title 30-A, chapter 206, subchapter 4;
- 39 Sec. B-3. 36 MRSA §5219-Y, as amended by PL 2011, c. 240, §37, is repealed.
- 40 Sec. B-4. 36 MRSA §6901, sub-§2, as amended by PL 2013, c. 546, §16, is 41 further amended to read:

2. Certified production wages. "Certified production wages" means wages subject 1 2 to withholding under section 5250, subsection 1 that are paid by a visual media 3 production company for work on a certified visual media production, an amount paid to a temporary employee-leasing company for personal services rendered in this State by a 4 leased employee in connection with a certified visual media production, an amount paid 5 6 for the services of a performing artist working in the State in connection with a certified 7 visual media production and other contractual payments for the services of individuals 8 working in the State in connection with a certified visual media production. "Certified 9 production wages" includes only the first \$50,000 \$100,000 paid to or with respect to a particular individual for personal services rendered in connection with a particular 10 certified visual media production. 11

12 Sec. B-5. 36 MRSA §6902, sub-§1, as amended by PL 2011, c. 240, §46, is 13 further amended to read:

14 **1. Generally.** A visual media production company is allowed a reimbursement 15 equal to 12% 25% of certified production wages paid to or with respect to an individual 16 who is a resident of Maine and 10% of certified production wages paid to or with respect 17 to an individual who is not a resident of Maine.

18 Sec. B-6. 36 MRSA §6902, sub-§1-A is enacted to read:

19 1-A. Reimbursement for expenses. A visual media production company is allowed 20 a reimbursement in an amount equal to 20% of its nonwage visual media production expenses incurred with respect to a certified visual media production if the visual media 21 22 production company has visual media production expenses of \$75,000 or more with respect to that certified visual media production. For purposes of this section, "nonwage 23 visual media production expenses" has the same meaning as in Title 5, section 13090-L, 24 subsection 2-A, paragraph F, except that "nonwage visual media production expenses" 25 does not include certified production wages or any amount that would be included in 26 27 certified production wages but for the \$100,000 limit provided by section 6901, 28 subsection 2.

29 Sec. B-7. Contingent effective date. This Part takes effect only if the 30 Department of Administrative and Financial Services, Maine Revenue Services and the 31 Office of Fiscal and Program Review jointly report to the Joint Standing Committee on Taxation that the result of the dynamic fiscal analysis pilot project conducted pursuant to 32 Part A is a positive fiscal impact on state revenue. Maine Revenue Services and the 33 34 Office of Fiscal and Program Review shall provide a copy of their joint report and certify 35 to the Secretary of State and the Office of the Revisor of Statutes the determination as to the positive or negative fiscal impact on state revenue of the pilot project conducted 36 37 pursuant to Part A.

38 Emergency clause. In view of the emergency cited in the preamble, this
 39 legislation takes effect when approved.

SUMMARY

2 Part A of this bill creates a pilot project to develop and evaluate a tax simulation model for state dynamic fiscal analysis of potential changes to the certified visual media 3 4 production credit established in the Maine Revised Statutes. Title 36, section 5219-Y and the visual media production reimbursement established in Title 36, section 6902. The 5 6 Department of Economic and Community Development may enter into a memorandum 7 of understanding with the University of Maine to conduct the pilot project. The 8 Department of Administrative and Financial Services, Maine Revenue Services and the 9 Office of Fiscal and Program Review are required to evaluate the findings of the pilot project and to jointly report to the Joint Standing Committee on Taxation whether the 10 proposed changes to the visual media production credit and reimbursement would result 11 12 in a negative or positive fiscal impact.

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Part B of this bill repeals the certified visual media production credit and instead increases the reimbursement amount for certified production wages paid from 12% to 25% for residents of Maine, increases the cap on the reimbursement of wages from \$50,000 to \$100,000 and provides for a reimbursement of 20% of nonwage visual media production expenses. These changes take effect only if the result of the joint finding of Maine Revenue Services and the Office of Fiscal and Program Review is that the changes proposed in this Part would result in a positive fiscal impact on state revenue.