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TAXATION

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STATE OF MAINE
SENATE
128TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to S.P. 501, L.D. 1450, Bill, "An Act To Promote Workforce Development and Provide an Economic Stimulus for Maine-based Filmmakers and Supporting Businesses"

Amend the bill by striking out all of section 2 and inserting the following:

'Sec. 2. 5 MRSA §13090-L, sub-§2-A, ¶F, as enacted by PL 2009, c. 470, §1, is amended to read:

F. "Visual media production expense" means an expense directly incurred in this State for preproduction, production or postproduction of a visual media production certified under this section. "Visual media production expense" includes wages and salaries of individuals employed in the production on which taxes have been paid or accrued if those wages do not exceed \$50,000 per individual and payments to a temporary employee-leasing company, as defined in Title 36, section 6901, subsection 3-A, and other contractual payments for the services of individuals working in the State if those payments do not exceed \$50,000 per individual providing services in the production. "Visual media production expense" includes the cost of construction; operations; editing and related services; music, photography and film processing, including transferring film to tape or a digital format; sound recording, mixing and synchronization; lighting, makeup, wardrobe and accessories; transportation, not including airfare; food and lodging for cast members and crew; insurance and bonding; and the rental of facilities and equipment, including location fees. "Visual media production expense" does not include expenses incurred in marketing or advertising a visual media production or in printing or disseminating a visual media production. "Visual media production expense" does not include wages paid to a qualified employee of a qualified business pursuant to Title 36, chapter 917.'

Amend the bill in section 3 in subsection 3 in paragraph C in the 2nd line (page 1, line 39 in L.D.) by striking out the following: "\$75,000" and inserting the following: '\$75,000 \$25,000'

Amend the bill in section 3 in subsection 3 by striking out all of paragraphs G to I (page 2, lines 13 to 17 in L.D.) and inserting the following:

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- 1 'G. Provide any other information required by the department; and
2 H. Provide a projected schedule for preproduction, production and postproduction of
3 the visual media production that shows that ~~the production~~ principal photography will
4 begin within ~~60~~ 120 days after certification pursuant to this subsection.'

5 Amend the bill in section 3 in the blocked paragraph in the 3rd to last line (page 2,
6 line 25 in L.D.) by striking out the following "~~47~~" and inserting the following: '4'

7 Amend the bill by striking out all of section 4 and inserting the following:

8 '**Sec. 4. 5 MRSA §13090-L, sub-§4**, as amended by PL 2011, c. 285, §1, is
9 further amended to read:

10 **4. Certified visual media production report.** No later than ~~4~~ 10 weeks after
11 completion of a certified visual media production, the visual media production company
12 shall report, in a format specified by the Maine State Film Office or the department, its
13 compliance with the requirements of subsection 3 with respect to the certified visual
14 media production to the Maine State Film Office.'

15 Amend the bill by striking out all of sections 9 to 14 and inserting the following:

16 '**Sec. 9. 36 MRSA §6901, sub-§§8 to 14** are enacted to read:

17 **8. Above-the-line personnel.** "Above-the-line personnel" means producers,
18 directors, writers and cast members.

19 **9. Below-the-line personnel.** "Below-the-line personnel" means an individual
20 employed by a visual media production company who is not above-the-line personnel,
21 including production and postproduction staff and supporting cast members and extras.

22 **10. Cast member.** "Cast member" means a performer in a visual media production
23 who has been assigned 5 or more speaking lines or, in the case of a nonspeaking role, is
24 featured in at least 2 scenes reacting to the events of the ongoing narrative or being
25 addressed by another performer.

26 **11. Extra.** "Extra" means a nonstarring cast member who appears in a nonspeaking
27 or nonsinging capacity, usually in the background, of a visual media production.

28 **12. Principal photography.** "Principal photography" means the days when the
29 visual media production is being filmed, shot or recorded. "Principal photography" does
30 not include days used for preproduction or postproduction.

31 **13. Supporting cast member.** "Supporting cast member" means a performer in a
32 visual media production who has been assigned less than 5 speaking lines.

33 **14. Visual media production expense.** "Visual media production expense" has the
34 same meaning as in Title 5, section 13090-L, subsection 2-A, paragraph F.

35 **Sec. 10. 36 MRSA §6902, sub-§1**, as amended by PL 2011, c. 240, §46, is
36 repealed and the following enacted in its place:

37 **1. Reimbursement of visual media production expenses.** A visual media
38 production company is allowed a reimbursement equal to 25% of all visual media
39 production expenses, with the exception of wages, incurred with respect to a certified
40 visual media production if the visual media production company has visual media

1 production expenses of \$25,000 or more with respect to that certified visual media
2 production. A visual media production company is also allowed a reimbursement equal
3 to 25% of certified production wages paid to or with respect to an individual who is a
4 resident of Maine and 20% of certified production wages paid to or with respect to an
5 individual who is not a resident of Maine. To qualify for reimbursement pursuant to this
6 subsection:

7 A. At least 25% of the above-the-line personnel used in the certified visual media
8 production, not including principal actors, employed by the visual media production
9 company must be residents of Maine;

10 B. At least 50% of the below-the-line personnel used in the certified visual media
11 production, not including extras, employed by the visual media production company
12 must be residents of Maine; and

13 C. The visual media production company must provide to the assessor receipts
14 verifying the information reported to the Maine State Film Office under Title 5,
15 section 13090-L, subsection 4. The visual media production company must also
16 provide, if requested by the assessor, further details, including line-item analysis, for
17 each visual media production expense in order to determine its legitimacy.

18 The reimbursement of visual media production expenses authorized by this section may
19 not exceed \$750,000 per certified visual media production, except that the reimbursement
20 may not exceed \$250,000 per episode in the case of a television series and total annual
21 reimbursement of an individual television series may not exceed 10 episodes per season.

22 **Sec. 11. 36 MRSA §6902, sub-§2**, as amended by PL 2009, c. 470, §7, is further
23 amended to read:

24 **2. Procedure for reimbursement.** ~~Within 6 weeks following submission of the~~
25 ~~certified visual media production report pursuant to Title 5, section 13090 L, subsection 4~~
26 10 weeks after the completion of a certified visual media production, a visual media
27 production company shall report to the State Tax Assessor that portion of ~~certified~~
28 ~~production wages~~ visual media production expenses paid for the certified visual media
29 production, together with any additional information the assessor or the Maine State Film
30 Office may reasonably require. The assessor shall certify to the State Controller the
31 amounts to be transferred to the visual media production reimbursement account
32 established, maintained and administered by the State Controller from General Fund
33 undedicated revenue within the withholding tax category. The assessor shall pay those
34 amounts to each visual media production company within 90 days of the receipt by the
35 assessor of the visual media production company's complete report.'

36 Amend the bill in section 15 in subsection 4 in the first line (page 5, line 13 in L.D.)
37 by striking out the following: "claiming a credit under section 5219-W" and inserting the
38 following: 'that is a qualified Pine Tree Development Zone business certified under Title
39 30-A, section 5250-O'

40 Amend the bill by adding after section 15 the following:

41 '**Sec. 16. Application.** This Act applies to visual media productions certified by
42 the Department of Economic and Community Development on or after the effective date
43 of this Act.'

1 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
2 section number to read consecutively.

3 **SUMMARY**

4 This amendment makes changes to certain provisions in the bill regarding visual
5 media production reimbursement.

6 1. It removes the increase in the bill in the cap on wages that can be included as a
7 visual media production expense and excludes wages that are subject to reimbursement
8 under the Maine Employment Tax Increment Financing Program.

9 2. It removes airfare as a reimbursable visual media production expense.

10 3. It deletes a provision in the bill that requires an applicant for reimbursement to be
11 a resident of the State.

12 4. It reduces the minimum amount that a production company must spend to qualify
13 for reimbursement from \$75,000 to \$25,000.

14 5. It provides that reimbursement for certified production wages is equal to 25% with
15 respect to a resident of the State and 20% with respect to an individual who is not a
16 resident of the State.

17 6. It eliminates from the bill provisions requiring that certain percentages of
18 production expenses must occur in the State.

19 7. It retains provisions in current law requiring a visual media production company
20 to report certain information to the Maine State Film Office following completion of the
21 production and deletes reporting requirements added by the bill.

22 8. It provides that a taxpayer that is certified as a Pine Tree Development Zone
23 business is not eligible for reimbursement.

24 9. It provides that the changes made by the legislation apply to visual media
25 productions that are certified by the Department of Economic and Community
26 Development on or after the effective date of the Act.

27 10. It adds definitions necessary for administration of the proposed changes.

28 **FISCAL NOTE REQUIRED**

29 **(See attached)**