

FIRST REGULAR SESSION

SENATE BILL NO. 52

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR ESLINGER.

0989S.02I

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 135.750, RSMo, and to enact in lieu thereof one new section relating to tax credits for the production of certain entertainment.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 135.750, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 135.750,
3 to read as follows:

135.750. 1. **This section shall be referred to as the**
2 **"Show MO Act".**

3 2. As used in this section, the following terms mean:

4 (1) **["Highly compensated individual", any individual**
5 **who receives compensation in excess of one million dollars**
6 **in connection with a single qualified film production**
7 **project]"Above-the-line individual", any individual hired or**
8 **credited on screen for a qualified motion media production**
9 **project as any type of producer, principal cast that is at a**
10 **screen actors guild schedule f and above payment rate,**
11 **screenwriter, and the director;**

12 (2) **"Qualified [film]motion media production project",**
13 **any film[, video, commercial, or television production]or**
14 **series production, including videos, commercials, video**
15 **games, webisodes, music videos, content-based mobile**
16 **applications, virtual reality, augmented reality, multi-**
17 **media, and new media, as well as standalone visual effects**
18 **and post-production for such motion media production**

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 **project**, as approved by the department of economic
20 development and the office of the Missouri film commission,
21 **that features a statement and logo designated by the**
22 **department of economic development in the credits of the**
23 **completed production indicating that the project was filmed**
24 **in Missouri and** that is under thirty minutes in length with
25 [an] expected [in-state expenditure budget]**qualifying**
26 **expenses** in excess of fifty thousand dollars[,] or [that] is
27 over thirty minutes in length with [an] expected [in-state
28 expenditure budget]**qualifying expenses** in excess of one
29 hundred thousand dollars. Regardless of the production
30 costs, "qualified [film production]**motion media** project"
31 shall not include any:

- 32 (a) News or current events programming;
- 33 (b) Talk show;
- 34 (c) Production produced primarily for industrial,
35 corporate, or institutional purposes, and for internal use;
- 36 (d) Sports event or sports program;
- 37 (e) Gala presentation or awards show;
- 38 (f) Infomercial or any production that directly
39 solicits funds;
- 40 (g) Political ad;
- 41 (h) Production that is considered obscene, as defined
42 in section 573.010;

43 (3) "Qualifying expenses", the sum of the total amount
44 spent in this state for the following by a production
45 company in connection with a qualified [film]**motion media**
46 production project:

- 47 (a) Goods and services leased or purchased by the
48 production company. For goods with a purchase price of
49 twenty-five thousand dollars or more, the amount included in
50 qualifying expenses shall be the purchase price less the

51 fair market value of the goods at the time the production is
52 completed;

53 (b) Compensation and wages paid by the production
54 company on which the production company remitted withholding
55 payments to the department of revenue under chapter 143.

56 For purposes of this section, compensation and wages [shall
57 not include any amounts paid to a highly compensated
58 individual] **paid to all above-the-line individuals shall be
59 limited to twenty-five percent of the overall qualifying
60 expenses;**

61 (4) "Tax credit", a credit against the tax otherwise
62 due under chapter 143, excluding withholding tax imposed by
63 sections 143.191 to 143.265, or otherwise due under chapter
64 148;

65 (5) "Taxpayer", any individual, partnership, or
66 corporation as described in section 143.441, 143.471, or
67 section 148.370 that is subject to the tax imposed in
68 chapter 143, excluding withholding tax imposed by sections
69 143.191 to 143.265, or the tax imposed in chapter 148 or any
70 charitable organization which is exempt from federal income
71 tax and whose Missouri unrelated business taxable income, if
72 any, would be subject to the state income tax imposed under
73 chapter 143.

74 **[2. For all taxable years beginning on or after**
75 **January 1, 1999, but ending on or before December 31, 2007,**
76 **a taxpayer shall be granted a tax credit for up to fifty**
77 **percent of the amount of investment in production or**
78 **production-related activities in any film production project**
79 **with an expected in-state expenditure budget in excess of**
80 **three hundred thousand dollars. For all taxable years**
81 **beginning on or after January 1, 2008, a taxpayer shall be**
82 **allowed a tax credit for up to thirty-five percent of the**

83 amount of qualifying expenses in a qualified film production
84 project. Each film production company shall be limited to
85 one qualified film production project per year.]

86 3. (1) For all tax years beginning on or after
87 January 1, 2023, a taxpayer shall be allowed a tax credit
88 equal to twenty percent of qualifying expenses.

89 (2) An additional five percent may be earned for
90 qualifying expenses if at least fifty percent of the
91 qualified motion media production project is filmed in
92 Missouri.

93 (3) An additional five percent may be earned for
94 qualifying expenses if at least fifteen percent of the
95 qualified motion media production project that is filmed in
96 Missouri takes place in a rural or blighted area in Missouri.

97 (4) An additional five percent may be earned for
98 qualifying expenses if at least three departments of the
99 qualified motion media production hire a Missouri resident
100 ready to advance to the next level in a specialized craft
101 position or learn a new skillset.

102 (5) An additional five percent may be earned for
103 qualifying expenses if the department of economic
104 development determines that the script of the qualified
105 motion media production project positively markets a city or
106 region of the state, the entire state, or a tourist
107 attraction located in the state, and the qualified motion
108 media production provides no less than five high resolution
109 photographs containing cast with the rights cleared for
110 promotional use by the Missouri film commission, accompanied
111 by a list with the title of production, location, names, and
112 titles of the individuals shown in the photography and
113 photographer credit.

(6) The total dollar amount of tax credits authorized pursuant to subdivision (1) of this subsection shall be increased by ten percent for qualified film production projects located in a county of the second, third, or fourth classification.

(7) Activities qualifying a taxpayer for the tax credit pursuant to this subsection shall be approved by the office of the Missouri film commission and the department of economic development.

4. A qualified motion media production project shall not be eligible for tax credits pursuant to this section unless such project employs the following number of Missouri registered apprentices or veterans residing in Missouri with transferable skills:

(1) If the qualifying expenses are less than five million dollars, two;

(2) If the qualifying expenses are at least five million dollars but less than ten million dollars, three;

(3) If the qualifying expenses are at least ten million dollars but less than fifteen million dollars, six;
or

(4) If the qualifying expenses are at least fifteen million dollars, eight.

[3.]5. Taxpayers shall apply for the [film]motion media production tax credit by submitting an application to the department of economic development, on a form provided by the department. As part of the application, the expected [in-state expenditures]qualifying expenses of the qualified [film]motion media production project shall be documented. In addition, the application shall include an economic impact statement, showing the economic impact from the activities of the [film]qualified motion media production

project. Such economic impact statement shall indicate the impact on the region of the state in which the **[film]qualified motion media** production or production-related activities are located and on the state as a whole. **Final applications shall be accompanied by a report by a certified public accountant located and licensed by the state of Missouri, prepared at the expense of the applicant, attesting that the amounts in the final application are qualifying expenses.**

[4.]6. **[For all taxable years ending on or before December 31, 2007, tax credits certified pursuant to subsection 2 of this section shall not exceed one million dollars per taxpayer per year, and shall not exceed a total for all tax credits certified of one million five hundred thousand dollars per year.]** For all **[taxable]tax** years beginning on or after January 1, **[2008]2023, the total amount of** tax credits **[certified under subsection 1 of]****authorized by** this section **for film production** shall not exceed a total **[for all tax credits certified]** of **[four]eight** million **[five hundred thousand]** dollars per year, **and the total amount of all tax credits authorized by this section for series production shall not exceed a total of eight million dollars per year.** Taxpayers may carry forward unused credits for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the **[film]qualified motion media** production or production-related activities for which the credits are certified by the department occurred.

[5.]7. Notwithstanding any provision of law to the contrary, any taxpayer may sell, assign, exchange, convey or otherwise transfer tax credits allowed in subsection **[2]3** of this section. The taxpayer acquiring the tax credits may

use the acquired credits to offset the tax liabilities otherwise imposed by chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or chapter 148. Unused acquired credits may be carried forward for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the **[film]qualified motion media** production or production-related activities for which the credits are certified by the department occurred.

[6.]8. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the **[new]** program authorized under this section shall automatically sunset **[six years after November 28, 2007]****on December 31, 2029**, unless

reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset **on December thirty-first**, twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset; **and**

(4) **The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to redeem tax credits authorized on or before the date the program authorized pursuant to this section expires, or a taxpayer's ability to redeem such tax credits.**

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