

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 928

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.

A handwritten signature in black ink that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative PICCHIOTTI of Fairfield.
Cosponsored by Senator WHITEMORE 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

3 **Whereas,** Resolve 2011, chapter 114 required the Department of Administrative and
4 Financial Services, Bureau of Revenue Services to develop a pilot project for a tax
5 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

13 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
14 the meaning of the Constitution of Maine and require the following legislation as
15 immediately necessary for the preservation of the public peace, health and safety; now,
16 therefore,

17 **Be it enacted by the People of the State of Maine as follows:**

18 **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
22 tax simulation model for state dynamic fiscal analysis, which is analysis to estimate the
23 effect a change in the tax laws would have on state revenue as well as the fiscal impact of
24 the changes in taxpayer behavior and overall economic activity that may occur due to the
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
28 media production credit established in the Maine Revised Statutes, Title 36, section
29 5219-Y and the visual media production reimbursement established in Title 36, section
30 6902. The Department of Administrative and Financial Services, Maine Revenue
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
35 media production credit and the visual media production reimbursement. The
36 memorandum of understanding must include a completion date of August 1, 2017 and a
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
4 section 1 and submit a joint report to the Joint Standing Committee on Taxation that
5 includes the findings of the evaluation and a determination of whether the changes
6 proposed in this Act to the certified visual media production credit and the visual media
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.

11 **PART B**

12 **Sec. B-1. 5 MRSA §13090-L, sub-§§1, 3, 5 and 7,** as amended by PL 2009, c.
13 470, §1, are further amended to read:

14 **1. Generally.** A visual media production company that intends to undertake a visual
15 media production in this State may apply to the department to have the production, or a
16 portion of the production, certified under subsection 3 for purposes of the visual media
17 production reimbursement pursuant to Title 36, chapter 919-A ~~and the credit under Title~~
18 ~~36, section 5219-Y.~~

19 **3. Requirements for visual media production certificate.** Applications for a
20 visual media production certificate must be made on a form prescribed and furnished by
21 the department. The applicant must:

22 A. Provide the names of the principals involved in the visual media production and
23 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;

28 D. Provide data demonstrating that the visual media production will benefit the
29 people of the State by increasing opportunities for employment and will strengthen
30 the economy of the State;

31 E. Agree to include, in the certified visual media production, an on-screen credit for
32 the State of Maine. The exact wording and size of that credit must be determined in
33 rules adopted by the Maine State Film Office and the department. The Maine State
34 Film Office or the department may, at its discretion, exempt visual media productions
35 from this requirement. Rules adopted pursuant to this paragraph are routine technical
36 rules as defined in chapter 375, subchapter 2-A;

37 F. Provide evidence that the visual media production company is not owned by,
38 affiliated with or controlled by, in whole or in part, a person that is in default on a
39 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
6 company has met, or will meet, the requirements of this subsection. If the department
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
11 the certificate information regarding the ~~tax credit~~ report under subsection 4 and
12 procedures for claiming reimbursement under Title 36, chapter 919-A ~~and the credit~~
13 ~~under Title 36, section 5219-Y.~~

14 **5. Department to provide information to State Tax Assessor.** The department
15 shall provide to the State Tax Assessor copies of the visual media production certificate
16 issued pursuant to subsection 3, together with any other information reasonably required
17 by the State Tax Assessor for the administration of visual media production
18 reimbursement under Title 36, chapter 919-A ~~and the credit under Title 36, section~~
19 ~~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~~
24 ~~36, section 5219-Y and~~ Title 36, chapter 919-A. The report must include a description of
25 any rule-making activity related to the implementation of the ~~credit and~~ reimbursement
26 activities, outreach efforts to visual media production companies, the number of
27 applications for the visual media production ~~credit and~~ tax reimbursement, the number of
28 ~~credits and~~ reimbursements granted, the revenue loss associated with the ~~credit and~~
29 reimbursement and the amount of visual media production expenses generated in the
30 State as a result of the ~~credit and~~ reimbursement.

31 **Sec. B-2. 36 MRSA §191, sub-§2, ¶MM,** as amended by PL 2009, c. 652, Pt. A,
32 §51, is further amended to read:

33 MM. The disclosure to an authorized representative of the Department of Economic
34 and Community Development of information required for the administration of ~~the~~
35 ~~visual media production credit under section 5219-Y,~~ the employment tax increment
36 financing program under chapter 917, the visual media production reimbursement
37 program under chapter 919-A or the Pine Tree Development Zone program under
38 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:

1 **2. Certified production wages.** "Certified production wages" means wages subject
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
4 temporary employee-leasing company for personal services rendered in this State by a
5 leased employee in connection with a certified visual media production, an amount paid
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
10 particular individual for personal services rendered in connection with a particular
11 certified visual media production.

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 ~~42%~~ 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
21 expenses incurred with respect to a certified visual media production if the visual media
22 production company has visual media production expenses of \$75,000 or more with
23 respect to that certified visual media production. For purposes of this section, "nonwage
24 visual media production expenses" has the same meaning as in Title 5, section 13090-L,
25 subsection 2-A, paragraph F, except that "nonwage visual media production expenses"
26 does not include certified production wages or any amount that would be included in
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
32 Taxation that the result of the dynamic fiscal analysis pilot project conducted pursuant to
33 Part A is a positive fiscal impact on state revenue. Maine Revenue Services and the
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
36 the positive or negative fiscal impact on state revenue of the pilot project conducted
37 pursuant to Part A.

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

1

SUMMARY

2 Part A of this bill creates a pilot project to develop and evaluate a tax simulation
3 model for state dynamic fiscal analysis of potential changes to the certified visual media
4 production credit established in the Maine Revised Statutes, Title 36, section 5219-Y and
5 the visual media production reimbursement established in Title 36, section 6902. The
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
10 project and to jointly report to the Joint Standing Committee on Taxation whether the
11 proposed changes to the visual media production credit and reimbursement would result
12 in a negative or positive fiscal impact.

13 Part B of this bill repeals the certified visual media production credit and instead
14 increases the reimbursement amount for certified production wages paid from 12% to
15 25% for residents of Maine, increases the cap on the reimbursement of wages from
16 \$50,000 to \$100,000 and provides for a reimbursement of 20% of nonwage visual media
17 production expenses. These changes take effect only if the result of the joint finding of
18 Maine Revenue Services and the Office of Fiscal and Program Review is that the changes
19 proposed in this Part would result in a positive fiscal impact on state revenue.