

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE BILL 1144  
Finance Committee Substitute Adopted 6/15/05

Short Title: Film Industry Jobs Incentives.

(Public)

Sponsors:

Referred to:

March 24, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT TO ATTRACT AND RETAIN FILM INDUSTRY JOBS IN THIS STATE  
3 BY PROVIDING FOR A TAX INCENTIVE FOR PRODUCTION COMPANIES  
4 IN THE STATE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Part 1 of Article 4 of Chapter 105 of the General Statutes is  
7 amended by adding a new section to read:

8 "**§ 105-130.47. Credit for qualifying expenses of a production company.**

9 (a) Definitions. – The following definitions apply in this section:

10 (1) Highly compensated individual. – An individual who receives  
11 compensation in excess of one million dollars (\$1,000,000) with  
12 respect to a single production.

13 (2) Qualifying expenses. – The sum of the total amount spent in this State  
14 for the following by a production company in connection with a  
15 production:

16 a. Goods and services purchased by the production company.

17 b. Compensation and wages paid by the production company,  
18 other than amounts paid to a highly compensated individual, on  
19 which the production company remitted withholding payments  
20 to the Department of Revenue under Article 4A of this Chapter.

21 (3) Production company. – Defined in G.S. 105-164.3.

22 (b) Credit. – A taxpayer that is a production company and has qualifying  
23 expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a  
24 production is allowed a credit against the taxes imposed by this Part equal to fifteen  
25 percent (15%) of the production company's qualifying expenses that have been certified  
26 as required in subsection (c) of this section. For the purposes of this section, in the case  
27 of an episodic television series, an entire season of episodes is one production. The  
28 credit is computed based on all of the taxpayer's qualifying expenses incurred with

1 respect to the production, not just the qualifying expenses incurred during the taxable  
2 year.

3 (c) Certification. – In order to be eligible for a credit under this section, a  
4 taxpayer must submit a detailed accounting of its qualifying expenses to the North  
5 Carolina Film Office of the Department of Commerce. The North Carolina Film Office,  
6 with the assistance of the regional film commission for the location of the production,  
7 must make a written certification of the amount of the qualifying expenses.

8 (d) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and  
9 G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this  
10 section does not distribute the credit among any of its owners. The pass-through entity  
11 is considered the taxpayer for purposes of claiming the credit allowed by this section. If  
12 a return filed by a pass-through entity indicates that the entity is paying tax on behalf of  
13 the owners of the entity, the credit allowed under this section does not affect the entity's  
14 payment of tax on behalf of its owners.

15 (e) Return. – A taxpayer may claim the credit allowed by this section on a return  
16 filed for the taxable year in which the production activities are completed. The return  
17 must state the name of the production, a description of the production, and the  
18 certification from the North Carolina Film Office of the qualifying expenses for which  
19 the credit is claimed.

20 (f) Credit Refundable. – If the credit allowed by this section exceeds the amount  
21 of tax imposed by this Part for the taxable year reduced by the sum of all credits  
22 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess  
23 is governed by the provisions governing a refund of an overpayment by the taxpayer of  
24 the tax imposed in this Part. In computing the amount of tax against which multiple  
25 credits are allowed, nonrefundable credits are subtracted before refundable credits.

26 (g) Limitation. – No credit is allowed under this section for any production that  
27 satisfies one of the following conditions:

28 (1) It is political advertising.

29 (2) It is a television production of a news program or sporting event.

30 (3) It contains material that is obscene, as defined in G.S. 14-190.1.

31 (h) Substantiation. – A taxpayer allowed a credit under this section must maintain  
32 and make available for inspection any information or records required by the Secretary  
33 of Revenue or the regional film commissions. The taxpayer has the burden of proving  
34 eligibility for a credit and the amount of the credit.

35 (i) Report. – The Department of Revenue must publish by May 1 of each year  
36 the following information, itemized by taxpayer for the 12-month period ending the  
37 preceding April 1:

38 (1) The location of sites used in a production for which a credit was  
39 claimed.

40 (2) The qualifying expenses for which a credit was claimed, classified by  
41 whether the expenses were for goods, services, or compensation paid  
42 by the production company.

43 (3) The number of people employed in the State with respect to credits  
44 claimed.

1           (4) The total cost to the General Fund of the credits claimed.

2           (j) Sunset. – This section is repealed for qualifying expenses occurring on or  
3 after January 1, 2010."

4           **SECTION 2.** Part 2 of Article 4 of Chapter 105 of the General Statutes is  
5 amended by adding a new section to read:

6 **"§ 105-151.29. Credit for qualifying expenses of a production company.**

7           (a) Definitions. – The following definitions apply in this section:

8           (1) Highly compensated individual. – An individual who receives  
9 compensation in excess of one million dollars (\$1,000,000) with  
10 respect to a single production.

11           (2) Qualifying expenses. – The sum of the total amount spent in this State  
12 for the following by a production company in connection with a  
13 production:

14           a. Goods and services purchased by the production company.

15           b. Compensation and wages paid by the production company,  
16 other than amounts paid to a highly compensated individual, on  
17 which the production company remitted withholding payments  
18 to the Department of Revenue under Article 4A of this Chapter.

19           (3) Production company. – Defined in G.S. 105-164.3.

20           (b) Credit. – A taxpayer that is a production company and has qualifying  
21 expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a  
22 production is allowed a credit against the taxes imposed by this Part equal to fifteen  
23 percent (15%) of the production company's qualifying expenses that have been certified  
24 as required in subsection (c) of this section. For the purposes of this section, in the case  
25 of an episodic television series, an entire season of episodes is one production. The  
26 credit is computed based on all of the taxpayer's qualifying expenses incurred with  
27 respect to the production, not just the qualifying expenses incurred during the taxable  
28 year.

29           (c) Certification. – In order to be eligible for a credit under this section, a  
30 taxpayer must submit a detailed accounting of its qualifying expenses to the North  
31 Carolina Film Office of the Department of Commerce. The North Carolina Film Office,  
32 with the assistance of the regional film commission for the location of the production,  
33 must make a written certification of the amount of the qualifying expenses.

34           (d) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and  
35 G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this  
36 section does not distribute the credit among any of its owners. The pass-through entity  
37 is considered the taxpayer for purposes of claiming the credit allowed by this section. If  
38 a return filed by a pass-through entity indicates that the entity is paying tax on behalf of  
39 the owners of the entity, the credit allowed under this section does not affect the entity's  
40 payment of tax on behalf of its owners.

41           (e) Return. – A taxpayer may claim the credit allowed by this section on a return  
42 filed for the taxable year in which the production activities are completed. The return  
43 must state the name of the production, a description of the production, and the

1 certification from the North Carolina Film Office of the qualifying expenses for which  
2 the credit is claimed.

3 (f) Credit Refundable. – If the credit allowed by this section exceeds the amount  
4 of tax imposed by this Part for the taxable year reduced by the sum of all credits  
5 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess  
6 is governed by the provisions governing a refund of an overpayment by the taxpayer of  
7 the tax imposed in this Part. In computing the amount of tax against which multiple  
8 credits are allowed, nonrefundable credits are subtracted before refundable credits.

9 (g) Limitation. – No credit is allowed under this section for any production that  
10 satisfies one of the following conditions:

11 (1) It is political advertising.

12 (2) It is a television production of a news program or sporting event.

13 (3) It contains material that is obscene, as defined in G.S. 14-190.1.

14 (h) Substantiation. – A taxpayer allowed a credit under this section must maintain  
15 and make available for inspection any information or records required by the Secretary  
16 of Revenue or the regional film commissions. The taxpayer has the burden of proving  
17 eligibility for a credit and the amount of the credit.

18 (i) Report. – The Department of Revenue must publish by May 1 of each year  
19 the following information, itemized by taxpayer for the 12-month period ending the  
20 preceding April 1:

21 (1) The location of sites used in a production for which a credit was  
22 claimed.

23 (2) The qualifying expenses for which a credit was claimed, classified by  
24 whether the expenses were for goods, services, or compensation paid  
25 by the production company.

26 (3) The number of people employed in the State with respect to credits  
27 claimed.

28 (4) The total cost to the General Fund of the credits claimed.

29 (j) Sunset. – This section is repealed for qualifying expenses occurring on or  
30 after January 1, 2010."

31 **SECTION 3.** G.S. 105-259(b) is amended by adding a new subdivision to  
32 read:

33 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State  
34 who has access to tax information in the course of service to or employment by the State  
35 may not disclose the information to any other person unless the disclosure is made for  
36 one of the following purposes:

37 ...

38 (32) To exchange information concerning a tax credit claimed under  
39 G.S. 105-130.47 or G.S. 105-151.29 with the North Carolina Film  
40 Office of the Department of Commerce and with the regional film  
41 commissions."

42 **SECTION 4.** G.S. 143B-434.4 is repealed.

43 **SECTION 5.** This section is effective for taxable years beginning on or after  
44 January 1, 2005.