

1 AMENDMENT TO SENATE BILL 785

2 AMENDMENT NO. _____. Amend Senate Bill 785 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Film Production Services Tax Credit Act.

6 Section 5. Purpose. The General Assembly finds that the
7 Illinois economy is highly vulnerable to other states and
8 nations that have major financial incentive programs targeted
9 to the motion picture industry. Because of the incentive
10 programs of these competitor locations, Illinois must move
11 aggressively with new business development investment tools
12 so that Illinois is more competitive in site location
13 decision-making for film productions. In an increasingly
14 global economy, Illinois' long-term development will benefit
15 from rational, strategic use of State resources in support of
16 film production development and growth. It is the purpose of
17 this Act to preserve and expand the existing human
18 infrastructure for the motion picture industry in Illinois.
19 It shall be the policy of this State to promote and encourage
20 the training and hiring of Illinois residents who represent
21 the diversity of the Illinois population through the creation
22 and implementation of training, education, and recruitment

1 programs organized in cooperation with Illinois colleges and
2 universities, labor organizations, and the motion picture
3 industry.

4 Section 10. Definitions. As used in this Act:

5 "Accredited production" means a film, video, or
6 television production that has been certified by the
7 Department in which the aggregate Illinois labor expenditures
8 included in the cost of the production, in the period that
9 ends 12 months after the time principal filming or taping of
10 the production began, exceed \$100,000 for productions of 30
11 minutes or longer, or \$50,000 for productions of less than 30
12 minutes; but does not include a production that:

13 (1) is news, current events, or public programming,
14 or a program that includes weather or market reports;

15 (2) is a talk show;

16 (3) is a production in respect of a game,
17 questionnaire, or contest;

18 (4) is a sports event or activity;

19 (5) is a gala presentation or awards show;

20 (6) is a finished production that solicits funds;

21 (7) is a production produced by a film production
22 company if records, as required by 18 U.S.C. 2257, are to
23 be maintained by that film production company with
24 respect to any performer portrayed in that single media
25 or multimedia program; or

26 (8) is a production produced primarily for
27 industrial, corporate, or institutional purposes.

28 "Accredited production certificate" means a certificate
29 issued by the Department certifying that the production is an
30 accredited production that meets the guidelines of this Act.

31 "Applicant" means a taxpayer that is a film production
32 company that is operating or has operated an accredited
33 production located within the State of Illinois and that (i)

1 owns the copyright in the accredited production throughout
2 the Illinois production period or (ii) has contracted
3 directly with the owner of the copyright in the accredited
4 production or a person acting on behalf of the owner to
5 provide services for the production, where the owner of the
6 copyright is not an eligible production corporation.

7 "Credit" means the amount equal to 25% of the Illinois
8 labor expenditure approved by the Department. The applicant
9 is deemed to have paid, on its balance due day for the year,
10 an amount equal to 25% of its qualified Illinois Labor
11 expenditure for the tax year.

12 "Department" means the Department of Commerce and
13 Community Affairs.

14 "Director" means the Director of Commerce and Community
15 Affairs.

16 "Illinois labor expenditure" means salary or wages paid
17 to employees of the applicant for services on the accredited
18 production;

19 To qualify as an Illinois labor expenditure, the
20 expenditure must be:

- 21 (1) Reasonable in the circumstances.
- 22 (2) Included in the federal income tax basis of the
23 property.
- 24 (3) Incurred by the applicant for services on or
25 after January 1, 2004.
- 26 (4) Incurred for the production stages of the
27 accredited production, from the final script stage to the
28 end of the post-production stage.
- 29 (5) Limited to the first \$25,000 of wages paid or
30 incurred to each employee of the production.
- 31 (6) Exclusive of the salary or wages paid to or
32 incurred for the 2 highest paid employees of the
33 production.
- 34 (7) Directly attributable to the accredited

1 production.

2 (8) Paid in the tax year for which the applicant is
3 claiming the credit or no later than 60 days after the
4 end of the tax year.

5 (9) Paid to persons resident in Illinois at the
6 time the payments were made.

7 (10) Paid for services rendered in Illinois.

8 Section 15. Powers of the Department. The Department, in
9 addition to those powers granted under the Civil
10 Administrative Code of Illinois, is granted and has all the
11 powers necessary or convenient to carry out and effectuate
12 the purposes and provisions of this Act, including, but not
13 limited to, power and authority to:

14 (a) Adopt rules deemed necessary and appropriate for the
15 administration of the tax credit program; establish forms for
16 applications, notifications, contracts, or any other
17 agreements; and accept applications at any time during the
18 year.

19 (b) Assist applicants pursuant to the provisions of this
20 Act to promote, foster, and support film production and its
21 related job creation or retention within the State.

22 (c) Gather information and conduct inquiries, in the
23 manner and by the methods as it deems desirable, including,
24 without limitation, gathering information with respect to
25 applicants for the purpose of making any designations or
26 certifications necessary or desirable or to gather
27 information to assist the Department with any recommendation
28 or guidance in the furtherance of the purposes of this Act,
29 including, but not limited to, information as to whether the
30 applicant participated in training, education, and
31 recruitment programs that are organized in cooperation with
32 Illinois colleges and universities, labor organizations, and
33 the motion picture industry, and are designed to promote and

1 encourage the training and hiring of Illinois residents who
2 represent the diversity of the Illinois population.

3 (d) Provide for sufficient personnel to permit
4 administration, staffing, operation, and related support
5 required to adequately discharge its duties and
6 responsibilities described in this Act from funds as may be
7 appropriated by the General Assembly for the administration
8 of this Act.

9 (e) Require applicants, upon written request, to issue
10 any necessary authorization to the appropriate federal,
11 state, or local authority for the release of information
12 concerning a project being considered under the provisions of
13 this Act, with the information requested to include, but not
14 be limited to, financial reports, returns, or records
15 relating to the applicant or the accredited production.

16 (f) Require that an applicant must at all times keep
17 proper books of record and account in accordance with
18 generally accepted accounting principles consistently
19 applied, with the books, records, or papers related to the
20 accredited production in the custody or control of the
21 taxpayer open for reasonable Department inspection and
22 audits, and including, without limitation, the making of
23 copies of the books, records, or papers, and the inspection
24 or appraisal of any of the assets of the applicant or the
25 accredited production.

26 (g) Take whatever actions are necessary or appropriate
27 to protect the State's interest in the event of bankruptcy,
28 default, foreclosure, or noncompliance with the terms and
29 conditions of financial assistance or participation required
30 under this Act, including the power to sell, dispose, lease,
31 or rent, upon terms and conditions determined by the Director
32 to be appropriate, real or personal property that the
33 Department may receive as a result of these actions.

1 Section 20. Tax credit awards. Subject to the conditions
2 set forth in this Act, an applicant is entitled to a credit
3 of 25% of the Illinois labor expenditure approved by the
4 Department under Section 40 of this Act.

5 Section 25. Application for certification of accredited
6 production. Any applicant proposing a film or television
7 production located or planned to be located in Illinois may
8 request an accredited production certificate by formal
9 application to the Department.

10 Section 30. Review of application for accredited
11 production certificate.

12 (a) In determining whether to issue an accredited
13 production certificate, the Department must determine that a
14 preponderance of the following conditions exist:

15 (1) The applicant's production intends to make the
16 expenditure in the State required for certification.

17 (2) The applicant's production is economically
18 sound and will benefit the people of the State of
19 Illinois by increasing opportunities for employment and
20 strengthen the economy of Illinois.

21 (3) The applicant's production application includes
22 a provision setting forth the percentage of minority
23 workers that the production company plans to employ,
24 subject to any applicable collective bargaining
25 agreements with a labor organization to which the
26 applicant is a signatory, to perform work on the
27 production. This provision should stress the importance
28 of hiring the percentage of minorities that is set out in
29 the application.

30 (4) The applicant's production application indicates
31 whether the applicant intends to participate in training,
32 education, and recruitment programs that are organized in

1 cooperation with Illinois colleges and universities,
2 labor organizations, and the motion picture industry and
3 are designed to promote and encourage the training and
4 hiring of Illinois residents who represent the diversity
5 of the Illinois population.

6 (5) That, if not for the credit, the applicant's
7 production would not occur in Illinois, which may be
8 demonstrated by any means including, but not limited to,
9 evidence that the applicant has multi-state or
10 international location options and could reasonably and
11 efficiently locate outside of the State, or demonstration
12 that at least one other state or nation is being
13 considered for the production, or evidence that the
14 receipt of the credit is a major factor in the
15 applicant's decision and that without the credit the
16 applicant likely would not create or retain jobs in
17 Illinois, or demonstration that receiving the credit is
18 essential to the applicant's decision to create or retain
19 new jobs in the State.

20 (6) Awarding the credit will result in an overall
21 positive impact to the State, as determined by the
22 Department using the best available data.

23 (b) If any of the provisions in this Section conflict
24 with any existing collective bargaining agreements, the terms
25 and conditions of those collective bargaining agreements
26 shall control.

27 Section 35. Issuance of Tax Credit Certificate.

28 (a) In order to qualify for a tax credit under this Act,
29 an applicant must file an application, on forms prescribed by
30 the Department, providing information necessary to calculate
31 the tax credit, and any additional information as required by
32 the Department.

33 (b) Upon satisfactory review of the application, the

1 Department shall issue a Tax Credit Certificate stating the
2 amount of the tax credit to which the applicant is entitled.

3 Section 40. Amount and duration of the credit. The amount
4 of the credit awarded under this Act is based on the amount
5 of the Illinois labor expenditure approved by the Department
6 for the production. The duration of the credit may not exceed
7 one taxable year.

8 Section 45. Evaluation of tax credit program. The
9 Department shall evaluate the tax credit program. The
10 evaluation must include an assessment of the effectiveness of
11 the program in creating and retaining new jobs in Illinois
12 and of the revenue impact of the program, and may include a
13 review of the practices and experiences of other states or
14 nations with similar programs. Upon completion of this
15 evaluation, the Department shall determine the overall
16 success of the program, and may make a recommendation to
17 extend, modify, or not extend the program based on this
18 evaluation.

19 Section 50. Program terms and conditions. Any documentary
20 materials or data made available or received by any agent or
21 employee of the Department are confidential and are not
22 public records to the extent that the materials or data
23 consist of commercial or financial information regarding the
24 operation of the production of the applicant for or recipient
25 of any tax credit under this Act.

26 Section 90. Repeal. This Act is repealed 1 year after its
27 effective date.

28 Section 905. The Illinois Income Tax Act is amended by
29 adding Section 213 as follows:

1 (35 ILCS 5/213 new)

2 Sec. 213. Film production services credit. For tax years
3 beginning on or after January 1, 2004, a taxpayer who has
4 been awarded a tax credit under the Film Production Services
5 Tax Credit Act is entitled to a credit against the taxes
6 imposed under subsections (a) and (b) of Section 201 of this
7 Act in an amount determined by the Department of Commerce and
8 Community Affairs under the Film Production Services Tax
9 Credit Act. If the taxpayer is a partnership or Subchapter S
10 corporation, the credit is allowed to the partners or
11 shareholders in accordance with the determination of income
12 and distributive share of income under Sections 702 and 704
13 and subchapter S of the Internal Revenue Code. The
14 Department, in cooperation with the Department of Commerce
15 and Community Affairs, must prescribe rules to enforce and
16 administer the provisions of this Section. This Section is
17 exempt from the provisions of Section 250 of this Act.

18 The credit may not be carried forward or back.

19 Section 999. Effective date. This Act takes effect upon
20 becoming law.".