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Date: (Filing No. H- )

**TAXATION**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
127TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 699, L.D. 1004, Bill, “An Act To Provide Incentives To Foster Economic Growth and Build Infrastructure in the State by Encouraging Visual Media Production”

Amend the bill by striking out everything after the title and before the summary and inserting the following:

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

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

**§13090-L. Visual media production and major visual media production certification**

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

**2-A. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Digital media project" means visual and audio content on an electronic, digital medium and created, referred to and distributed electronically. "Digital media project" includes publicly accessible websites, computer multimedia, video and computer games and digital video discs.

B. "Maine State Film Office" means the Maine State Film Office established in the Office of Tourism pursuant to section 13090-I.

1 B-1. "Major visual media production" means a visual media production with an  
2 overall budget, as defined in rules adopted by the department, that is greater than  
3 \$1,000,000.

4 B-2. "Major visual media production company" means a person engaged in the  
5 business of producing a major visual media production.

6 B-3. "Major visual media production expense" means an expense directly incurred in  
7 this State for preproduction, production or postproduction of a major visual media  
8 production certified under this section. "Major visual media production expense"  
9 includes major visual media production wages, payments to a temporary employee-  
10 leasing company, as defined in Title 36, section 6901, subsection 3-A, and other  
11 contractual payments for the services of individuals working in the State. "Major  
12 visual media production expense" includes the cost of construction; operations;  
13 editing and related services; music, photography and film processing, including  
14 transferring film to tape or a digital format; sound recording, mixing and  
15 synchronization; lighting, makeup, wardrobe and accessories; transportation; food  
16 and lodging for cast and crew; insurance and bonding; and the rental of facilities and  
17 equipment, including location fees. "Major visual media production expense" does  
18 not include expenses incurred in marketing or advertising a major visual media  
19 production or in printing or disseminating a major visual media production.

20 B-4. "Major visual media production wages" means wages and salaries paid to  
21 below-the-line personnel on which taxes have been paid or accrued. For purposes of  
22 this paragraph, "below-the-line personnel" means nonstarring cast members and the  
23 technical preproduction, production and postproduction staff of the major visual  
24 media production, including, but not limited to, staff for hair, makeup, wardrobe,  
25 accessories, lighting, rigging, electric, camera operations, photography, composing  
26 and editing, but not including the director, starring cast, writers and producers of the  
27 major visual media production.

28 C. "Person" has the same meaning as in Title 36, section 111, subsection 3.

29 D. "Visual media production" means a single-medium or multimedia feature film,  
30 television show or series, video, digital media project or photographic project  
31 intended for a local, regional, national or international audience and fixed on film,  
32 videotape, computer disk, laser disc or other delivery medium, including the Internet,  
33 that can be viewed or reproduced and that is exhibited in theaters or by individual  
34 television stations or groups of stations, television networks or cable television  
35 stations or via other means or licensed for home viewing or use. "Visual media  
36 production" does not include:

37 (1) A news, current events or public programming show or a program that  
38 includes weather or market reports;

39 (2) A talk show;

40 (3) A sports event or activity;

41 (4) A gala presentation or awards show;

42 (5) A finished production that solicits funds; or

1 (6) A production for which records are required to be maintained by 18 United  
2 States Code, Section 2257.

3 E. "Visual media production company" means a person engaged in the business of  
4 producing a visual media production.

5 F. "Visual media production expense" means an expense directly incurred in this  
6 State for preproduction, production or postproduction work performed in this State of  
7 a visual media production certified under this section. "Visual media production  
8 expense" includes wages and salaries of individuals employed in the production on  
9 which taxes have been paid or accrued if those wages do not exceed \$50,000  
10 ~~\$50,000~~ \$250,000 per individual and payments to a temporary employee-leasing company, as  
11 defined in Title 36, section 6901, subsection 3-A, and other contractual payments for  
12 the services of individuals working in the State if those payments do not exceed  
13 ~~\$50,000~~ \$250,000 per individual providing services in the production. "Visual media  
14 production expense" includes the cost of construction; operations; editing and related  
15 services; music, photography and film processing, including transferring film to tape  
16 or a digital format; sound recording, mixing and synchronization; lighting, makeup,  
17 wardrobe and accessories; transportation; food and lodging for cast and crew;  
18 insurance and bonding; and the rental of facilities and equipment, including location  
19 fees. "Visual media production expense" does not include expenses incurred in  
20 marketing or advertising a visual media production or in printing or disseminating a  
21 visual media production.

22 **3. Requirements for visual media production certificate.** ~~Applications~~ An  
23 application for a visual media production certificate must be made on a form prescribed  
24 and furnished by the department. The applicant ~~must~~ shall:

25 A. Provide the names of the principals involved in the visual media production and  
26 contact information for them;

27 B. Provide a certificate of insurance for the visual media production;

28 C. Provide financial information that demonstrates that the visual media production  
29 is fully financed and that at least \$75,000 of visual media production expense will be  
30 incurred for the visual media production certified in accordance with ~~this~~ subsection  
31 3-B;

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

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

41 F. Provide evidence that the visual media production company is not owned by,  
42 affiliated with or controlled by, in whole or in part, a person that is in default on a  
43 loan made by the State or a loan guaranteed by the State;

- 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 will begin within 60 days  
4 after certification pursuant to ~~this subsection-~~ 3-B;
- 5 I. Provide any information required to demonstrate to the satisfaction of the  
6 commissioner that the visual media production company has met, or will meet, the  
7 requirements of this subsection; and
- 8 J. Agree to pay an administrative fee of 0.2% of the amount of the visual media  
9 production reimbursement allowed pursuant to Title 36, chapter 919-A, but at least  
10 \$200 and no more than \$5,000, and as determined by the State Tax Assessor pursuant  
11 to Title 36, section 6902, subsection 2-A. The administrative fee must be paid after  
12 the visual media production company files the report required by subsection 4 and  
13 before the visual media production company receives the visual media production  
14 reimbursement.
- 15 ~~To qualify for a visual media production certificate, a visual media production company~~  
16 ~~must demonstrate to the satisfaction of the commissioner that the visual media production~~  
17 ~~company has met, or will meet, the requirements of this subsection. If the department~~  
18 ~~determines that the applicant does not qualify for a visual media production certificate, it~~  
19 ~~must inform the applicant of that determination in writing within 4 weeks of receiving the~~  
20 ~~application. As soon as practicable, the department shall issue a visual media production~~  
21 ~~certificate for a visual media production that qualifies. The department shall include with~~  
22 ~~the certificate information regarding the tax credit report under subsection 4 and~~  
23 ~~procedures for claiming reimbursement under Title 36, chapter 919-A and the credit~~  
24 ~~under Title 36, section 5219-Y.~~
- 25 **3-A. Requirements for major visual media production certificate.** An  
26 application for a major visual media production certificate must be made on a form  
27 prescribed and furnished by the department. The applicant shall:
- 28 A. Provide payment for a nonrefundable application fee equal to 0.2% of the  
29 estimated amount of the tax credit for which the major visual media production  
30 company is requesting certification, which may not be less than \$200 or more than  
31 \$5,000;
- 32 B. Provide the names of the principals involved in the major visual media production  
33 and contact information for them;
- 34 C. Provide a certificate of insurance for the major visual media production;
- 35 D. Provide financial information that demonstrates that the major visual media  
36 production is fully financed and has an overall budget that is greater than \$1,000,000  
37 if applying for the 25% credit under Title 36, section 5219-NN, subsection 1;
- 38 E. Provide projections of the number of positions required for the major visual media  
39 production, the number of residents of the State to be employed and the economic  
40 impact on the State;

1 F. Provide evidence that the major visual media production company is not owned  
2 by, affiliated with or controlled by, in whole or in part, a person that is in default on a  
3 loan made by the State or a loan guaranteed by the State;

4 G. Provide a projected schedule for preproduction, production and postproduction of  
5 the major visual media production that shows that the production will begin within 60  
6 days after certification pursuant to subsection 3-B;

7 H. Demonstrate, by certifying in writing, that the major visual media production  
8 would not occur within the State absent the availability of the tax credit for which the  
9 major visual media production company is requesting certification;

10 I. Include, in the certified major visual media production, an on-screen credit for the  
11 State of Maine as described in subsection 3, paragraph E; and

12 J. Provide any information required to demonstrate to the satisfaction of the  
13 commissioner that the major visual media production company has met, or will meet,  
14 the requirements of this subsection.

15 **3-B. Issuance of certificate.** The department shall issue a visual media production  
16 certificate for a visual media production that qualifies under subsection 3 or a major  
17 visual media production certificate for a major visual media production that qualifies  
18 under subsection 3-A within 4 weeks of receipt of the application or deny the application  
19 in writing. The department may deny a certificate for any reason. The department may  
20 not approve a certificate that qualifies a major visual media production for a tax credit  
21 under Title 36, section 5219-NN in excess of the funds appropriated for those purposes.  
22 The department shall include with the certificate information regarding the tax credit  
23 report under subsection 4 and procedures for claiming reimbursement under Title 36,  
24 chapter 919-A and the credit under Title 36, section 5219-NN.

25 **4. Certified report.** No later than 4 weeks after completion of a certified visual  
26 media production or major visual media production, the visual media production  
27 company or major visual media production company shall report, in a format specified by  
28 the Maine State Film Office or the department, its compliance with the requirements of  
29 subsection 3 with respect to the certified visual media production or 3-A to the Maine  
30 State Film Office.

31 **5. Department to provide information to State Tax Assessor.** The department  
32 shall provide to the State Tax Assessor copies of the visual media production certificate  
33 or major visual media production certificate issued pursuant to subsection 3 3-B, together  
34 with any other information reasonably required by the State Tax Assessor for the  
35 administration of visual media production reimbursement under Title 36, chapter 919-A  
36 and the credit under Title 36, section 5219-~~Y~~ 5219-NN.

37 **6. Rulemaking.** The department shall develop rules as necessary to administer this  
38 section in cooperation with the State Tax Assessor. Rules adopted pursuant to this  
39 section are routine technical rules as defined in chapter 375, subchapter 2-A.

40 **7. Report.** The Maine State Film Office shall submit a report by January 15th  
41 annually to the joint standing committee of the Legislature having jurisdiction over  
42 taxation matters regarding the certification and reporting process pursuant to this section  
43 and. The report must include information on the visual media production tax credit and

1 reimbursement activities pursuant to ~~Title 36, section 5219-Y~~ and under Title 36, chapter  
2 919-A and the major visual media production tax credit under Title 36, section 5219-NN.  
3 The report must include a description of any rule-making activity related to the  
4 implementation of the credit and reimbursement activities, outreach efforts to visual  
5 media production companies and major visual media production companies, the number  
6 of applications for the visual media production ~~credit and tax~~ reimbursement, the number  
7 of applications for the major visual media production credit, the number of credits and  
8 reimbursements granted, the revenue loss associated with the ~~credit~~ credits and  
9 ~~reimbursement~~ reimbursements and the amount of visual media production expenses and  
10 major visual media production expenses generated in the State as a result of the ~~credit~~  
11 credits and ~~reimbursement~~ reimbursements.

12 **Sec. 2. 5 MRSA §13090-M, sub-§4, ¶E**, as enacted by PL 2011, c. 372, §1, is  
13 amended to read:

14 E. A signed agreement with the department provides that the project or production  
15 will not be the basis for a claim for ~~an income tax credit under Title 36, section~~  
16 ~~5219-Y~~ or reimbursement under Title 36, chapter 919-A.

17 **Sec. 3. 36 MRSA §191, sub-§2, ¶MM**, as amended by PL 2009, c. 652, Pt. A,  
18 §51, is further amended to read:

19 MM. The disclosure to an authorized representative of the Department of Economic  
20 and Community Development of information required for the administration of the  
21 major visual media production credit under section ~~5219-Y~~ 5219-NN, the  
22 employment tax increment financing program under chapter 917, the visual media  
23 production reimbursement program under chapter 919-A or the Pine Tree  
24 Development Zone program under Title 30-A, chapter 206, subchapter 4;

25 **Sec. 4. 36 MRSA §199-C, sub-§5** is enacted to read:

26 **5. Review of media tax expenditures.** By December 1, 2021, the committee shall  
27 review the income tax credit under section 5219-NN and reimbursement under chapter  
28 919-A for major visual media productions and visual media productions to determine  
29 whether the credit and reimbursement should be retained, repealed or modified. The  
30 committee shall consider information provided by the bureau under section 199-B and by  
31 the Department of Economic and Community Development, Office of Tourism, Maine  
32 State Film Office under Title 5, section 13090-L, subsection 7.

33 **Sec. 5. 36 MRSA §5219-Y**, as amended by PL 2011, c. 240, §37, is repealed.

34 **Sec. 6. 36 MRSA §5219-NN** is enacted to read:

35 **§5219-NN. Certified major visual media production credit**

36 **1. Credit allowed.** A major visual media production company, as defined in Title 5,  
37 section 13090-L, subsection 2-A, paragraph B-2, is allowed a credit against the taxes  
38 imposed by this Part in an amount equal to a percentage of major visual media production  
39 expenses, as defined in Title 5, section 13090-L, subsection 2-A, paragraph B-3, up to  
40 25% of major visual media production expenses.

41 **2. Limitation.** Taxpayers claiming a credit under section 5219-W are not eligible  
42 for the credit under this section. The credit allowed by this section may be used only for

1 the taxable year in which the major visual media production, as defined in Title 5, section  
2 13090-L, subsection 2-A, paragraph B-1, is completed.

3 **3. Refundable.** The credit allowed under this section is fully refundable.

4 **Sec. 7. 36 MRSA §6901, sub-§2,** as amended by PL 2013, c. 546, §16, is further  
5 amended to read:

6 **2. Certified production wages.** "Certified production wages" means wages subject  
7 to withholding under section 5250, subsection 1 that are paid by a visual media  
8 production company for work on a certified visual media production, an amount paid to a  
9 temporary employee-leasing company for personal services rendered in this State by a  
10 leased employee in connection with a certified visual media production, an amount paid  
11 for the services of a performing artist working in the State in connection with a certified  
12 visual media production and other contractual payments for the services of individuals  
13 working in the State in connection with a certified visual media production. "Certified  
14 production wages" includes only the first ~~\$50,000~~ \$250,000 paid to or with respect to a  
15 particular individual for personal services rendered in connection with a particular  
16 certified visual media production.

17 **Sec. 8. 36 MRSA §6901, sub-§§8 and 9** are enacted to read:

18 **8. Below-the-line personnel.** "Below-the-line personnel" means nonstarring cast  
19 members and the technical production and postproduction staff of a visual media  
20 production company.

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

23 **Sec. 9. 36 MRSA §6902, sub-§1,** as amended by PL 2011, c. 240, §46, is  
24 repealed and the following enacted in its place:

25 **1. Reimbursement of certified production wages.** A visual media production  
26 company is allowed a reimbursement equal to 25% of certified production wages paid to  
27 or with respect to below-the-line personnel who are residents of Maine and 15% of  
28 certified production wages paid to or with respect to below-the-line personnel who are  
29 not residents of Maine. To qualify for the reimbursement pursuant to this subsection:

30 A. At least 50% of the below-the-line personnel, not including extras, employed by  
31 the visual media production company must be residents of Maine unless the visual  
32 media production company certifies that a sufficient number of qualified residents of  
33 Maine are not available to meet this requirement; and

34 B. The visual media production expenses, as defined in Title 5, section 13090-L,  
35 subsection 2-A, paragraph F, must exceed 50% of the total production expenses, or at  
36 least 50% of the total principal photography days must occur in the State.

37 **Sec. 10. 36 MRSA §6902, sub-§1-A** is enacted to read:

38 **1-A. Reimbursement of nonwage visual media production expenses.** A visual  
39 media production company is allowed a reimbursement equal to 25% of its nonwage  
40 visual media production expenses incurred with respect to a certified visual media  
41 production if the visual media production company has visual media production expenses  
42 of \$30,000 or more with respect to that certified visual media production. For purposes of

1 this section, "nonwage visual media production expenses" means visual media production  
2 expenses as defined in Title 5, section 13090-L, subsection 2-A, paragraph F, except that  
3 "nonwage visual media production expenses" does not include certified production wages  
4 or any amount that would be included in certified production wages but for the \$250,000  
5 limit provided by section 6901, subsection 2.

6 A. At least 50% of the below-the-line personnel, not including extras, employed by  
7 the visual media production company must be residents of Maine unless the visual  
8 media production company certifies that a sufficient number of qualified residents of  
9 Maine are not available to meet this requirement; and

10 B. The visual media production expenses, as defined in Title 5, section 13090-L,  
11 subsection 2-A, paragraph F, must exceed 50% of the total production expenses, or at  
12 least 50% of the total principal photography days must occur in the State.

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

15 **2. Procedure for reimbursement.** Within 6 weeks following submission of the  
16 certified visual media production report pursuant to Title 5, section 13090-L, subsection  
17 4, a visual media production company shall report to the State Tax Assessor that portion  
18 of certified production wages and its nonwage visual media production expenses paid for  
19 the certified visual media production, together with any additional information the  
20 assessor may reasonably require. The assessor shall certify to the State Controller the  
21 amounts to be transferred to the visual media production reimbursement account  
22 established, maintained and administered by the State Controller from General Fund  
23 undedicated revenue within the withholding tax category. The assessor shall pay those  
24 amounts to each visual media production company within 90 days of the receipt by the  
25 assessor of the visual media production company's ~~report~~ administrative fee, as  
26 determined pursuant to subsection 2-A.

27 **Sec. 12. 36 MRSA §6902, sub-§2-A** is enacted to read:

28 **2-A. Determination of administrative fee.** The assessor shall determine the  
29 amount of the administrative fee under Title 5, section 13090-L, subsection 3, paragraph J  
30 to be paid by the visual media production company. The administrative fee is 0.2% of the  
31 reimbursement amount granted under this section, except that it must be at least \$200 and  
32 no more than \$5,000. The assessor shall inform the visual media production company of  
33 the amount of the administrative fee and the requirement that the administrative fee be  
34 paid prior to payment of the reimbursement.

35 **Sec. 13. 36 MRSA §6902, sub-§4** is enacted to read:

36 **4. Limitation.** A taxpayer claiming a credit under section 5219-W is not eligible for  
37 reimbursement pursuant to this section.

38 **Sec. 14. Application.** That section of this Act that enacts the Maine Revised  
39 Statutes, Title 36, section 5219-NN applies to tax years beginning on or after January 1,  
40 2015.

41 **Sec. 15. Appropriations and allocations.** The following appropriations and  
42 allocations are made.

1 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**  
2 **Revenue Services, Bureau of 0002**

3 Initiative: Provides funding for computer programming costs.

4	<b>GENERAL FUND</b>	<b>2015-16</b>	<b>2016-17</b>
5	All Other	\$11,000	\$0
6			
7	<b>GENERAL FUND TOTAL</b>	<b>\$11,000</b>	<b>\$0</b>
8			

9 **SUMMARY**

10 This amendment removes the emergency preamble and emergency clause from the  
11 bill and adds provisions establishing a refundable income tax credit for a major visual  
12 media production, which is defined as a visual media production with an overall budget  
13 that is greater than \$1,000,000. The credit applies to tax years beginning on or after  
14 January 1, 2015. The amendment also requires the joint standing committee of the  
15 Legislature with jurisdiction over taxation matters to review by December 1, 2021 the  
16 reimbursements and tax credits for visual media production companies and make a  
17 recommendation to the Legislature with regard to retention, repeal or modification of the  
18 provisions. The amendment also adds an appropriations and allocations section.

19 **FISCAL NOTE REQUIRED**

20 **(See attached)**