



Rep. Kenneth Dunkin

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1 AMENDMENT TO HOUSE BILL 2482

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2482 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Film  
5 Production Services Tax Credit Act of 2008.

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 so  
12 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

1 this Act to preserve and expand the existing human  
2 infrastructure for the motion picture industry in Illinois. It  
3 shall be the policy of this State to promote and encourage the  
4 training and hiring of Illinois residents who represent the  
5 diversity of the Illinois population through the creation and  
6 implementation of training, education, and recruitment  
7 programs organized in cooperation with Illinois colleges and  
8 universities, labor organizations, and the motion picture  
9 industry.

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

11 "Accredited production" means: (i) for productions  
12 commencing before May 1, 2006, a film, video, or television  
13 production that has been certified by the Department in which  
14 the aggregate Illinois labor expenditures included in the cost  
15 of the production, in the period that ends 12 months after the  
16 time principal filming or taping of the production began,  
17 exceed \$100,000 for productions of 30 minutes or longer, or  
18 \$50,000 for productions of less than 30 minutes; and (ii) for  
19 productions commencing on or after May 1, 2006, a film, video,  
20 or television production that has been certified by the  
21 Department in which the Illinois production spending included  
22 in the cost of production in the period that ends 12 months  
23 after the time principal filming or taping of the production  
24 began exceeds \$100,000 for productions of 30 minutes or longer  
25 or exceeds \$50,000 for productions of less than 30 minutes.

1 "Accredited production" does not include a production that:

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

4 (2) is a talk show;

5 (3) is a production in respect of a game,  
6 questionnaire, or contest;

7 (4) is a sports event or activity;

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

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

10 (7) is a production produced by a film production  
11 company if records, as required by 18 U.S.C. 2257, are to  
12 be maintained by that film production company with respect  
13 to any performer portrayed in that single media or  
14 multimedia program; or

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

17 "Accredited production certificate" means a certificate  
18 issued by the Department certifying that the production is an  
19 accredited production that meets the guidelines of this Act.

20 "Applicant" means a taxpayer that is a film production  
21 company that is operating or has operated an accredited  
22 production located within the State of Illinois and that (i)  
23 owns the copyright in the accredited production throughout the  
24 Illinois production period or (ii) has contracted directly with  
25 the owner of the copyright in the accredited production or a  
26 person acting on behalf of the owner to provide services for

1 the production, where the owner of the copyright is not an  
2 eligible production corporation.

3 "Credit" means:

4 (1) for an accredited production approved by the  
5 Department on or before January 1, 2005 and commencing  
6 before May 1, 2006, the amount equal to 25% of the Illinois  
7 labor expenditure approved by the Department. The  
8 applicant is deemed to have paid, on its balance due day  
9 for the year, an amount equal to 25% of its qualified  
10 Illinois labor expenditure for the tax year. For Illinois  
11 labor expenditures generated by the employment of  
12 residents of geographic areas of high poverty or high  
13 unemployment, as determined by the Department, in an  
14 accredited production commencing before May 1, 2006 and  
15 approved by the Department after January 1, 2005, the  
16 applicant shall receive an enhanced credit of 10% in  
17 addition to the 25% credit; and

18 (2) for an accredited production commencing on or after  
19 May 1, 2006, the amount equal to:

20 (i) 20% of the Illinois production spending for the  
21 taxable year; plus

22 (ii) 15% of the Illinois labor expenditures  
23 generated by the employment of residents of geographic  
24 areas of high poverty or high unemployment, as  
25 determined by the Department.

26 "Department" means the Department of Commerce and Economic

1 Opportunity.

2 "Director" means the Director of Commerce and Economic  
3 Opportunity.

4 "Illinois labor expenditure" means salary or wages paid to  
5 employees of the applicant for services on the accredited  
6 production;

7 To qualify as an Illinois labor expenditure, the  
8 expenditure must be:

9 (1) Reasonable in the circumstances.

10 (2) Included in the federal income tax basis of the  
11 property.

12 (3) Incurred by the applicant for services on or after  
13 January 1, 2004.

14 (4) Incurred for the production stages of the  
15 accredited production, from the final script stage to the  
16 end of the post-production stage.

17 (5) Limited to the first \$25,000 of wages paid or  
18 incurred to each employee of a production commencing before  
19 May 1, 2006 and the first \$100,000 of wages paid or  
20 incurred to each employee of a production commencing on or  
21 after May 1, 2006.

22 (6) For a production commencing before May 1, 2006,  
23 exclusive of the salary or wages paid to or incurred for  
24 the 2 highest paid employees of the production.

25 (7) Directly attributable to the accredited  
26 production.

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

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

6           (10) Paid for services rendered in Illinois.

7           "Illinois production spending" means the expenses incurred  
8           by the applicant for an accredited production, including,  
9           without limitation, all of the following:

10           (1) expenses to purchase, from vendors within  
11           Illinois, tangible personal property that is used in the  
12           accredited production;

13           (2) expenses to acquire services, from vendors in  
14           Illinois, for film production, editing, or processing; and

15           (3) the compensation, not to exceed \$100,000 for any  
16           one employee, for contractual or salaried employees who are  
17           Illinois residents performing services with respect to the  
18           accredited production.

19           "Qualified production facility" means stage facilities in  
20           the State in which television shows and films are or are  
21           intended to be regularly produced and that contain at least one  
22           sound stage of at least 15,000 square feet.

23           Section 15. Powers of the Department. The Department, in  
24           addition to those powers granted under the Civil Administrative  
25           Code of Illinois, is granted and has all the powers necessary

1 or convenient to carry out and effectuate the purposes and  
2 provisions of this Act, including, but not limited to, power  
3 and authority to:

4 (a) Adopt rules deemed necessary and appropriate for the  
5 administration of the tax credit program; establish forms for  
6 applications, notifications, contracts, or any other  
7 agreements; and accept applications at any time during the  
8 year.

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

12 (c) Gather information and conduct inquiries, in the manner  
13 and by the methods as it deems desirable, including any  
14 information required for the Department to comply with Section  
15 45 and, without limitation, gathering information with respect  
16 to applicants for the purpose of making any designations or  
17 certifications necessary or desirable or to gather information  
18 to assist the Department with any recommendation or guidance in  
19 the furtherance of the purposes of this Act, including, but not  
20 limited to, information as to whether the applicant  
21 participated in training, education, and recruitment programs  
22 that are organized in cooperation with Illinois colleges and  
23 universities, labor organizations, and the motion picture  
24 industry, and are designed to promote and encourage the  
25 training and hiring of Illinois residents who represent the  
26 diversity of the Illinois population.

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

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

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

23           (g) Take whatever actions are necessary or appropriate to  
24 protect the State's interest in the event of bankruptcy,  
25 default, foreclosure, or noncompliance with the terms and  
26 conditions of financial assistance or participation required



1 under this Act, including the power to sell, dispose, lease, or  
2 rent, upon terms and conditions determined by the Director to  
3 be appropriate, real or personal property that the Department  
4 may receive as a result of these actions.

5 Section 20. Tax credit awards. Subject to the conditions  
6 set forth in this Act, an applicant is entitled to a credit as  
7 approved by the Department under Section 40 of this Act.

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

13 Section 30. Review of application for accredited  
14 production certificate.

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

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

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

1           (3) The applicant has filed a diversity plan with the  
2 Department outlining specific goals (i) for hiring  
3 minority persons and females, as defined in the Business  
4 Enterprise for Minorities, Females, and Persons with  
5 Disabilities Act, and (ii) for using vendors receiving  
6 certification under the Business Enterprise for  
7 Minorities, Females, and Persons with Disabilities Act;  
8 the Department has approved the plan as meeting the  
9 requirements established by the Department; and the  
10 Department has verified that the applicant has met or made  
11 good-faith efforts in achieving those goals. The  
12 Department must adopt any rules that are necessary to  
13 ensure compliance with the provisions of this item (3) and  
14 that are necessary to require that the applicant's plan  
15 reflects the diversity of this State.

16           (4) The applicant's production application indicates  
17 whether the applicant intends to participate in training,  
18 education, and recruitment programs that are organized in  
19 cooperation with Illinois colleges and universities, labor  
20 organizations, and the motion picture industry and are  
21 designed to promote and encourage the training and hiring  
22 of Illinois residents who represent the diversity of the  
23 Illinois population.

24           (5) That, if not for the credit, the applicant's  
25 production would not occur in Illinois, which may be  
26 demonstrated by any means including, but not limited to,

1 evidence that the applicant has multi-state or  
2 international location options and could reasonably and  
3 efficiently locate outside of the State, or demonstration  
4 that at least one other state or nation is being considered  
5 for the production, or evidence that the receipt of the  
6 credit is a major factor in the applicant's decision and  
7 that without the credit the applicant likely would not  
8 create or retain jobs in Illinois, or demonstration that  
9 receiving the credit is essential to the applicant's  
10 decision to create or retain new jobs in the State.

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

14 (b) If any of the provisions in this Section conflict with  
15 any existing collective bargaining agreements, the terms and  
16 conditions of those collective bargaining agreements shall  
17 control.

18 Section 35. Issuance of Tax Credit Certificate.

19 (a) In order to qualify for a tax credit under this Act, an  
20 applicant must file an application, on forms prescribed by the  
21 Department, providing information necessary to calculate the  
22 tax credit, and any additional information as required by the  
23 Department.

24 (b) Upon satisfactory review of the application, the  
25 Department shall issue a Tax Credit Certificate stating the

1 amount of the tax credit to which the applicant is entitled.

2 Section 40. Amount and duration of the credit. The amount  
3 of the credit awarded under this Act is based on the amount of  
4 the Illinois labor expenditure and Illinois production  
5 spending approved by the Department for the production as set  
6 forth under Section 10. The duration of the credit may not  
7 exceed one taxable year.

8 Section 43. Training programs for skills in critical  
9 demand. To accomplish the purposes of this Act, the Department  
10 may use the training programs provided for Illinois under  
11 Section 605-800 of the Department of Commerce and Economic  
12 Opportunity Law of the Civil Administrative Code of Illinois.

13 Section 45. Evaluation of tax credit program; reports to  
14 the General Assembly.

15 (a) The Department shall evaluate the tax credit program.  
16 The evaluation must include an assessment of the effectiveness  
17 of the program in creating and retaining new jobs in Illinois  
18 and of the revenue impact of the program, and may include a  
19 review of the practices and experiences of other states or  
20 nations with similar programs. Upon completion of this  
21 evaluation, the Department shall determine the overall success  
22 of the program, and may make a recommendation to extend,  
23 modify, or not extend the program based on this evaluation.

1 (b) At the end of each fiscal quarter, the Department must  
2 submit to the General Assembly a report that includes, without  
3 limitation, the following information:

4 (1) the economic impact of the tax credit program,  
5 including the number of jobs created and retained,  
6 including whether the job positions are entry level,  
7 management, talent-related, vendor-related, or  
8 production-related;

9 (2) the amount of film production spending brought to  
10 Illinois, including the amount of spending and type of  
11 Illinois vendors hired in connection with an accredited  
12 production; and

13 (3) an overall picture of whether the human  
14 infrastructure of the motion picture industry in Illinois  
15 reflects the geographical, racial and ethnic, gender, and  
16 income-level diversity of the State of Illinois.

17 (c) At the end of each fiscal year, the Department must  
18 submit to the General Assembly a report that includes, without  
19 limitation, the following information:

20 (1) an identification of each vendor that provided  
21 goods or services that were included in an accredited  
22 production's Illinois production spending;

23 (2) the amount paid to each identified vendor by the  
24 accredited production;

25 (3) for each identified vendor, a statement as to  
26 whether the vendor is a minority owned business or a female

1 owned business, as defined under Section 2 of the Business  
2 Enterprise for Minorities, Females, and Persons with  
3 Disabilities Act; and

4 (4) a description of any steps taken by the Department  
5 to encourage accredited productions to use vendors who are  
6 a minority owned business or a female owned business.

7 Section 50. Program terms and conditions. Any documentary  
8 materials or data made available or received by any agent or  
9 employee of the Department are confidential and are not public  
10 records to the extent that the materials or data consist of  
11 commercial or financial information regarding the operation of  
12 the production of the applicant for or recipient of any tax  
13 credit under this Act.

14 Section 90. Continuation of prior law. This Act replaces  
15 and is intended to be a continuation of the Film Production  
16 Services Tax Credit Act, which was repealed on January 1, 2008.

17 Section 95. Repeal. This Act is repealed on January 1,  
18 2009.

19 Section 905. The Illinois Income Tax Act is amended by  
20 changing Section 213 as follows:

21 (35 ILCS 5/213)

1           Sec. 213. Film production services credit. For tax years  
2 beginning on or after January 1, 2004, a taxpayer who has been  
3 awarded a tax credit under the Film Production Services Tax  
4 Credit Act or under the Film Production Services Tax Credit Act  
5 of 2008 is entitled to a credit against the taxes imposed under  
6 subsections (a) and (b) of Section 201 of this Act in an amount  
7 determined by the Department of Commerce and Economic  
8 Opportunity under those Acts ~~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 and  
12 distributive share of income under Sections 702 and 704 and  
13 Subchapter S of the Internal Revenue Code.

14           A transfer of this credit may be made by the taxpayer  
15 earning the credit within one year after the credit is awarded  
16 in accordance with rules adopted by the Department of Commerce  
17 and Economic Opportunity.

18           The Department, in cooperation with the Department of  
19 Commerce and Economic Opportunity, must prescribe rules to  
20 enforce and administer the provisions of this Section. This  
21 Section is exempt from the provisions of Section 250 of this  
22 Act.

23           The credit may not be carried back. If the amount of the  
24 credit exceeds the tax liability for the year, the excess may  
25 be carried forward and applied to the tax liability of the 5  
26 taxable years following the excess credit year. The credit

1 shall be applied to the earliest year for which there is a tax  
2 liability. If there are credits from more than one tax year  
3 that are available to offset a liability, the earlier credit  
4 shall be applied first. In no event shall a credit under this  
5 Section reduce the taxpayer's liability to less than zero.  
6 (Source: P.A. 93-543, eff. 1-1-04; 94-171, eff. 7-11-05.)

7 Section 999. Effective date. This Act takes effect upon  
8 becoming law.".