

COMMERCE AND ECONOMIC DEVELOPMENT
SENATE AMENDMENTS TO S.B. 1409
(Reference to printed bill)

1 Page 1, strike lines 14 through 28

2 Reletter to conform

3 Line 31, strike "ONE" insert "TWO"; after "HUNDRED" insert "FIFTY"

4 Strike lines 33 through 37,

5 Renumber to conform

6 Strike lines 40 through 46, insert:

7 "3. EMPLOY, EITHER DIRECTLY OR THROUGH ITS AUTHORIZED PAYROLL SERVICE
8 COMPANY, RESIDENTS OF THIS STATE FOR AT LEAST TWENTY-FIVE PER CENT OF ITS
9 FULL-TIME EMPLOYMENT POSITIONS IN THIS STATE.

10 4. AT ITS EXPENSE, ENTER INTO A LIMITED MANAGED AUDIT AGREEMENT
11 PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN AUDIT OF ITS
12 PRODUCTION COSTS AND OTHER REQUIREMENTS PRESCRIBED BY THIS SECTION TO CONFIRM
13 THE AMOUNT OF ANY CREDIT UNDER THIS SECTION. THE AUDIT MUST BE CONDUCTED BY
14 THE TAXPAYER'S AUTHORIZED REPRESENTATIVE, AS DEFINED IN SECTION 42-2301, WHO
15 IS AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE
16 CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS
17 AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE PRODUCTION
18 COMPANY OR ITS AFFILIATES. IF THE DIRECTOR ACCEPTS THE FINDINGS OF THE AUDIT
19 AND ISSUES A NOTICE OF DETERMINATION PURSUANT TO SECTION 42-2303 AND THE
20 TAXPAYER TIMELY FILES ITS INCOME TAX RETURN WITH THE APPROPRIATE CREDIT CLAIM
21 FORMS, THE CREDIT AMOUNT ACCEPTED IS NOT SUBJECT TO RECAPTURE, DISALLOWANCE,
22 REDUCTION OR DENIAL WITH RESPECT TO THE PRODUCTION COMPANY. THE DIRECTOR'S
23 NOTICE OF DETERMINATION SHALL INCLUDE A WRITTEN CERTIFICATE TO THE TAXPAYER
24 STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT IS NOT SUBJECT TO
25 RECAPTURE. THIS SUBSECTION DOES NOT PROHIBIT THE RECAPTURE OF A CREDIT FROM

1 A PRODUCTION COMPANY IF THE COMPANY FAILED TO DISCLOSE MATERIAL INFORMATION
2 DURING THE AUDIT OR FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE ENGAGED IN AN
3 ACTION THAT PREVENTED AN ACCURATE AUDIT.

4 C. THE AMOUNT OF THE CREDIT WITH RESPECT TO ANY INDIVIDUAL PRODUCTION
5 IS:

6 1. THIRTY PER CENT OF THE QUALIFIED PRODUCTION EXPENDITURES IF THE
7 PRODUCTION COMPANY USES A PRIVATELY FUNDED PRODUCTION FACILITY HAVING A
8 CERTIFIED INFRASTRUCTURE INVESTMENT OF AT LEAST FIFTY MILLION DOLLARS AT THE
9 TIME OF APPLICATION TO THE DEPARTMENT."

10 Reletter to conform

11 Page 2, strike lines 1 through 6

12 Renumber to conform

13 Strike lines 9 through 15, insert:

14 "(a) TWENTY PER CENT OF QUALIFIED PRODUCTION EXPENDITURES OF AT LEAST
15 TWO HUNDRED FIFTY THOUSAND DOLLARS BUT NOT MORE THAN ONE MILLION DOLLARS.

16 (b) TWENTY-FIVE PER CENT OF QUALIFIED PRODUCTION EXPENDITURES OF AT
17 LEAST ONE MILLION DOLLARS."

18 Line 19, strike "MAY VOLUNTARILY" insert "SHALL"

19 Strike lines 33 through 37

20 Reletter to conform

21 Line 41, strike the blank insert "TWENTY MILLION DOLLARS"

22 Strike lines 43 through 46

23 Page 3, strike lines 1 through 19

24 Reletter to conform

25 Line 34, after "DATA" insert "AND OTHER INFORMATION"

26 Line 35, after "SECTION" insert a period; strike remainder of line

27 Strike lines 36 through 41, insert:

28 "J. A PRIVATELY FUNDED PRODUCTION FACILITY SHALL MAINTAIN DATA ON THE
29 NUMBER OF PRODUCTIONS USING ITS FACILITY EACH YEAR AND REPORT THAT
30 INFORMATION TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT
31 OF THE SENATE ON OR BEFORE DECEMBER 31 EACH YEAR."

32 Reletter to conform

1 Page 4, between lines 3 and 4, insert:

2 "M. IF THE DEPARTMENT DETERMINES THAT A CREDIT REFUNDED PURSUANT TO
3 THIS SECTION IS INCORRECT OR INVALID, THE EXCESS CREDIT ISSUED MAY BE TREATED
4 AS A TAX DEFICIENCY PURSUANT TO SECTION 42-1108."

5 Reletter to conform

6 Between lines 4 and 5, insert:

7 "1. "INFRASTRUCTURE INVESTMENT" MEANS EXPENDITURES FOR SOUNDSTAGES AND
8 SUPPORT AND AUGMENTATION FACILITIES THAT ARE CONSTRUCTED IN THIS STATE AND
9 PRIMARILY USED BY A PRODUCTION COMPANY BUT DOES NOT INCLUDE MOTION PICTURE
10 THEATERS AND OTHER COMMERCIAL EXHIBITION FACILITIES."

11 Renumber to conform

12 Line 11, strike "MOTION PICTURES" insert "BY A PRODUCTION COMPANY"

13 Line 37, strike "TEN PER CENT OF" insert "THE"

14 Line 39, after "PURCHASED" insert "FROM A VENDOR LOCATED"

15 Line 41, after "LEASED" insert "FROM A VENDOR LOCATED"

16 Line 42, after "PURCHASED" insert "FROM A VENDOR LOCATED"

17 Line 43, after "LEASED" insert "FROM A LESSEE LOCATED IN THIS STATE"

18 Page 5, between lines 4 and 5, insert:

19 "5. "SOUNDSTAGE" MEANS A PERMANENT FACILITY IN THIS STATE OF ONE OR
20 MORE SETS OR STAGES USED PRIMARILY FOR STAGING AND FILMING BY A PRODUCTION
21 COMPANY AND ANY LAND, PERMANENT BUILDINGS OR CAPITAL EQUIPMENT THAT IS IN OR
22 ADJACENT TO, AND IS NECESSARY FOR THE OPERATION OF, A SOUNDSTAGE.

23 "6. "SUPPORT AND AUGMENTATION FACILITIES" MEANS PERMANENT FACILITIES IN
24 THIS STATE THAT ARE USED TO COMPLEMENT PRODUCTION COMPANY NEEDS AND
25 COMPLEMENT THE PRODUCTION PROCESS."

26 Strike lines 15 through 29

27 Reletter to conform

28 Line 32, strike "ONE" insert "TWO"; after "HUNDRED" insert "FIFTY"

29 Strike lines 34 through 38,

30 Renumber to conform

1 Page 5, strike lines 41 through 44, insert:

2 "3. EMPLOY, EITHER DIRECTLY OR THROUGH ITS AUTHORIZED PAYROLL SERVICE
3 COMPANY, RESIDENTS OF THIS STATE FOR AT LEAST TWENTY-FIVE PER CENT OF ITS
4 FULL TIME EMPLOYMENT POSITIONS IN THIS STATE.

5 4. AT ITS EXPENSE, ENTER INTO A LIMITED MANAGED AUDIT AGREEMENT
6 PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN AUDIT OF ITS
7 PRODUCTION COSTS AND OTHER REQUIREMENTS PRESCRIBED BY THIS SECTION TO CONFIRM
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11 CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS
12 AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE PRODUCTION
13 COMPANY OR ITS AFFILIATES. IF THE DIRECTOR ACCEPTS THE FINDINGS OF THE AUDIT
14 AND ISSUES A NOTICE OF DETERMINATION PURSUANT TO SECTION 42-2303 AND THE
15 TAXPAYER TIMELY FILES ITS INCOME TAX RETURN WITH THE APPROPRIATE CREDIT CLAIM
16 FORMS, THE CREDIT AMOUNT ACCEPTED IS NOT SUBJECT TO RECAPTURE, DISALLOWANCE,
17 REDUCTION OR DENIAL WITH RESPECT TO THE PRODUCTION COMPANY. THE DIRECTOR'S
18 NOTICE OF DETERMINATION SHALL INCLUDE A WRITTEN CERTIFICATE TO THE TAXPAYER
19 STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT IS NOT SUBJECT TO
20 RECAPTURE. THIS SUBSECTION DOES NOT PROHIBIT THE RECAPTURE OF A CREDIT FROM
21 A PRODUCTION COMPANY IF THE COMPANY FAILED TO DISCLOSE MATERIAL INFORMATION
22 DURING THE AUDIT OR FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE ENGAGED IN AN
23 ACTION THAT PREVENTED AN ACCURATE AUDIT.

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25 IS:

26 1. THIRTY PER CENT OF THE QUALIFIED PRODUCTION EXPENDITURES IF THE
27 PRODUCTION COMPANY USES A PRIVATELY FUNDED PRODUCTION FACILITY HAVING A
28 CERTIFIED INFRASTRUCTURE INVESTMENT OF AT LEAST FIFTY MILLION DOLLARS AT THE
29 TIME OF APPLICATION TO THE DEPARTMENT."

30 Reletter to conform

31 Page 6, strike lines 1 through 9

32 Renumber to conform

1 Page 6, strike lines 12 through 18, insert:

2 "(a) TWENTY PER CENT OF QUALIFIED PRODUCTION EXPENDITURES OF AT LEAST
3 TWO HUNDRED FIFTY THOUSAND DOLLARS BUT NOT MORE THAN ONE MILLION DOLLARS.

4 (b) TWENTY-FIVE PER CENT OF QUALIFIED PRODUCTION EXPENDITURES OF AT
5 LEAST ONE MILLION DOLLARS."

6 Line 22, strike "MAY VOLUNTARILY" insert "SHALL"

7 Strike lines 36 through 40

8 Reletter to conform

9 Line 44, strike the blank insert "TWENTY MILLION DOLLARS"

10 Page 7, strike lines 1 through 23

11 Reletter to conform

12 Line 36, after "DATA" insert "AND OTHER INFORMATION"

13 Line 37, after "SECTION" insert a period; strike remainder of line

14 Strike lines 38 through 43, insert:

15 "J. A PRIVATELY FUNDED PRODUCTION FACILITY SHALL MAINTAIN DATA ON THE
16 NUMBER OF PRODUCTIONS USING ITS FACILITY EACH YEAR AND REPORT THAT
17 INFORMATION TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT
18 OF THE SENATE ON OR BEFORE DECEMBER 31 EACH YEAR."

19 Reletter to conform

20 Page 8, between lines 3 and 4, insert:

21 "M. IF THE DEPARTMENT DETERMINES THAT A CREDIT REFUNDED PURSUANT TO
22 THIS SECTION IS INCORRECT OR INVALID, THE EXCESS CREDIT ISSUED MAY BE TREATED
23 AS A TAX DEFICIENCY PURSUANT TO SECTION 42-1108."

24 Reletter to conform

25 Between lines 4 and 5, insert:

26 "1. "INFRASTRUCTURE INVESTMENT" MEANS EXPENDITURES FOR SOUNDSTAGES AND
27 SUPPORT AND AUGMENTATION FACILITIES THAT ARE CONSTRUCTED IN THIS STATE AND
28 PRIMARILY USED BY A PRODUCTION COMPANY BUT DOES NOT INCLUDE MOTION PICTURE
29 THEATERS AND OTHER COMMERCIAL EXHIBITION FACILITIES."

30 Renumber to conform

31 Line 11, strike "MOTION PICTURES" insert "BY A PRODUCTION COMPANY"

32 Line 37, strike "TEN PER CENT OF" insert "THE"

1 Page 8, line 39, after "PURCHASED" insert "FROM A VENDOR LOCATED"

2 Line 41, after "LEASED" insert "FROM A VENDOR LOCATED"

3 Line 42, after "PURCHASED" insert "FROM A VENDOR LOCATED"

4 Line 43, after "LEASED" insert "FROM A LESSEE LOCATED IN THIS STATE"

5 Page 9, between lines 4 and 5, insert:

6 "5. "SOUNDSTAGE" MEANS A PERMANENT FACILITY IN THIS STATE OF ONE OR
7 MORE SETS OR STAGES USED PRIMARILY FOR STAGING AND FILMING BY A PRODUCTION
8 COMPANY AND ANY LAND, PERMANENT BUILDINGS OR CAPITAL EQUIPMENT THAT IS IN OR
9 ADJACENT TO, AND IS NECESSARY FOR THE OPERATION OF, A SOUNDSTAGE.

10 6. "SUPPORT AND AUGMENTATION FACILITIES" MEANS PERMANENT FACILITIES IN
11 THIS STATE THAT ARE USED TO COMPLEMENT PRODUCTION COMPANY NEEDS AND
12 COMPLEMENT THE PRODUCTION PROCESS."

13 Line 23, after "development" insert "but not requiring any company to use the
14 infrastructure for purposes of the tax incentives"

15 Amend title to conform

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