

107TH CONGRESS
1ST SESSION

S. 1278

To amend the Internal Revenue Code of 1986 to allow a United States independent film and television production wage credit.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2001

Mrs. LINCOLN (for herself, Ms. SNOWE, Mr. DURBIN, Mr. BREAUX, and Ms. LANDRIEU) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow a United States independent film and television production wage credit.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “United States Inde-
5 pendent Film and Television Production Incentive Act of
6 2001”.

1 **SEC. 2. TAX INCENTIVES FOR QUALIFIED UNITED STATES**
2 **INDEPENDENT FILM AND TELEVISION PRO-**
3 **DUCTION.**

4 (a) IN GENERAL.—Subpart D of part IV of sub-
5 chapter A of chapter 1 (relating to business related cred-
6 its) is amended by adding at the end the following new
7 section:

8 **“SEC. 45G. UNITED STATES INDEPENDENT FILM AND TELE-**
9 **VISION PRODUCTION WAGE CREDIT.**

10 “(a) AMOUNT OF CREDIT.—

11 “(1) IN GENERAL.—For purposes of section 38,
12 the United States independent film and television
13 production wage credit determined under this section
14 with respect to any employer for any taxable year is
15 an amount equal to 25 percent of the qualified
16 wages paid or incurred during such taxable year.

17 “(2) HIGHER PERCENTAGE FOR PRODUCTION
18 EMPLOYMENT IN CERTAIN AREAS.—In the case of
19 qualified employees in any qualified United States
20 independent film and television production located in
21 an area eligible for designation as a low-income com-
22 munity under section 45D or eligible for designation
23 by the Delta Regional Authority as a distressed
24 county or isolated area of distress, paragraph (1)
25 shall be applied by substituting ‘35 percent’ for ‘25
26 percent’.

1 “(b) ONLY FIRST \$25,000 OF WAGES PER YEAR
2 TAKEN INTO ACCOUNT.—With respect to each qualified
3 United States independent film and television production,
4 the amount of qualified wages paid or incurred to each
5 qualified employee which may be taken into account for
6 a taxable year shall not exceed \$25,000.

7 “(c) QUALIFIED WAGES.—For purposes of this
8 section—

9 “(1) IN GENERAL.—The term ‘qualified wages’
10 means—

11 “(A) any wages paid or incurred by an em-
12 ployer for services performed in the United
13 States by an employee while such employee is a
14 qualified employee, and

15 “(B) the employee fringe benefit expenses
16 of the employer allocable to such services per-
17 formed by such employee.

18 “(2) QUALIFIED EMPLOYEE.—

19 “(A) IN GENERAL.—The term ‘qualified
20 employee’ means, with respect to any period,
21 any employee of an employer if substantially all
22 of the services performed during such period by
23 such employee for such employer are performed
24 in an activity related to any qualified United

1 States independent film and television produc-
2 tion in a trade or business of the employer.

3 “(B) CERTAIN INDIVIDUALS NOT ELIGI-
4 BLE.—Such term shall not include—

5 “(i) any individual described in sub-
6 paragraph (A), (B), or (C) of section
7 51(i)(1), and

8 “(ii) any 5-percent owner (as defined
9 in section 416(i)(1)(B).

10 “(3) COORDINATION WITH OTHER WAGE CRED-
11 ITS.—No credit shall be allowed under any other
12 provision of this chapter for wages paid to any em-
13 ployee during any taxable year if the employer is al-
14 lowed a credit under this section for any of such
15 wages.

16 “(4) WAGES.—The term ‘wages’ has the same
17 meaning as when used in section 51.

18 “(5) EMPLOYEE FRINGE BENEFIT EXPENSES.—
19 The term ‘employee fringe benefit expenses’ means
20 the amount allowable as a deduction under this
21 chapter to the employer for any taxable year with re-
22 spect to—

23 “(A) employer contributions under stock
24 bonus, pension, profit-sharing, or annuity plan,

1 “(B) employer-provided coverage under
2 any accident or health plan for employees, and

3 “(C) the cost of life or disability insurance
4 provided to employees.

5 Any amount treated as wages under paragraph
6 (1)(A) shall not be taken into account under this
7 subparagraph.

8 “(d) QUALIFIED UNITED STATES INDEPENDENT
9 FILM AND TELEVISION PRODUCTION.—For purposes of
10 this section—

11 “(1) IN GENERAL.—The term ‘qualified United
12 States independent film and television production’
13 means any production of any motion picture (wheth-
14 er released theatrically or directly to video cassette
15 or any other format), television or cable program-
16 ming, mini series, episodic television, movie of the
17 week, or pilot production for any of the preceding
18 productions if—

19 “(A) the majority of the days of principal
20 photography of the production are within the
21 United States (or in the case of the credit
22 under subsection (a)(2), the area described in
23 such subsection),

1 “(B) the production is created primarily
2 for use as public entertainment or for edu-
3 cational purposes, and

4 “(C) the total cost of qualified wages of
5 the production is more than \$200,000 but less
6 than \$10,000,000.

7 Such term shall not include any production if
8 records are required under section 2257 of title 18,
9 United States Code, to be maintained with respect
10 to any performer in such production (reporting of
11 books, films, etc. with sexually explicit conduct). For
12 purposes of subparagraph (A), no day of photog-
13 raphy shall be considered a day of principal photog-
14 raphy unless the cost of wages for the production for
15 that day exceeds the average daily cost of wages for
16 such production.

17 “(2) PUBLIC ENTERTAINMENT.—The term
18 ‘public entertainment’ includes a motion picture
19 film, video tape, or television program intended for
20 initial broadcast via the public broadcast spectrum
21 or delivered via cable distribution, or productions
22 that are submitted to a national organization in ex-
23 istence on July 27, 2001, that rates films for violent
24 or adult content. Such term does not include any
25 film or tape the market for which is primarily top-

1 ical, is otherwise essentially transitory in nature, or
2 is produced for private noncommercial use.

3 “(3) INFLATION ADJUSTMENT.—

4 “(A) IN GENERAL.—In the case of any
5 taxable year beginning in a calendar year after
6 2001, the \$10,000,000 amount contained in
7 paragraph (1)(C) shall be increased by an
8 amount equal to—

9 “(i) such dollar amount, multiplied by

10 “(ii) the cost-of-living adjustment
11 under section 1(f)(3) for the calendar year
12 in which the taxable year begins, deter-
13 mined by substituting ‘calendar year 2000’
14 for ‘calendar year 1992’ in subparagraph
15 (B) thereof.

16 “(B) ROUNDING.—If any increase deter-
17 mined under subparagraph (A) is not a multiple
18 of \$500,000, such amount shall be rounded to
19 the nearest multiple of \$500,000.

20 “(e) CONTROLLED GROUPS.—For purposes of this
21 section—

22 “(1) all employers treated as a single employer
23 under subsection (a) or (b) of section 52 shall be
24 treated as a single employer for purposes of this
25 subpart, and

1 “(2) the credit (if any) determined under this
2 section with respect to each such employer shall be
3 its proportionate share of the wages giving rise to
4 such credit.

5 “(f) APPLICATION OF CERTAIN OTHER RULES.—For
6 purposes of this section, rules similar to the rules of sec-
7 tion 51(k) and subsections (c) and (d) of section 52 shall
8 apply.”.

9 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
10 tion 38(b) of the Internal Revenue Code of 1986 is amend-
11 ed by striking “plus” at the end of paragraph (14), by
12 striking the period at the end of paragraph (15) and in-
13 serting “, plus”, and by adding at the end the following
14 new paragraph:

15 “(16) the United States independent film and
16 television production wage credit determined under
17 section 45G(a).”.

18 (c) NO CARRYBACKS.—Subsection (d) of section 39
19 of the Internal Revenue Code of 1986 (relating to
20 carryback and carryforward of unused credits) is amended
21 by adding at the end the following:

22 “(11) NO CARRYBACK OF SECTION 45G CREDIT
23 BEFORE EFFECTIVE DATE.—No portion of the un-
24 used business credit for any taxable year which is
25 attributable to the United States independent film

1 and television production wage credit determined
2 under section 45G may be carried back to a taxable
3 year ending before the date of the enactment of sec-
4 tion 45G.”.

5 (d) DENIAL OF DOUBLE BENEFIT.—Subsection (a)
6 of section 280C of the Internal Revenue Code of 1986 is
7 amended by inserting “45G(a),” after “45A(a),”.

8 (e) CONFORMING AMENDMENT.—The table of sec-
9 tions for subpart C of part IV of subchapter A of chapter
10 1 of the Internal Revenue Code of 1986 is amended by
11 adding at the end the following new item:

“Sec. 45G. United States independent film and television produc-
tion wage credit.”.

12 (f) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to amounts paid or incurred after
14 the date of the enactment of this Act in taxable years end-
15 ing after such date.

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