

SECOND REGULAR SESSION

# HOUSE BILL NO. 2870

## 101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BLAND MANLOVE.

5719H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal section 135.750, RSMo, and to enact in lieu thereof one new section relating to tax credits for qualified film projects.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 135.750, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 135.750, to read as follows:

135.750. 1. As used in **subsections 1 to 5** of this section, the following terms mean:

- 2 (1) "Highly compensated individual", any individual who receives compensation in  
3 excess of one million dollars in connection with a single qualified film production project;
- 4 (2) "Qualified film production project", any film, video, commercial, or television  
5 production, as approved by the department of economic development and the office of the  
6 Missouri film commission, that is under thirty minutes in length with an expected in-state  
7 expenditure budget in excess of fifty thousand dollars, or that is over thirty minutes in length  
8 with an expected in-state expenditure budget in excess of one hundred thousand dollars.  
9 Regardless of the production costs, "qualified film production project" shall not include any:  
10 (a) News or current events programming;  
11 (b) Talk show;  
12 (c) Production produced primarily for industrial, corporate, or institutional purposes,  
13 and for internal use;  
14 (d) Sports event or sports program;  
15 (e) Gala presentation or awards show;  
16 (f) Infomercial or any production that directly solicits funds;  
17 (g) Political ad;

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (h) Production that is considered obscene, as defined in section 573.010;

19 (3) "Qualifying expenses", the sum of the total amount spent in this state for the  
20 following by a production company in connection with a qualified film production project:

21 (a) Goods and services leased or purchased by the production company. For goods  
22 with a purchase price of twenty-five thousand dollars or more, the amount included in  
23 qualifying expenses shall be the purchase price less the fair market value of the goods at the  
24 time the production is completed;

25 (b) Compensation and wages paid by the production company on which the  
26 production company remitted withholding payments to the department of revenue under  
27 chapter 143. For purposes of this ~~section~~ **subdivision**, compensation and wages shall not  
28 include any amounts paid to a highly compensated individual;

29 (4) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding  
30 withholding tax imposed by sections 143.191 to 143.265, or otherwise due under chapter 148;

31 (5) "Taxpayer", any individual, partnership, or corporation as described in section  
32 143.441, 143.471, or section 148.370 that is subject to the tax imposed in chapter 143,  
33 excluding withholding tax imposed by sections 143.191 to 143.265, or the tax imposed in  
34 chapter 148 or any charitable organization which is exempt from federal income tax and  
35 whose Missouri unrelated business taxable income, if any, would be subject to the state  
36 income tax imposed under chapter 143.

37 2. For all taxable years beginning on or after January 1, 1999, but ending on or before  
38 December 31, 2007, a taxpayer shall be granted a tax credit for up to fifty percent of the  
39 amount of investment in production or production-related activities in any film production  
40 project with an expected in-state expenditure budget in excess of three hundred thousand  
41 dollars. For all taxable years beginning on or after January 1, 2008, **but ending on or before**  
42 **November 28, 2013**, a taxpayer shall be allowed a tax credit for up to thirty-five percent of  
43 the amount of qualifying expenses in a qualified film production project. Each film  
44 production company shall be limited to one qualified film production project per year.  
45 Activities qualifying a taxpayer for the tax credit pursuant to this subsection shall be approved  
46 by the office of the Missouri film commission and the department of economic development.

47 3. Taxpayers shall apply for the film production tax credit by submitting an  
48 application to the department of economic development, on a form provided by the  
49 department. As part of the application, the expected in-state expenditures of the qualified  
50 film production project shall be documented. In addition, the application shall include an  
51 economic impact statement, showing the economic impact from the activities of the film  
52 production project. Such economic impact statement shall indicate the impact on the region  
53 of the state in which the film production or production-related activities are located and on the  
54 state as a whole.

55 4. For all taxable years ending on or before December 31, 2007, tax credits certified  
56 pursuant to subsection 2 of this section shall not exceed one million dollars per taxpayer per  
57 year, and shall not exceed a total for all tax credits certified of one million five hundred  
58 thousand dollars per year. For all taxable years beginning on or after January 1, 2008, **but**  
59 **ending on or before November 28, 2013**, tax credits certified under subsection ~~[H]~~ **2** of this  
60 section shall not exceed a total for all tax credits certified of four million five hundred  
61 thousand dollars per year. Taxpayers may carry forward unused credits for up to five tax  
62 periods, provided all such credits shall be claimed within ten tax periods following the tax  
63 period in which the film production or production-related activities for which the credits are  
64 certified by the department occurred.

65 5. Notwithstanding any provision of law to the contrary, any taxpayer may sell,  
66 assign, exchange, convey or otherwise transfer tax credits allowed in subsection 2 of this  
67 section. The taxpayer acquiring the tax credits may use the acquired credits to offset the tax  
68 liabilities otherwise imposed by chapter 143, excluding withholding tax imposed by sections  
69 143.191 to 143.265, or chapter 148. Unused acquired credits may be carried forward for up to  
70 five tax periods, provided all such credits shall be claimed within ten tax periods following  
71 the tax period in which the film production or production-related activities for which the  
72 credits are certified by the department occurred.

73 6. ~~[Under section 23.253 of the Missouri sunset act:]~~

74 (1) ~~[The provisions of the new program authorized under this section shall~~  
75 ~~automatically sunset six years after November 28, 2007, unless reauthorized by an act of the~~  
76 ~~general assembly; and~~

77 (2) ~~If such program is reauthorized, the program authorized under this section shall~~  
78 ~~automatically sunset twelve years after the effective date of the reauthorization of this section;~~  
79 ~~and~~

80 (3) ~~This section shall terminate on September first of the calendar year immediately~~  
81 ~~following the calendar year in which the program authorized under this section is sunset] **The**~~  
82 **provisions of this subsection shall be referred to as the "Show Missouri Film and Digital**  
83 **Media Act".**

84 (2) **As used in this subsection, the following terms mean:**

85 (a) **"Highly compensated individual", any individual who receives compensation**  
86 **in excess of two hundred fifty thousand dollars in connection with a single qualified film**  
87 **production project;**

88 (b) **"Qualified film production project", any film, video, commercial, or**  
89 **television production, as approved by the department of economic development and the**  
90 **office of the Missouri film commission, that features a statement or logo designated by**  
91 **the department of economic development in the credits of the film indicating that the**

92 project was filmed in Missouri and that is under thirty minutes in length with an  
93 expected in-state expenditure budget in excess of fifty thousand dollars or is over thirty  
94 minutes in length with an expected in-state expenditure budget in excess of one hundred  
95 thousand dollars. Regardless of the production costs, the term "qualified film  
96 production project" shall not include any:

97 a. News or current events programming;

98 b. Talk show;

99 c. Production produced primarily for industrial, corporate, or institutional  
100 purposes and for internal use;

101 d. Sports event or sports program;

102 e. Gala presentation or awards show;

103 f. Infomercial or any production that directly solicits funds;

104 g. Political ad; or

105 h. Production that is considered obscene, as defined in section 573.010;

106 (c) "Qualifying in-state expenses", the sum of the total amount spent in this state  
107 for the following by a production company in connection with a qualified film  
108 production project:

109 a. Goods and services leased or purchased by the production company. For  
110 goods with a purchase price of twenty-five thousand dollars or more, the amount  
111 included in qualifying in-state expenses shall be the purchase price less the fair market  
112 value of the goods at the time the production is completed; and

113 b. Compensation and wages paid by the production company to Missouri  
114 residents on which the production company remitted withholding payments to the  
115 department of revenue under chapter 143. For purposes of this paragraph,  
116 compensation and wages shall not include any amounts paid to a highly compensated  
117 individual;

118 (d) "Qualifying out-of-state expenses", the sum of all compensation and wages  
119 paid by the production company to non-Missouri residents on which the production  
120 company remitted withholding payments to the department of revenue under chapter  
121 143. For purposes of this paragraph, compensation and wages shall not include any  
122 amounts paid to a highly compensated individual;

123 (e) "Tax credit", a credit against the tax otherwise due under chapter 143,  
124 excluding withholding tax imposed by sections 143.191 to 143.265, or otherwise due  
125 under chapter 148;

126 (f) "Taxpayer", any individual, partnership, or corporation as described in  
127 section 143.441, 143.471, or 148.370 that is subject to the tax imposed in chapter 143,  
128 excluding withholding tax imposed by sections 143.191 to 143.265, or the tax imposed in

129 **chapter 148 or any charitable organization that is exempt from federal income tax and**  
130 **whose Missouri unrelated business taxable income, if any, would be subject to the state**  
131 **income tax imposed under chapter 143.**

132 **(3) For all tax years beginning on or after January 1, 2022, a taxpayer shall be**  
133 **allowed a tax credit equal to twenty-five percent of qualifying in-state expenses and ten**  
134 **percent of qualifying out-of-state expenses. An additional five percent may be earned**  
135 **for both qualifying in-state expenses and qualifying out-of-state expenses if at least fifty**  
136 **percent of the qualified film production project is filmed in Missouri. An additional five**  
137 **percent may be earned for both qualifying in-state expenses and qualifying out-of-state**  
138 **expenses if the department of economic development determines that the script of the**  
139 **qualified film production project positively markets a city or region of the state, the**  
140 **entire state, or a tourist attraction located in the state. Each film production company**  
141 **shall be limited to one qualified film production project per year. Activities qualifying a**  
142 **taxpayer for the tax credit under this subsection shall be approved by the office of the**  
143 **Missouri film commission and the department of economic development.**

144 **(4) Taxpayers shall apply for the film production tax credit by submitting an**  
145 **application to the department of economic development on a form provided by the**  
146 **department. As part of the application, the expected in-state expenditures of the**  
147 **qualified film production project shall be documented. In addition, the application shall**  
148 **include an economic impact statement showing the economic impact from the activities**  
149 **of the film production project. Such economic impact statement shall indicate the**  
150 **impact on the region of the state in which the film production or production-related**  
151 **activities are located and on the state as a whole.**

152 **(5) For all tax years beginning on or after January 1, 2022, tax credits certified**  
153 **under subdivision (3) of this subsection shall not exceed a total for all tax credits**  
154 **certified of four million five hundred thousand dollars per year. Taxpayers may carry**  
155 **forward unused credits for up to five tax periods, provided all such credits shall be**  
156 **claimed within ten tax periods following the tax period in which the film production or**  
157 **production-related activities for which the credits are certified by the department**  
158 **occurred.**

159 **(6) Notwithstanding any provision of law to the contrary, any taxpayer may sell,**  
160 **assign, exchange, convey, or otherwise transfer tax credits allowed in subdivision (3) of**  
161 **this subsection. The taxpayer acquiring the tax credits may use the acquired credits to**  
162 **offset the tax liabilities otherwise imposed by chapter 143, excluding withholding tax**  
163 **imposed by sections 143.191 to 143.265, or chapter 148. Unused acquired credits may be**  
164 **carried forward for up to five tax periods, provided all such credits shall be claimed**  
165 **within ten tax periods following the tax period in which the film production or**

166 **production-related activities for which the credits are certified by the department**  
167 **occurred.**

168 **(7) Under section 23.253 of the Missouri sunset act:**

169 **(a) The provisions of the program authorized under this subsection shall**  
170 **automatically sunset on December 31, 2028, unless reauthorized by an act of the general**  
171 **assembly; and**

172 **(b) If such program is reauthorized, the program authorized under this**  
173 **subsection shall automatically sunset on December thirty-first twelve years after the**  
174 **effective date of the reauthorization of this subsection; and**

175 **(c) This subsection shall terminate on September first of the calendar year**  
176 **immediately following the calendar year in which the program authorized under this**  
177 **subsection is sunset.**

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