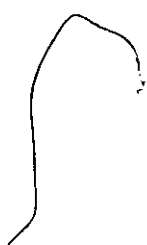


CREEM / TIMILTY AMENDMENT	HOUSE BILL AS AMENDED BY SENATE WAYS AND MEANS
<p><b><u>Employment-based Credit against Income Tax/Corporate Excise:</u></b></p> <p>Credit against Mass. Income Tax/Corporate Excise for production company:</p> <ol style="list-style-type: none"> <li>1. filming in Mass.</li> <li>2. with Mass. production costs of \$250,000 or more, and</li> <li>3. Mass. residents employed in connection with Mass. film production</li> </ol> <p>Credit equals:</p> <ul style="list-style-type: none"> <li>• 15% of aggregate Mass. resident payroll<sup>1</sup> if Mass. production-related expenses are 5,000,000 or less</li> <li>• 20% of aggregate Mass. resident payroll<sup>2</sup> if Mass. production-related expenses exceed \$5 million.</li> </ul> <p>Any unused credit can be carried forward for up to 5 yrs.</p> <p><u>Note:</u> Credits may be transferred (assigned) to taxable corporations, individuals and estates/trusts.</p> <p>DOR shall promulgate necessary rules &amp; regulations regarding Sales Tax Exemption and Income Tax/Corporate</p>	<p><b><u>Employment-based Credit against Income Tax/Corporate Excise:</u></b></p> <p>This amendment does not contain a specific employment-based credit, but like the House bill, the amount spent on payroll is factored into the qualified film production tax credit below.</p>



HOUSE COMMITTEE ON  
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<p><b>Excise Credit</b></p> <p>DOR may audit reported expenditures used to qualify for Exemption &amp; Credit</p>	
<p><b><u>Qualified Film Production Tax Credit</u></b></p> <p>An additional credit for films qualifying for above employment-based credit and either:</p> <ul style="list-style-type: none"> <li>• Mass. production expenses exceed 50% of total production expenses, or</li> <li>• At least 50% of days of “principal photography” occur in Mass.</li> </ul> <p>Credit is equal to 25% of all Massachusetts production costs.</p>	<p><b><u>Qualified Film Production Tax Credit</u></b></p> <p>An taxpayer may qualify for the film production expenses credit if:</p> <ul style="list-style-type: none"> <li>• At least 50% of the total production expenses are incurred in Massachusetts, <i>or</i></li> <li>• At least 50% of the total “principal photography” days of the film take place in Mass.</li> </ul> <p>This credit equals:</p> <ul style="list-style-type: none"> <li>• 15% if the production costs incurred in Mass. are less than \$5 million;</li> <li>• 20% if the production costs incurred in Mass. are between \$5 million and \$10 million;</li> <li>• 25% if the production costs incurred in Mass. Equal or exceed \$10 million.</li> </ul> <p>Like the House bill, any unused credit can be carried forward for up to 5 yrs and credits may be transferred or sold.</p>
<p><b><u>Credit Limit</u></b></p> <p>Total credits for any one production not to exceed \$10 million per project.</p>	<p><b><u>Credit Limit</u></b></p> <p>Total credits for any one production not to exceed \$10 million per project.</p>

<p><b><u>Impact Studies &amp; Reports</u></b> Mass. Office of Economic Development is required to:</p> <ul style="list-style-type: none"><li>• conduct an economic impact study of motion picture production and development in the Commonwealth and issue a report &amp; any recommendations no by Dec. 31, 2009.</li><li>• file an economic report of all motion picture production activity in the Commonwealth that receives a tax credit certificate under the act annually, by Dec. 31 of each year, with the Clerks of the House &amp; Senate, the House and Senate Committees on Ways &amp; Means and with the Joint Committee on Economic Development.</li></ul> <p>Mass. Department of Revenue is required to issue a report detailing the amount of tax credit certificates issued to taxpayers under the act and shall file the same by Dec. 31 with the Clerks of the House &amp; Senate, the House and Senate Committees on Ways &amp; Means, the Joint Committee on Revenue and with the Joint Committee on Economic Development.</p>	<p><b><u>Impact Studies &amp; Reports</u></b> Unlike the House bill, there are no studies or reporting requirements on the fiscal impact of this credit.</p>

Tax Incentive Analysis

	O'Brien Bill	Lees Bill
<b>Qualifying Issues</b>		
Commercials included	Yes	No
Minimum in state expenditure	\$250,000	None
% of total production expenses spent in state	60%	50%
Excludes: news, talk, corporate, marketing of a produce/service, obscene material. NOTE: 4252 no longer excludes public programming, Lees does	Yes	Yes
<b>Key Elements</b>		
Production tax credit	25%	20%
Resident employment tax credit	15% if MA prod \$ <10mil 20% if MA prod \$ is > 10mil excludes anyone > 1 mil	No
State sales tax	Yes	No
Cap on tax credit per film	\$7mil	\$2mil
State property fees	only to cover costs	NA
<b>Process Issues</b>		
Administrative oversight	OED & DOR	DOR & MFB
Effective date	1/1/05	On passage
Duration of legislation	-	Dec-06
Number of years credit can be carried forward	5	5
Sale of tax credit allowed	Yes	Yes
Economic impact reports	Economic impact by 12/31/09 Annual DOR & OED reports	None

Tax Incentive Analysis

Updated  
July, 2006

	O'Brien Bill	Lees Bill	PA	LA	Our posit
<b>Qualifying Issues</b>					
Commercials included	Yes	No	No	Yes	
Programs intended for national audience <i>only</i>	<del>Yes</del> No	Yes	Yes	Yes	
Minimum program length	<del>feature length film</del> None	15 min.	15 min.		
Minimum in state expenditure	\$250,000	-	-	see below for details	
% of total production expenses spent in state	<del>1</del> 60%	50%	60%		
State based business	<del>MA checking acct. for sales tax</del> No	No	No	LA checking acct. for sales tax	
Excludes: news, talk, public, corporate, "marketing"	Yes	Yes	Yes	?	
<b>Key Elements</b>					
Investor tax credit	No	No	No	Yes, for LA taxpayers 10% if total invest >350,000 < 8mil 15% if total investment > 8mil	
Production tax credit	<del>No</del> 25%	20%	20%	No	
Non-resident employment tax credit	No	No	No	No	
Resident employment tax credit	10% if MA prod \$ >250,000 < 1mil 20% if MA prod \$ is > 1mil excludes anyone > 1 mil	No	No	10% if LA prod \$ >300,000 < 1mil 20% if LA prod \$ is > 1mil excludes anyone > 1 mil	
State sales tax	Yes	No	No	Yes	
Relief from sales tax	X - if spend > 250,000 in MA	-	-	X - if spend > 250,000 in LA	
Rebate of sales tax	-	-	-	-	
Credit of sales tax	-	-	-	-	
Hotel tax credit	No	No	NA	NA	
Annual state credit cap for all productions	No	No	\$10mil	-	
Cap on tax credit per film	<del>No</del> \$7.5M	\$2mil	No	-	
Qualified production costs defined as:					
wages, purchases, rentals, etc. - no advertising	<del>1</del> Yes	Yes	Yes	NA	
State property fees	only to cover costs	NA	NA	NA	
<b>Process Issues</b>					
Administrative oversight					
Film office	<del>1</del> No	MFB	-	Yes - 2	
Economic development office	Yes	-	Yes	-	
Other	-	-	Dept of Rev.	-Dept of Revenue	
Duration of legislation	-	Dec-06	Dec-12	June & December 2006	
Number of years credit can be carried forward	5	5	3	10	
Sale of tax credit allowed	<del>No</del> Yes	Yes	Yes	No?	
# of years credit can be carried forward	<del>1</del> 5	5	0		
Pass-through entity transfer to shareholders/partners	Yes	Yes	Yes	Yes	