

119TH CONGRESS
2D SESSION

S. _____

To amend the Internal Revenue Code of 1986 to provide a tax credit for
American film and television productions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. SCOTT of South Carolina (for himself and Mr. SCHIFF) introduced the
following bill; which was read twice and referred to the Committee on

A BILL

To amend the Internal Revenue Code of 1986 to provide
a tax credit for American film and television productions,
and for other purposes.

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 “Motion Picture, Tele-
5 vision, and Entertainment Revitalization Act”.

6 **SEC. 2. AMERICAN FILM AND TELEVISION PRODUCTION**
7 **CREDIT.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding at the end the following new
2 section:

3 **“SEC. 45BB. AMERICAN FILM AND TELEVISION PRODUC-**
4 **TION CREDIT.**

5 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
6 tion 38, in the case of a qualified film or television produc-
7 tion, the American film and television production credit
8 for any taxable year is the product of—

9 “(1) the applicable percentage, and

10 “(2) the qualified compensation paid with re-
11 spect to such qualified film or television production.

12 “(b) QUALIFIED FILM OR TELEVISION PRODUC-
13 TION.—For purposes of this section—

14 “(1) IN GENERAL.—The term ‘qualified film or
15 television production’ means any production—

16 “(A) which is a feature film, a television
17 pilot, or a television season,

18 “(B) which is produced—

19 “(i) in the ordinary course of a trade
20 or business, and

21 “(ii) for commercial purposes,

22 “(C) which is chargeable to capital ac-
23 count,

24 “(D) which is completed during the taxable
25 year,

1 “(E) the total cost of which exceeds
2 \$1,000,000, and

3 “(F) 75 percent of the principal photog-
4 raphy days of which occur within the United
5 States.

6 “(2) EXCEPTIONS.—Such term shall not in-
7 clude—

8 “(A) any production if records are required
9 under section 2257 of title 18, United States
10 Code, to be maintained with respect to any per-
11 former in such production,

12 “(B) any production which is—

13 “(i) talk, interview, game, or award
14 show programming,

15 “(ii) news programming,

16 “(iii) live sporting event program-
17 ming,

18 “(iv) a radio production,

19 “(v) gala event programming, or

20 “(vi) daytime-drama programming,

21 “(C) any production which is a film or pro-
22 gram intended primarily for social media plat-
23 forms, media sharing, or blogposts, or

24 “(D) any production which is—

1 “(i) an advertising, marketing, pro-
2 motional, or brand-marketing campaign,
3 “(ii) intended for fundraising, or
4 “(iii) intended primarily for industrial,
5 corporate, or institutional end-users.

6 “(3) LOCATION RULES FOR ANIMATED PRODUC-
7 TIONS.—For purposes of paragraph (1)(F), in the
8 case of an animated production—

9 “(A) the location where the animation pro-
10 duction activities, including keyframe anima-
11 tion, in-between animation, animation photog-
12 raphy, and the recording of voice acting per-
13 formances, are performed shall be treated as
14 the location of principal photography, and

15 “(B) the percentage of the principal pho-
16 tography shall be based solely on the ratio of
17 total cost of the animation production activities
18 performed in the United States to the total cost
19 of all animation production activities.

20 A production which incorporates both live action and
21 animation shall be treated as meeting the require-
22 ments of paragraph (1)(F) if such production meets
23 the requirements of such paragraph based either on
24 principal photography days for live filming or on the

1 location of animation production determined under
2 the preceding sentence.

3 “(c) QUALIFIED COMPENSATION.—For purposes of
4 this section—

5 “(1) IN GENERAL.—The term ‘qualified com-
6 pensation’ means, with respect to any qualified film
7 or television production, compensation which—

8 “(A) is paid or incurred, directly or indi-
9 rectly, for qualified services performed in the
10 United States (including services performed by
11 employees and services performed by contrac-
12 tors or subcontractors), and

13 “(B) is chargeable to capital account.

14 “(2) QUALIFIED SERVICES.—

15 “(A) IN GENERAL.—For purposes of sub-
16 paragraph (A)(i), the term ‘qualified services’
17 means services (including services performed
18 with respect to pre-production and post-produc-
19 tion activities) performed by actors, production
20 personnel, directors, and producers.

21 “(B) PRODUCTION PERSONNEL.—The
22 term ‘production personnel’ means persons who
23 are compensated for providing services directly
24 related to the qualified film or television pro-
25 duction, including writers, choreographers, com-

1 posers, casting agents, camera operators, set
2 designers, lighting and sound technicians,
3 make-up artists, editors, and visual-effects serv-
4 ice providers.

5 “(3) EXCEPTION.—The term ‘qualified com-
6 pensation’ shall not include participations and re-
7 siduals (as defined in section 167(g)(7)(B)).

8 “(d) APPLICABLE PERCENTAGE.—

9 “(1) IN GENERAL.—For purposes of this sec-
10 tion, the applicable percentage is 20 percent in-
11 creased (but not in excess of 30 percent) as provided
12 in paragraphs (2) through (5).

13 “(2) INCREASED PERCENTAGE FOR PRODUC-
14 TIONS IN RURAL QUALIFIED OPPORTUNITY ZONES
15 AND DISASTER AREAS.—

16 “(A) IN GENERAL.—In the case of a quali-
17 fied film or television production which meets
18 the requirements of subparagraph (B) or (C),
19 the applicable percentage shall be increased by
20 an amount equal to 5 percentage points.

21 “(B) QUALIFIED OPPORTUNITY ZONE PRO-
22 Duction.—A qualified film or television pro-
23 duction meets the requirements of this subpara-
24 graph if not less than 30 percent of the prin-
25 cipal photography days of such production are

1 located in qualified opportunity zone (as defined
2 in section 1400Z-1(a)) (determined as of the
3 first principal photography day) which is a
4 rural area (as defined in section 1400Z-
5 2(b)(2)(C)(ii)).

6 “(C) PRODUCTIONS IN DISASTER AREAS.—
7 A qualified film or television production meets
8 the requirements of this subparagraph if—

9 “(i) not less than 30 percent of the
10 principal photography days of such produc-
11 tion are located in a disaster area with re-
12 spect to a federally declared disaster (as
13 such terms are defined in section
14 165(i)(5)), and

15 “(ii) the first principal photography
16 day for such production begins before the
17 end of the 5-year period beginning on the
18 of the date on which the President deter-
19 mined assistance was warranted under the
20 Robert T. Stafford Disaster Relief and
21 Emergency Assistance Act with respect to
22 such disaster.

23 “(3) INCREASED PERCENTAGE FOR INDE-
24 PENDENT PRODUCTIONS.—

1 “(A) IN GENERAL.—In the case of a quali-
2 fied film or television production which is com-
3 pleted by an independent producer, the applica-
4 ble percentage shall be increased by an amount
5 equal to 5 percentage points.

6 “(B) INDEPENDENT PRODUCER.—

7 “(i) IN GENERAL.—For purposes of
8 this paragraph, the term ‘independent pro-
9 ducer’ means, with respect to any qualified
10 film or television production, any taxpayer
11 if—

12 “(I) such taxpayer is not a cor-
13 poration the stock of which is traded
14 on an established securities market,
15 and

16 “(II) a majority of the stock or
17 other ownership interests of such tax-
18 payer are not owned, directly or indi-
19 rectly, by a corporation the stock of
20 which is traded on an established se-
21 curities market.

22 “(ii) AGGREGATION RULE.—For pur-
23 poses of this subparagraph, all taxpayers
24 treated as a single employer under sub-

1 section (a) or (b) of section 52 shall be
2 treated as a single taxpayer.

3 “(4) INCREASED PERCENTAGE FOR MULTI-
4 STATE PRODUCERS.—

5 “(A) IN GENERAL.—In the case of a tax-
6 payer who is a multi-State producer for such
7 taxable year, the applicable percentage for all
8 qualified film or television productions shall be
9 increased by an amount equal to 5 percentage
10 points.

11 “(B) MULTI-STATE PRODUCER.—

12 “(i) IN GENERAL.—For purposes of
13 this paragraph, the term ‘multi-State pro-
14 ducer’ means, with respect to any taxable
15 year, any taxpayer if, during the applicable
16 period, the taxpayer meets the require-
17 ments of clause (ii) with respect to 10 or
18 more States.

19 “(ii) REQUIREMENTS.—A taxpayer
20 meets the requirements of this clause with
21 respect to a State if—

22 “(I) at least 50 percent of the
23 principal photography days of at least
24 one qualified film or television produc-

1 tion completed during the applicable
2 period occurs in such State, and

3 “(II) the taxpayer has paid or in-
4 curred at least \$10,000,000 in quali-
5 fied compensation in such State with
6 respect to a qualified film or television
7 production completed during the ap-
8 plicable period.

9 “(iii) APPLICABLE PERIOD.—For pur-
10 poses of this subparagraph, the applicable
11 period with respect to any taxable year is
12 the period beginning 12 months before the
13 first day of the taxable year and ending on
14 the last day of the taxable year.

15 “(5) INCREASED PERCENTAGE FOR INCREASED
16 DOMESTIC PRODUCTIONS.—

17 “(A) IN GENERAL.—In the case of a tax-
18 payer that meets the requirements of subpara-
19 graph (B) with respect to a taxable year, the
20 applicable percentage for all qualified film or
21 television productions shall be increased by an
22 amount equal to 5 percentage points.

23 “(B) REQUIREMENTS.—

24 “(i) IN GENERAL.—A taxpayer meets
25 the requirements of this subsection if—

11

1 “(I) the qualified domestic pro-
2 duction increase amount is greater or
3 equal to the specified percentage of
4 the foreign base amount, and

5 “(II) the foreign base amount is
6 at least 1.

7 “(ii) ROUNDING.—For purposes of
8 clause (i), the specified percentage of the
9 foreign base amount shall be rounded to
10 the nearest whole number.

11 “(iii) QUALIFIED DOMESTIC PRODUC-
12 TION INCREASE AMOUNT.—For purposes
13 of this subparagraph, the qualified domes-
14 tic production increase amount is the ex-
15 cess of the number of qualified film or tele-
16 vision productions completed during the
17 taxable year over the number of qualified
18 film and television productions completed
19 in the taxable year immediately preceding
20 the start year.

21 “(iv) FOREIGN BASE AMOUNT.—For
22 purposes of this subparagraph—

23 “(I) IN GENERAL.—The foreign
24 base amount is the average number of
25 applicable foreign productions com-

pleted during the 3 taxable years preceding the start year.

“(II) FOREIGN PRODUCTION.—

For purposes of subclause (I), the term ‘applicable foreign production’ means any production which is not a qualified film or television production but would be so treated if subsection (b)(1) were applied without regard to subparagraph (F) thereof.

“(v) SPECIFIED PERCENTAGE.—The specified percentage shall be—

“(I) 30 percent for the first taxable year beginning after the start year,

“(II) 40 percent for the second taxable year beginning after the start year,

“(III) 50 percent for each of the third, fourth, and fifth taxable years beginning after the start year, and

“(IV) 0 percent for any taxable year beginning after the fifth taxable year beginning after the start year.

1 “(vi) START YEAR.—The term ‘start
2 year’ means, with respect to any taxpayer,
3 the first taxable year beginning after the
4 date of the enactment of this section.

5 “(e) SPECIAL RULES FOR QUALIFIED VISUAL EF-
6 FECTS PRODUCTIONS.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graph (2), a qualified visual effects production shall
9 be treated as a qualified film or television production
10 for purposes of this section.

11 “(2) ONLY CERTAIN COMPENSATION TAKEN
12 INTO ACCOUNT.—In applying this section to a quali-
13 fied visual effects production—

14 “(A) qualified compensation shall include
15 only compensation paid or incurred for services
16 performed in the United States and related to
17 the visual effects of such production,

18 “(B) subsection (d) shall be applied with-
19 out regard to paragraphs (2) through (5), and

20 “(C) the applicable percentage determined
21 under subsection (d)(1) shall be increased by 5
22 percentage points if—

23 “(i) at least 30 percent of the total
24 qualified compensation (determined after
25 application of subparagraph (A)) with re-

spect to such production is paid or incurred for services which—

“(I) are performed within an area which is qualified opportunity zone (as defined in section 1400Z-1(a))—

“(aa) which is a rural area
(as defined in section 1400Z-
2(b)(2)(C)(ii)) and began, and

“(bb) for which a designation as a qualified opportunity zone was in effect (as determined under section 1400Z-1(e)) during the period such services began, or

“(II) are performed in a disaster area with respect to a federally declared disaster (as such terms are defined in section 165(i)(5)) and began during the 5-year period beginning on the of the date on which the President determined assistance was warranted under the Robert T. Stafford Disaster Relief and Emergency Assistance Act with respect to such disaster, or

1 “(ii) the production with respect to
2 which the services for visual effects are
3 provided is completed by an independent
4 producer (as defined in subsection
5 (d)(4)(B).

6 “(3) QUALIFIED VISUAL EFFECTS PRODUC-
7 TIONS; VISUAL EFFECTS.—For purposes of this sub-
8 section—

9 “(A) QUALIFIED VISUAL EFFECTS PRO-
10 Duction.—The term ‘qualified visual effects
11 production’ means any production with respect
12 to which services are performed relating to vis-
13 ual effects if—

14 “(i) such production meets the re-
15 quirements of subparagraphs (A), (B), (C),
16 (D), and (E) of subsection (b)(1) but does
17 not meet the requirement of subsection
18 (b)(1)(F),

19 “(ii) 75 percent of the total cost of
20 visual effects relating to such production
21 are incurred in the United States, and

22 “(iii) such production is not a produc-
23 tion described in subsection (b)(2).

24 “(B) VISUAL EFFECTS.—The term ‘visual
25 effects’ means the digital or in-camera creation,

1 alteration, or enhancement of images, other
2 than activities that are scientific research and
3 experimental development.

4 “(f) SPECIAL RULES FOR POST-PRODUCTION ACTIVI-
5 TIES.—

6 “(1) IN GENERAL.—Except as provided in para-
7 graph (2), a qualified post-production project shall
8 be treated as a qualified film or television production
9 for purposes of this section.

10 “(2) ONLY CERTAIN COMPENSATION TAKEN
11 INTO ACCOUNT.—In applying this section to a quali-
12 fied post-production project—

13 “(A) qualified compensation shall include
14 only compensation paid or incurred for services
15 performed in the United States and related to
16 traditional post-production activities,

17 “(B) subsection (d) shall be applied with-
18 out regard to paragraphs (2) through (5), and

19 “(C) the applicable percentage determined
20 under subsection (d)(1) shall be increased by 5
21 percentage points if—

22 “(i) at least 30 percent of the total
23 qualified compensation (determined after
24 application of subparagraph (A)) with re-

1 spect to such project is paid or incurred
2 for services which—

3 “(I) are performed within an
4 area which is qualified opportunity
5 zone (as defined in section 1400Z–
6 1(a))—

7 “(aa) which is a rural area
8 (as defined in section 1400Z–
9 2(b)(2)(C)(ii)) and began, and

10 “(bb) for which a designa-
11 tion as a qualified opportunity
12 zone was in effect (as determined
13 under section 1400Z–1(e)) dur-
14 ing the period such services
15 began, or

16 “(II) are performed in a disaster
17 area with respect to a federally de-
18 clared disaster (as such terms are de-
19 fined in section 165(i)(5)) and began
20 during the 5-year period beginning on
21 the of the date on which the President
22 determined assistance was warranted
23 under the Robert T. Stafford Disaster
24 Relief and Emergency Assistance Act
25 with respect to such disaster, or

1 “(ii) the production with respect to
2 which the traditional post-production ac-
3 tivities are provided is completed by an
4 independent producer (as defined in sub-
5 section (d)(4)(B).

6 “(3) QUALIFIED POST-PRODUCTION ACTIVITIES
7 PROJECT.—For purposes of this subsection—

8 “(A) QUALIFIED POST-PRODUCTION AC-
9 TIVITIES PROJECT.—The term ‘qualified visual
10 effects production’ means any project which
11 provides traditional post-production activities
12 with respect to a production if—

13 “(i) such production meets the re-
14 quirements of subparagraphs (A), (B), (C),
15 (D), and (E) of subsection (b)(1) but does
16 not meet the requirement of subsection
17 (b)(1)(F),

18 “(ii) 75 percent of the total cost of
19 traditional post-production activities with
20 respect to such production are incurred in
21 the United States, and

22 “(iii) such production is not a produc-
23 tion described in subsection (b)(2).

24 “(B) TRADITIONAL POST-PRODUCTION AC-
25 TIVITIES.—For purposes of this subsection—

1 “(i) IN GENERAL.—The term ‘ tradi-
2 tional post-production activities’ means the
3 final stage of production, including editing,
4 Foley recording, automatic dialogue re-
5 placement, sound editing, scoring and
6 music editing, beginning and end credits,
7 soundtrack production, and dubbing.

8 “(ii) EXCLUSIONS.—Such term shall
9 not include visual effects (as defined in
10 subsection (e)(3)(B)), advertising and mar-
11 keting, and other promotional activities.

12 “(g) OTHER DEFINITIONS AND SPECIAL RULES.—
13 For purposes of this section—

14 “(1) COMPLETED.—For purposes of this sec-
15 tion, a production is considered completed on the
16 day on which the process of post-production has
17 been finished and a final composite answer print, de-
18 livery air master, or digital cinema file of such pro-
19 duction is produced.

20 “(2) TELEVISION SEASON.—

21 “(A) DEFINITION.—The term ‘television
22 season’ means a series of productions which
23 consists of at least 4 episodes which—

24 “(i) have narrative or thematically re-
25 lated common elements, and

1 “(ii) are produced for distribution or
2 broadcast within a period of 12 months of
3 the close of the taxable year in which com-
4 pleted.

5 “(B) SPECIAL RULE.—For purposes of
6 this section, all episodes of a television season
7 shall be treated as a single production.

8 “(3) PRINCIPAL PHOTOGRAPHY DAY; PRINCIPAL
9 PHOTOGRAPH.—

10 “(A) PRINCIPAL PHOTOGRAPH DAY.—The
11 term ‘principal photograph day’ means any day
12 on which principal photography occurs.

13 “(B) PRINCIPAL PHOTOGRAPHY.—The
14 term ‘principal photography’ means the period
15 of time during which the film is shot with the
16 participation of a director, actor (unless not re-
17 quired for a scene), and first unit crew. Such
18 term includes re-shoot days with a director, ac-
19 tors, and crew.

20 “(4) BASIS ADJUSTMENT TO QUALIFIED PRO-
21 Duction.—For purposes of this section, if a credit
22 is determined with respect to any qualified film or
23 television production, the basis of such property
24 shall be reduced by the amount of the credit so de-
25 termined.

1 “(h) REPORTS.—The Secretary may require such re-
2 porting as the Secretary deems necessary with respect to
3 the date and location of principal photography days with
4 respect to any production, the qualified compensation paid
5 with respect to any production, and such other matters
6 as the Secretary determines appropriate to carry out the
7 purposes of this section.

8 “(i) REGULATIONS AND GUIDANCE.—The Secretary
9 shall issue such regulations or other guidance as the Sec-
10 retary determines necessary to carry out the purposes of
11 this section, including regulations or other guidance—

12 “(1) with respect to productions not eligible for
13 the credit under subsection (b)(2),

14 “(2) with respect to the substantiation of indi-
15 rect payments of qualified compensation paid on be-
16 half of the taxpayer by a contractor or subcontractor
17 under subsection (c)(1)(A), including simplified or
18 safe harbor procedures,

19 “(3) for determining whether a production
20 qualified for an increase in the applicable percentage
21 under paragraphs (2), (3), (4), or (5) of subsection
22 (d), subsection (e)(2)(C), or subsection (f)(2)(C),
23 and

24 “(4) to ensure that only the taxpayer that has
25 the benefits and burdens of ownership of a qualified

1 film or television production is eligible for the cred-
2 it.”.

3 (b) ELECTION TO TRANSFER CREDIT.—Section
4 6418(f)(1)(A) of the Internal Revenue Code of 1986 is
5 amended by inserting at the end the following new clause:

6 “(xiii) The American film and tele-
7 vision production credit determined under
8 section 45BB(a).”.

9 (c) CREDIT ALLOWED AS A GENERAL BUSINESS
10 CREDIT.—Section 38(b) of the Internal Revenue Code of
11 1986 is amended by striking “plus” at the end of para-
12 graph (40), by striking the period at the end of paragraph
13 (41) and inserting “, plus”, and by adding at the end the
14 following new paragraph:

15 “(42) The American film and television produc-
16 tion credit determined under section 45BB(a).”.

17 (d) CLERICAL AMENDMENT.—The table of sections
18 for subpart D of part IV of subchapter A of chapter 1
19 of the Internal Revenue Code of 1986 is amended by add-
20 ing at the end the following new item:

“Sec. 45BB. American film and television production credit.”.

21 (e) EFFECTIVE DATE.—The amendments made by
22 this section shall apply productions commencing in taxable
23 years beginning after December 31, 2026.