

Introduced by Senator CalderonFebruary 23, 2007

An act to amend Section 23036 of, and to add and repeal Sections 6902.5, 17053.85, 17053.86, 23685, and 23686 of, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 740, as introduced, Calderon. Taxes: credits: qualified motion picture production.

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill, in accordance with legislative findings contained in this bill, would authorize a credit against those taxes, until January 1, 2018, for taxable years beginning on or after January 1, 2007, subject to specified limitations, in an amount equal to 12% of the qualified amount for qualified wages paid or incurred with respect to the production of each qualified motion picture with an additional 3% for specific qualified motion pictures.

Additionally, this bill would authorize a credit against those taxes, until January 1, 2018, for taxable years beginning on or after January 1, 2007, subject to specified limitations, in an amount equal to 12% of the incremental qualified production costs paid or incurred with respect to the production of qualified commercials, as defined.

This bill would provide that any portion of these credits that are in excess of the taxpayer's liability are refundable, as applicable. This bill, by authorizing the payment of these amounts, would make an appropriation.

The Corporation Tax Law defines the term “tax” for those purposes, and provides that credits shall be allowed against the tax in a specified order.

This bill would add to that list of credits, credits that contain refundable provisions, but do not contain carryover provisions.

This bill would, in lieu of the credits authorized under the Personal Income Tax and Corporation Tax Law for qualified motion pictures, allow a refund of, or credit against liability for, taxes paid or payable, as applicable, under the Sales and Use Tax Law for qualified motion pictures. This bill would impose specified duties on the California Film Commission and the Franchise Tax Board in administering the credits.

This bill would require the Business, Transportation and Housing Agency to report to the Legislature regarding the economic impact of the tax incentives created by the bill.

The bill would require a taxpayer to certify under penalty of perjury that he or she is the taxpayer entitled to claim certain deductions with respect to a qualified motion picture, thus imposing a state-mandated local program by expanding the scope of an existing crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Existing law provides for various programs for the
- 4 development of economic opportunities in the state.
- 5 (b) The entertainment industry plays a vital role in sustaining
- 6 California’s economy and past legislation enacted in 1985 created
- 7 the California Film Commission, currently existing within the
- 8 Business, Transportation and Housing Agency, to facilitate, retain,
- 9 and attract filming in California.
- 10 (c) The Legislature recognizes that film, television, and
- 11 commercial production activity contributed \$34.3 billion to

1 California's economy in 2002 and sustains more than 245,000
2 jobs. Film, television, and commercial productions create and
3 sustain jobs, support thousands of small businesses, and generate
4 significant revenue for both state and local governments.

5 (d) The Legislature recognizes the importance of providing
6 economic opportunities in order to maintain the economic
7 contributions made by the entertainment industry.

8 SEC. 2. Section 6902.5 is added to the Revenue and Taxation
9 Code, to read:

10 6902.5. (a) A qualified taxpayer, as designated by the
11 California Film Commission pursuant to subdivision (i) of Section
12 17053.85 or 23685, that makes an irrevocable election pursuant
13 to subdivision (i) of Section 17053.85 or 23685 to claim the credit
14 authorized by this section, may claim that credit as either a refund
15 of sales or use taxes paid under this part, or a credit against liability
16 for sales or use taxes due under this part, that is equal to the credit
17 amount that would otherwise be allowed pursuant to those sections.

18 (b) Notwithstanding Section 6961, the board may recover any
19 refund or credit, or part thereof, that is erroneously made pursuant
20 to this section. In recovering any erroneous refund or credit made
21 pursuant to this section, the board, in its discretion, may issue a
22 deficiency determination in accordance with Article 2 (commencing
23 with Section 6481) or Article 4 (commencing with Section 6536)
24 of Chapter 5. Except in the case of fraud, that determination shall
25 be made within three years from the last day of the month following
26 the quarterly period in which the board approved the refund.

27 (c) In the case where the credit allowed by this section exceeds
28 the qualified taxpayer's tax liability computed under this part, the
29 excess shall first be credited against other amounts due, if any,
30 from the qualified taxpayer to this state, including, but not limited
31 to, tax deficiencies, penalties, and interest assessed by the Franchise
32 Tax Board, tax deficiencies, penalties, and interest assessed by the
33 State Board of Equalization, child support payments, and payments
34 due under the Unemployment Insurance Code, and the balance, if
35 any, shall be refunded to the qualified taxpayer.

36 (d) The total amount of any credit allocated by the California
37 Film Commission that is authorized to be claimed as a refund or
38 credit under this section shall be treated as a separate item of
39 income of the qualified taxpayer from a source wholly within this
40 state for the taxable year in which the credit is allowed.

1 (e) The board shall provide an annual listing to the Franchise
 2 Tax Board, in a form and manner agreed upon by the board and
 3 the Franchise Tax Board, of the qualified taxpayers who, during
 4 the year, have claimed a refund or credit of sales or use tax under
 5 this section and the amount of the refund or credit allowed to each
 6 qualified taxpayer.

7 (f) Any refund, which may exceed the sales and use tax paid by
 8 that qualified taxpayer, approved by the board pursuant to this
 9 section shall be payable from the General Fund no earlier than the
 10 commencement of the 2007–08 fiscal year.

11 (g) Section 6907, relating to interest on overpayments, shall not
 12 apply to any return claiming a credit under this section.

13 (h) The California Film Commission shall provide a list, at least
 14 annually, to the State Board of Equalization, in the form and
 15 manner as shall be determined by the California Film Commission
 16 and the State Board of Equalization, of the names, taxpayer
 17 identification numbers, including taxpayer identification numbers
 18 of each partner or shareholder, as applicable, the qualified motion
 19 pictures for which tax credit was allocated, and the total amount
 20 of the tax credit allocated to each qualified taxpayer.

21 (i) This section shall remain in effect only until January 1, 2018,
 22 and as of that date is repealed, unless a later enacted statute, that
 23 is enacted before January 1, 2018, deletes or extends that date.

24 SEC. 3. Section 17053.85 is added to the Revenue and Taxation
 25 Code, to read:

26 17053.85. (a) (1) For taxable years beginning on or after
 27 January 1, 2007, subject to the limitation in paragraph (2), there
 28 shall be allowed to a qualified taxpayer, as designated by the
 29 California Film Commission pursuant to subdivision (i), that makes
 30 an irrevocable election pursuant to subdivision (i) to claim the
 31 credit authorized by this section, as a credit against the “net tax,”
 32 as defined in Section 17039, an amount equal to 12 percent of the
 33 qualified amount. A movie of the week and a miniseries, for which
 34 an executed licensing agreement from a network or basic cable
 35 entity is provided, shall be entitled to an additional 3 percent of
 36 the qualified amount.

37 (2) The credit allowed by paragraph (1) shall not exceed the
 38 lesser of:

39 (A) The amount of the credit allocated to the qualified taxpayer
 40 by the California Film Commission based on the initial application.

1 (B) The amount of the credit calculated based on actual
2 allowable expenditures on the qualified motion picture.

3 (C) Three million dollars (\$3,000,000) per qualified motion
4 picture.

5 (b) For purposes of this section:

6 (1) “Ancillary product” means any article for sale to the public
7 that contains a portion of, or any element of, the motion picture.

8 (2) “Budget” means an estimate of all expenses paid or incurred
9 during the production period of a motion picture. It shall be the
10 same budget used by the qualified taxpayer and production
11 company for all qualified motion picture purposes.

12 (3) “Clip use” means a use of any portion of a motion picture,
13 other than the qualified motion picture, used in the qualified motion
14 picture.

15 (4) (A) “Employee fringe benefits” means the amount allowable
16 as a deduction under this part to the qualified taxpayer involved
17 in the production of the qualified motion picture for any year during
18 the production period with respect to any of the following:

19 (i) Employer contributions under any pension, profit-sharing,
20 annuity, or similar plan.

21 (ii) Employer-provided coverage under any accident or health
22 plan for employees.

23 (iii) The employer’s cost of life or disability insurance provided
24 to employees.

25 (B) Any amount treated as wages under clause (i) of
26 subparagraph (A) of paragraph (21) shall not be taken into account
27 under this paragraph.

28 (5) “Licensing” means any grant of rights to distribute the
29 qualified motion picture, in whole or in part.

30 (6) “Movie of the week” and “miniseries” both mean a motion
31 picture, produced for initial exploitation on television, which
32 contains a scripted storyline requiring two or more consecutive
33 hours of programming.

34 (7) “New to California” means a television series that has not
35 previously engaged in principal photography in this state, other
36 than for a production that is a pilot or presentation.

37 (8) “New use” means any use of a motion picture in a medium
38 other than the medium for which it was initially created.

39 (9) (A) “Postproduction” means the final activities in a qualified
40 motion picture’s production, including editing, foley recording,

1 automatic dialogue replacement, sound editing, scoring and music
2 editing, beginning and end credits, negative cutting, negative
3 processing and duplication, the addition of sound and visual effects,
4 soundmixing, film to tape transfers, encoding, and color correction.

5 (B) “Postproduction” does not include the manufacture or
6 shipping of release prints.

7 (10) “Preproduction” means the process of preparation for actual
8 physical production which begins after a qualified motion picture
9 has received a firm agreement of financial commitment, or is
10 greenlit, with, for example, the establishment of a dedicated
11 production office, the hiring of key crew members, and includes,
12 but is not limited to, activities that include location scouting and
13 execution of contracts with vendors of equipment and stage space.

14 (11) “Principal photography” means the phase of production
15 during which the motion picture is actually shot, as distinguished
16 from preproduction and postproduction.

17 (12) “Production accountant” means an employee of the
18 production company whose duties include some or all of the
19 following activities: oversight of production budgets, cost
20 reporting, order management, payment of expenses, and the review
21 of financial reports for accuracy and completeness.

22 (13) “Production company” means a company primarily engaged
23 in qualified production activities that have been approved by the
24 California Film Commission.

25 (14) “Production period” means the period of time in which the
26 preproduction, principal photography, and postproduction occurs
27 until the qualified motion picture is completed, as described in
28 clause (v) of subparagraph (C) of paragraph (18).

29 (15) (A) “Qualified amount” means all of the following:

30 (i) The total amount paid or incurred during the production
31 period for qualified wages with respect to the production of each
32 qualified motion picture.

33 (ii) The total amount paid or incurred during the production
34 period for qualified property.

35 (iii) Amounts paid or incurred for qualified wages and qualified
36 property related to the qualified motion picture for preproduction
37 costs that include set design and construction, props, wardrobe,
38 prosthetics, testing, and location scouting that are paid or incurred.
39 In the case of a television series described in clause (ii) of
40 subparagraph (C) of paragraph (18), the amounts paid or incurred

1 for the items described in this subparagraph shall be ratably
2 allocated amongst the episodes produced in the first season.

3 (B) Notwithstanding subparagraph (A), the term “qualified
4 amount” shall not include any qualified wages paid or incurred
5 for services performed nor any qualified property purchased or
6 leased before January 1, 2007.

7 (16) “Qualified entity” means a personal service corporation as
8 defined in Section 269A(b)(1) of the Internal Revenue Code, a
9 payroll services corporation, or any entity receiving qualified wages
10 with respect to services performed by a qualified individual.

11 (17) (A) “Qualified individual” means any individual who
12 performs services during the production period in an activity related
13 to the production of a qualified motion picture.

14 (B) “Qualified individual” shall not include either of the
15 following:

16 (i) Any individual related to the qualified taxpayer as described
17 in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal
18 Revenue Code.

19 (ii) Any 5 percent owner, as defined in Section 416(i)(1)(B) of
20 the Internal Revenue Code, of the qualified taxpayer.

21 (18) (A) “Qualified motion picture” means any motion picture
22 that is produced, adapted, or altered for exploitation in, on, or
23 through any medium or by any device, including, but not limited
24 to, a motion picture produced for exploitation in movie theaters,
25 through any form of television, videotapes, videodiscs, DVDs, or
26 any other digital format or on commercial carriers. “Qualified
27 motion picture” shall also include, but shall not be limited to, all
28 adapted versions thereof, whether adapted for exploitation in any
29 language, for any media, or otherwise.

30 (B) (i) “Qualified motion picture” shall not include any motion
31 picture produced for private noncommercial use, such as weddings
32 or graduations, by students made as part of any educational course,
33 or any motion picture produced for industrial purposes.

34 (ii) “Qualified motion picture” shall not include a news program,
35 current events or public events program, talk show, game show,
36 sporting event or activity, awards show, telethon or other
37 production that solicits funds, reality television program, a feature
38 where 80 percent or more of the content consists of
39 computer-generated images, clip-based programming if more than
40 50 percent of the content is comprised of licensed footage,

1 documentaries, variety programs, daytime dramas, strip shows,
2 one-half-hour (air time) episodic television shows, or any
3 production that falls within the recordkeeping requirements of
4 Section 2257 of Title 18 of the United States Code.

5 (C) To qualify as a “qualified motion picture,” all of the
6 following additional conditions shall be satisfied:

7 (i) The qualified motion picture shall be a feature with a
8 minimum budget of five hundred thousand dollars (\$500,000) and
9 a maximum budget of seventy-five million dollars (\$75,000,000),
10 or a movie of the week or miniseries with a minimum budget of
11 five hundred thousand dollars (\$500,000) and a maximum budget
12 of seventy-five million dollars (\$75,000,000).

13 (ii) A qualified motion picture shall also include a single episode
14 in a single season, not to exceed 22 episodes per season, of a
15 television series new to California with a minimum budget of five
16 hundred thousand dollars (\$500,000) and a maximum budget of
17 one million eight hundred thousand dollars (\$1,800,000) per
18 episode. This clause shall only apply to the first three seasons of
19 a television series that is new to California.

20 (iii) The actual expenses totaled at the completion of the
21 qualified motion picture must fall within the fiscal ranges
22 established in clause (i) or (ii) at the time of application to the
23 California Film Commission.

24 (iv) At least 75 percent of the total days spent in principal
25 photography of a qualified motion picture occur wholly in
26 California.

27 (v) Production of the qualified motion picture is completed
28 within 30 months of the date on which the qualified taxpayer’s
29 application was approved by the California Film Commission. For
30 the purposes of this section, a qualified motion picture is
31 “completed” when the process of postproduction has been finished,
32 and a final answer print or broadcast delivery air master of the
33 qualified motion picture is produced.

34 (vi) Principal photography of the qualified motion picture begins
35 within 180 days of the designation of the taxpayer as a qualified
36 taxpayer by the California Film Commission.

37 (D) For the purposes of clauses (i) and (ii) of subparagraph (C),
38 the following additional rules apply:

39 (i) In computing the total amounts paid or incurred for the
40 production of a qualified motion picture, all amounts paid or

1 incurred by all persons or entities that share in the costs of the
2 qualified motion picture shall be aggregated.

3 (ii) In the case of a television series, described in clause (ii) of
4 subparagraph (C), each episode shall be treated as a separate
5 qualified motion picture.

6 (E) For purposes of computing the limitations under this
7 paragraph, “wages” means all amounts described in subparagraph
8 (A) of paragraph (21), provided that these amounts are paid for
9 services performed or rendered within this state.

10 (19) (A) “Qualified property” means tangible personal property
11 purchased or leased in California and is used primarily in the
12 production of a qualified motion picture.

13 (B) “Qualified property” shall not include a story, script, or
14 scenario to be used for a qualified motion picture, or the literary,
15 dramatic, or musical material upon which the qualified motion
16 picture is based or may be adapted, or any rights related to the
17 foregoing.

18 (20) (A) “Qualified taxpayer” means an applicant who has been
19 allocated tax credits by the California Film Commission pursuant
20 to subdivision (i).

21 (B) In the case of any passthrough entity, the determination of
22 whether a taxpayer is a qualified taxpayer under this section shall
23 be made at the entity level and any credit under this section shall
24 be allowed to the passthrough entity and passed through to the
25 partners or shareholders in accordance with applicable provisions
26 of Part 10 (commencing with Section 17001) or Part 11
27 (commencing with Section 23001). For purposes of this paragraph,
28 “passthrough entity” means any partnership or “S” corporation.

29 (21) (A) “Qualified wages” means all of the following:

30 (i) Any wages reported under Section 13050 of the
31 Unemployment Insurance Code that were paid or incurred by the
32 production company involved in the production of a qualified
33 motion picture with respect to a qualified individual for services
34 performed on the qualified motion picture production within this
35 state.

36 (ii) The portion of any employee fringe benefits paid or incurred
37 by the production company involved in the production of the
38 qualified motion picture that are properly allocable to qualified
39 wage amounts described in clause (i).

- 1 (iii) Any payments made to a qualified entity for services
2 performed on a qualified motion picture in this state by qualified
3 individuals within the meaning of paragraph (17).
- 4 (iv) Remuneration paid to an independent contractor, as
5 described in Section 2750.5 of the Labor Code, who is a qualified
6 individual for services performed within this state by that qualified
7 individual.
- 8 (B) “Qualified wages” shall not include any of the following:
 - 9 (i) Expenses, including wages, for legal or accounting services
10 except production accountants.
 - 11 (ii) Expenses, including wages, in excess of the first twenty-five
12 thousand dollars (\$25,000) paid per person per qualified motion
13 picture for writers, directors, music directors, music composers,
14 music supervisors, producers, and performers, other than
15 background actors with no scripted lines.
 - 16 (iii) Expenses, including wages, related to new use, reuse, clip
17 use, licensing, secondary markets, or residual compensation, or
18 the creation of any ancillary product, including, but not limited to,
19 a soundtrack album, toy, game, trailer, or teaser.
 - 20 (iv) Expenses, including wages, paid or incurred with respect
21 to acquisition, development, turnaround, or any rights thereto.
 - 22 (v) Expenses, including wages, related to financing, overhead,
23 marketing, promotion, or distribution of a qualified motion picture.
- 24 (22) “Residual compensation” means supplemental
25 compensation paid at the time that a motion picture is exhibited
26 through new use, reuse, clip use, or in secondary markets, as
27 distinguished from payments made during production.
- 28 (23) “Reuse” means any use of a qualified motion picture in the
29 same medium for which it was created, following the initial use
30 in that medium.
- 31 (24) “Secondary markets” means media in which a qualified
32 motion picture is exhibited following the initial media in which it
33 is exhibited.
- 34 (c) (1) Notwithstanding subdivision (g) of Section 17039,
35 relating to credits attributable to a disregarded business entity, in
36 the case where the credit allowed by this section exceeds the
37 taxpayer’s tax liability computed under this part, the excess shall
38 be credited against other amounts due, if any, from the taxpayer
39 and the balance, if any, shall be refunded to the taxpayer.

1 (2) Those amounts that are determined by the Franchise Tax
2 Board to be necessary to make the refunds required by this
3 subdivision shall be transferred from the Personal Income Tax
4 Fund to the Tax Relief and Refund Account established pursuant
5 to Section 19611 and shall, notwithstanding Section 13340 of the
6 Government Code, be continuously appropriated from that account,
7 commencing with the 2007-08 fiscal year, but otherwise without
8 regard to fiscal years, to the Franchise Tax Board for the purpose
9 of making those refunds.

10 (d) The amount of any credit allowed under this section to the
11 qualified taxpayer shall be treated as a separate item of income of
12 the qualified taxpayer from a source wholly within this state for
13 the taxable year in which the credit is allowed.

14 (e) No credit shall be allowed pursuant to this section unless
15 the qualified taxpayer substantiates, by adequate books and records
16 or by sufficient evidence corroborating his or her own statement,
17 that:

18 (1) The qualified wages and the qualified property on which
19 the credit was calculated were actually paid or incurred in the
20 amount claimed. Substantiation of this item shall include proof
21 that the services were performed in California and the qualified
22 property was purchased or leased in California.

23 (2) The motion picture was a qualified motion picture.
24 Substantiation of this item shall include, but is not limited to, the
25 following:

26 (A) Identification of each qualified individual.

27 (B) The specific start and end dates of production.

28 (C) The total wages paid and amount and type of qualified
29 property purchased.

30 (D) The amount of qualified wages paid to each qualified
31 individual.

32 (E) Certification from the Director of the California Film
33 Commission that identifies the motion picture as a qualified motion
34 picture.

35 (f) The Franchise Tax Board shall provide an annual listing to
36 the State Board of Equalization, in a form and manner agreed upon
37 by the Franchise Tax Board and the State Board of Equalization,
38 of the qualified taxpayers who, during that reporting period, have
39 claimed a credit under this section, including the amount of the
40 credit allowed to each qualified taxpayer.

1 (g) Subdivision (c) of Section 19341, relating to interest on
2 overpayments, shall not apply to any return claiming a credit under
3 this section.

4 (h) If the qualified taxpayer fails to attach the certification issued
5 by the California Film Commission in accordance with subdivision
6 (i), the credit shall be disallowed and assessed and collected under
7 Section 19051.

8 (i) (1) For purposes of this section, the Director of the California
9 Film Commission shall do all of the following:

10 (A) Allocate tax credits to applicants.

11 (B) Establish a procedure for qualified taxpayers to file with
12 the California Film Commission a written application, on a form
13 jointly prescribed by the California Film Commission and the
14 Franchise Tax Board, for allocation of tax credits. The application
15 shall be filed under penalty of perjury and include, but not be
16 limited to, the following information:

17 (i) The budget for the motion picture production.

18 (ii) A one-line shooting schedule.

19 (iii) A financing plan for the production.

20 (iv) An application fee.

21 (v) The copyright registration number for the screenplay, as
22 reflected on the certificate of registration issued under the authority
23 of Section 410 of Title 17 of the United States Code, relating to
24 registration of claim and issuance of certificate.

25 (vi) Any other information deemed relevant by the California
26 Film Commission.

27 (C) Establish a procedure for qualified taxpayers to make an
28 irrevocable election to claim the tax credit allocation as a credit
29 pursuant to this section or as a refund or credit pursuant to Section
30 6902.5.

31 (D) Determine and designate who is a qualified taxpayer meeting
32 the requirements of this section.

33 (E) Process and approve, or reject, all applications on a
34 first-come, first-served basis.

35 (F) Provide for the cancellation of the allocated credits, if
36 principal photography on the qualified motion picture does not
37 begin within 180 days after notification of the credit allocation by
38 the California Film Commission in accordance with subdivision
39 (j).

1 (G) Establish specific audit requirements, in addition to those
2 provided under current law, that must be complied with prior to
3 the issuance of the certificate required by subparagraph (H), and
4 provide for the reallocation of previously approved credits that are
5 disallowed pursuant to the audit requirements, in accordance with
6 subdivision (j).

7 (H) Issue a certificate to the qualified taxpayer setting forth the
8 name of the qualified taxpayer, identification of the qualified
9 motion picture, and the total amount of the tax credit allocated.

10 (2) No later than March 1, 2008, the California Film
11 Commission shall promulgate rules and regulations necessary to
12 establish procedures, processes, requirements, and rules identified
13 in or required to implement this section. Rules and regulations
14 may be adopted on an emergency basis if necessary to meet the
15 March 1, 2008, deadline. The California Film Commission may
16 amend these rules and regulations as necessary. The California
17 Film Commission may adopt rules and regulations to more
18 narrowly define the terms listed in subdivision (b) to limit their
19 meaning, but may not expand the definition of any terms defined
20 in subdivision (b).

21 (j) The aggregate amount of credits that may be allocated in any
22 calendar year pursuant to this section and Section 23685, and shall
23 be an amount equal to the sum of all of the following:

24 (1) _____ million dollars (\$_____) for each calendar quarter, and
25 each calendar quarter thereafter.

26 (2) The unused credit ceiling, if any, for the preceding calendar
27 quarter.

28 (3) The amount of previously allocated credit cancelled or
29 disallowed in the preceding calendar quarter by reason of
30 subparagraph (F) or subparagraph (G) of paragraph (1) of
31 subdivision (i).

32 (k) The California Film Commission shall provide a list, at least
33 annually, to the Franchise Tax Board, in the form and manner as
34 shall be determined by the California Film Commission and the
35 Franchise Tax Board, of the names, taxpayer identification
36 numbers, including taxpayer identification numbers of each partner
37 or shareholder, as applicable, the qualified motion pictures for
38 which tax credit was allocated, and the total amount of the tax
39 credit allocated to each qualified taxpayer.

1 (l) This section shall remain in effect only until January 1, 2018,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2018, deletes or extends that date.

4 SEC. 4. Section 17053.86 is added to the Revenue and Taxation
5 Code, to read:

6 17053.86. (a) (1) For taxable years beginning on or after
7 January 1, 2007, subject to the limitation in paragraph (2), there
8 shall be allowed to a qualified commercial production company,
9 as designated by the California Film Commission pursuant to
10 subdivision (h), as a credit against the “net tax,” as defined in
11 Section 17039, an amount equal to 12 percent of the incremental
12 qualified production costs.

13 (2) The credit allowed by paragraph (1) shall not exceed:

14 (A) Five hundred thousand dollars (\$500,000) per qualified
15 production company per calendar year.

16 (B) The amount of the credit allocated by the California Film
17 Commission to the qualified commercial production company
18 pursuant to subdivision (h).

19 (b) For the purposes of this section:

20 (1) “Base year” is the taxable year preceding the taxable year
21 in which the credit is claimed.

22 (2) (A) “Employee fringe benefits” means the amount allowable
23 as a deduction under this part to the qualified commercial
24 production company involved in the production of the qualified
25 commercial for any year during the production period with respect
26 to any of the following:

27 (i) Employer contributions under any pension, profit-sharing,
28 annuity, or similar plan.

29 (ii) Employer-provided coverage under any accident or health
30 plan for employees.

31 (iii) The employer’s cost of life or disability insurance provided
32 to employees.

33 (B) Any amount treated as wages under clause (i) of
34 subparagraph (A) of paragraph (10) shall not be taken in account
35 under this paragraph.

36 (3) “Incremental qualified production costs” are any qualified
37 production costs for the taxable year greater than the qualified
38 production costs for the base year.

39 (4) “Principal photography” means the phase of production
40 during which the qualified commercial is actually shot.

1 (5) “Postproduction” means the final activities in a qualified
2 commercial’s production, including, but not limited to, offline
3 editorial, online editorial, dailies, color correction, compositing,
4 CGI, graphics, sound editorial, sound mixing, sound design,
5 automated dialogue replacement, foley recording, music
6 composition and scoring, and duplication associated with the above
7 process.

8 (6) (A) “Qualified commercial” means a commercial or
9 advertisement composed of moving images and sounds that is
10 recorded on film, videotape, or other digital medium, created for
11 display on a network, regional channel, or cable where 75 percent
12 of the total production days spent in principal photography occur
13 wholly in California.

14 (B) “Qualified commercial” shall not include any program length
15 production with an advertising component including a documentary
16 length commercial, an infomercial, news, or current affairs
17 program, interview or talk program, network promotion (short
18 form content intended to promote other programming), sporting
19 event, game show, award ceremonies, daytime dramas, reality
20 entertainment programming or program intended primarily for
21 industrial, corporate, or institutional end users, fundraising or
22 political commercials, a program consisting primarily of stock
23 footage, a program produced by an organization organized under
24 Section 527 of the Internal Revenue Code, or any production that
25 falls within the recordkeeping requirements of Section 2257 of
26 Title 18 of the United States Code.

27 (7) (A) “Qualified commercial production company” means a
28 taxpayer, allocated tax credits by the California Film Commission
29 pursuant to subdivision (h), that is principally engaged in the
30 production of a qualified commercial and has control over the
31 selection of production location, deployment, or management of
32 the production equipment, and directly employs the production
33 crew on the qualified commercial, or is a taxpayer who provides
34 postproduction services on a qualified commercial.

35 (B) In the case of any passthrough entity, the determination of
36 whether a taxpayer is a qualified commercial production company
37 under this section shall be made at the entity level and any credit
38 under this section shall be allowed to the passthrough entity and
39 passed through to the partners or shareholders in accordance with
40 applicable provisions of Part 10 (commencing with Section 17001)

1 or Part 11 (commencing with Section 23001). For the purposes of
2 this paragraph, “passthrough entity” means any partnership or “S”
3 corporation.

4 (8) (A) “Qualified individual” means any individual who
5 performs services during the production period in an activity related
6 to the production of a qualified commercial.

7 (B) “Qualified individual” shall not include either of the
8 following:

9 (i) Any individual related to the qualified commercial production
10 company as described in subparagraph (A), (B), (C), or Section
11 51(i)(1) of the Internal Revenue Code.

12 (ii) Any 5 percent owner, as defined in Section 416(i)(1)(B) of
13 the Internal Revenue Code, of the qualified commercial production
14 company.

15 (9) “Qualified production costs” means all of the following:

16 (A) Costs for tangible property used and services performed
17 directly and predominately in the production of a qualified
18 commercial.

19 (B) Costs for qualified wages, technical and crew production
20 costs, allocable portions of depreciation on equipment directly
21 used in production, rental or other expenditures for commercial
22 production facilities, props, makeup, wardrobe, film processing,
23 camera rental, sound recording, set construction, lighting,
24 on-location meals, and lodging.

25 (C) Costs for equipment and services required to complete
26 postproduction of the qualified commercial.

27 (D) “Qualified production costs” does not include costs for
28 story, script, or scenario to be used for a qualified commercial, or
29 any qualified wages paid or incurred before January 1, 2007.

30 (10) (A) “Qualified wages” means all of the following:

31 (i) Any wages reported under Section 13050 of the
32 Unemployment Insurance Code that were paid or incurred by the
33 qualified commercial production company involved in the
34 production of a qualified commercial with respect to a qualified
35 individual for services performed on the qualified commercial
36 production within this state.

37 (ii) The portion of any employee fringe benefits paid or incurred
38 by the qualified commercial production company involved in the
39 production of a qualified commercial that are properly allocated
40 to qualified wage amounts described in clause (i).

1 (iii) Remuneration paid to a qualified individual for services
2 performed within this state by that qualified individual.

3 (iv) Remuneration paid to an independent contractor, as
4 described in Section 2750.5 of the Labor Code, who is a qualified
5 individual for services performed in this state by that qualified
6 individual.

7 (B) “Qualified wages” shall not include wages, salaries, or other
8 compensation for writers, directors, music directors, producers,
9 and performers (other than background actors with no scripted
10 lines who are employed by a qualified commercial production
11 company).

12 (c) (1) Notwithstanding subdivision (g) of Section 17039,
13 relating to credits attributable to a disregarded business entity, in
14 the case where the credit allowed by this section exceeds the
15 taxpayer’s tax liability computed under this part, the excess shall
16 be credited against other amounts due, if any, from the taxpayer
17 and the balance, if any, shall be refunded to the taxpayer.

18 (2) Those amounts that are determined by the Franchise Tax
19 Board to be necessary to make the refunds required by this
20 subdivision shall be transferred from the Personal Income Tax
21 Fund to the Tax Relief and Refund Account established pursuant
22 to Section 19611 and shall, notwithstanding Section 13340 of the
23 Government Code, be continuously appropriated from that account,
24 commencing with the 2007-08 fiscal year, but otherwise without
25 regard to fiscal years, to the Franchise Tax Board for the purpose
26 of making those refunds.

27 (d) The amount of any credit allowed under this section to the
28 qualified taxpayer shall be treated as a separate item of income of
29 the qualified taxpayer from a source wholly within this state for
30 the taxable year in which the credit is allowed.

31 (e) No credit shall be allowed pursuant to this section unless
32 the qualified commercial production company substantiates, by
33 adequate books and records or by sufficient evidence corroborating
34 his or her own statement, that:

35 (1) The incremental qualified production costs upon which the
36 credit was calculated were actually paid or incurred in the amount
37 claimed.

38 (2) The commercial was a qualified commercial. Substantiation
39 of this item shall include, but is not limited to, the following:

40 (A) Identification of each qualified individual.

- 1 (B) The specific start and end dates of production.
- 2 (C) The total wages paid.
- 3 (D) The amount of qualified wages paid to each qualified
- 4 individual.
- 5 (E) Certification from the Director of the California Film
- 6 Commission as required in subdivision (h).
- 7 (f) Subdivision (c) of Section 19341, relating to interest on
- 8 overpayments, shall not apply to any return claiming a credit under
- 9 this section.
- 10 (g) If the qualified commercial production company fails to
- 11 attach the certification issued by the Director of the California
- 12 Film Commission, in accordance with subdivision (h), the credit
- 13 shall be disallowed and assessed and collected under Section
- 14 19051.
- 15 (h) (1) For purposes of this section, the Director of the
- 16 California Film Commission shall do all of the following:
- 17 (A) Allocate tax credits to applicants, including establishing a
- 18 procedure to allocate tax credits among qualified commercial
- 19 production companies pursuant to paragraph (2) of subdivision
- 20 (i).
- 21 (B) Establish a procedure for qualified commercial production
- 22 companies to file with the California Film Commission a written
- 23 application, on a form jointly prescribed by the California Film
- 24 Commission and the Franchise Tax Board, for allocation of tax
- 25 credits. The application shall be filed under penalty of perjury and
- 26 include, but not be limited to, the following information:
- 27 (i) The qualified production costs for the base year.
- 28 (ii) The qualified production costs for the taxable year in which
- 29 the credit is claimed.
- 30 (iii) An application fee.
- 31 (iv) Any other information deemed relevant by the California
- 32 Film Commission.
- 33 (C) Determine and designate who is a qualified commercial
- 34 production company meeting the requirements of this section.
- 35 (D) Process and approve, or reject, all applications.
- 36 (E) Establish specific audit requirements, in addition to those
- 37 provided under current law, that must be complied with prior to
- 38 the issuance of the certificate required by subparagraph (F), and
- 39 provide for the reallocation of previously approved credits that are

1 disallowed pursuant to the audit requirements, in accordance with
2 subdivision (i).

3 (F) Issue a certificate to the qualified taxpayer setting forth the
4 name of the qualified taxpayer and the total amount of the tax
5 credit allocated.

6 (2) No later than March 1, 2008, the California Film
7 Commission shall promulgate rules and regulations necessary to
8 establish procedures, processes, requirements, and rules identified
9 in or required to implement this section. Rules and regulations
10 may be adopted on an emergency basis if necessary to meet the
11 March 1, 2008, deadline. The California Film Commission may
12 amend these rules and regulations as necessary. The California
13 Film Commission may adopt rules and regulations to more
14 narrowly define the terms listed in subdivision (b) to limit their
15 meaning, but may not expand the definition of any terms defined
16 in subdivision (b).

17 (i) (1) The aggregate amount of credits that may be allocated
18 in any calendar year pursuant to this section and Section 23686
19 shall be an amount equal to the sum of all of the following:

20 (A) _____ million dollars (\$_____) for the 2008 calendar year,
21 and each calendar year thereafter.

22 (B) The unused credit ceiling, if any, for the preceding calendar
23 years.

24 (C) The amount of previously allocated credit canceled or
25 disallowed in the calendar year by reason of subparagraph (E) of
26 paragraph (1) of subdivision (h).

27 (2) If the amount allocable to qualified commercial production
28 companies exceeds the aggregate amount of credits that may be
29 allocated in any calendar year, the credits shall be distributed to
30 qualified commercial production companies as follows:

31 (A) The California Film Commission shall allocate the credits
32 on a pro rata basis to qualified commercial production companies
33 for the designated period.

34 (B) The California Film Commission will compute the pro rata
35 allocation based on submitted applications from all qualified
36 commercial production companies within 120 days of the
37 application due date.

38 (j) The California Film Commission shall provide a list, at least
39 annually, to the Franchise Tax Board, in the form and manner as
40 shall be determined by the California Film Commission and the

1 Franchise Tax Board, of the names, taxpayer identification
2 numbers, including taxpayer identification numbers of each partner
3 or shareholder, as applicable, the qualified motion pictures for
4 which tax credit was allocated, and the total amount of the tax
5 credit allocated to each qualified taxpayer.

6 (k) This section shall remain in effect only until January 1, 2018,
7 and as of that date is repealed, unless a later enacted statute, that
8 is enacted before January 1, 2018, deletes or extends that date.

9 SEC. 5. Section 23036 of the Revenue and Taxation Code is
10 amended to read:

11 23036. (a) (1) The term “tax” includes any of the following:

12 (A) The tax imposed under Chapter 2 (commencing with Section
13 23101).

14 (B) The tax imposed under Chapter 3 (commencing with Section
15 23501).

16 (C) The tax on unrelated business taxable income, imposed
17 under Section 23731.

18 (D) The tax on—S “S” corporations imposed under Section
19 23802.

20 (2) The term “tax” does not include any amount imposed under
21 paragraph (1) of subdivision (e) of Section 24667 or paragraph (2)
22 of subdivision (f) of Section 24667.

23 (b) For purposes of Article 5 (commencing with Section 18661)
24 of Chapter 2, Article 3 (commencing with Section 19031) of
25 Chapter 4, Article 6 (commencing with Section 19101) of Chapter
26 4, and Chapter 7 (commencing with Section 19501) of Part 10.2,
27 and for purposes of Sections 18601, 19001, and 19005, the term
28 “tax” also includes all of the following:

29 (1) The tax on limited partnerships, imposed under Section
30 17935, the tax on limited liability companies, imposed under
31 Section 17941, and the tax on registered limited liability
32 partnerships and foreign limited liability partnerships imposed
33 under Section 17948.

34 (2) The alternative minimum tax imposed under Chapter 2.5
35 (commencing with Section 23400).

36 (3) The tax on built-in gains of—S “S” corporations, imposed
37 under Section 23809.

38 (4) The tax on excess passive investment income of—S “S”
39 corporations, imposed under Section 23811.

- 1 (c) Notwithstanding any other provision of this part, credits are
2 allowed against the “tax” in the following order:
- 3 (1) Credits that do not contain carryover provisions.
 - 4 (2) Credits that, when the credit exceeds the “tax,” allow the
5 excess to be carried over to offset the “tax” in succeeding taxable
6 years, except for those credits that are allowed to reduce the “tax”
7 below the tentative minimum tax, as defined by Section 23455.
8 The order of credits within this paragraph shall be determined by
9 the Franchise Tax Board.
 - 10 (3) The minimum tax credit allowed by Section 23453.
 - 11 (4) Credits that are allowed to reduce the “tax” below the
12 tentative minimum tax, as defined by Section 23455.
 - 13 (5) Credits for taxes withheld under Section 18662.
 - 14 (6) *Credits that contain refundable provisions, but do not*
15 *contain carryover provisions.*
- 16 (d) Notwithstanding any other provision of this part, each of
17 the following applies:
- 18 (1) No credit may reduce the “tax” below the tentative minimum
19 tax (as defined by paragraph (1) of subdivision (a) of Section
20 23455), except the following credits:
 - 21 (A) The credit allowed by former Section 23601 (relating to
22 solar energy).
 - 23 (B) The credit allowed by former Section 23601.4 (relating to
24 solar energy).
 - 25 (C) The credit allowed by former Section 23601.5 (relating to
26 solar energy).
 - 27 (D) The credit allowed by Section 23609 (relating to research
28 expenditures).
 - 29 (E) The credit allowed by former Section 23609.5 (relating to
30 clinical testing expenses).
 - 31 (F) The credit allowed by Section 23610.5 (relating to
32 low-income housing).
 - 33 (G) The credit allowed by former Section 23612 (relating to
34 sales and use tax credit).
 - 35 (H) The credit allowed by Section 23612.2 (relating to enterprise
36 zone sales or use tax credit).
 - 37 (I) The credit allowed by former Section 23612.6 (relating to
38 Los Angeles Revitalization Zone sales tax credit).
 - 39 (J) The credit allowed by former Section 23622 (relating to
40 enterprise zone hiring credit).

- 1 (K) The credit allowed by Section 23622.7 (relating to enterprise
2 zone hiring credit).
- 3 (L) The credit allowed by former Section 23623 (relating to
4 program area hiring credit).
- 5 (M) The credit allowed by former Section 23623.5 (relating to
6 Los Angeles Revitalization Zone hiring credit).
- 7 (N) The credit allowed by former Section 23625 (relating to
8 Los Angeles Revitalization Zone hiring credit).
- 9 (O) The credit allowed by Section 23633 (relating to targeted
10 tax area sales or use tax credit).
- 11 (P) The credit allowed by Section 23634 (relating to targeted
12 tax area hiring credit).
- 13 (Q) The credit allowed by Section 23649 (relating to qualified
14 property).
- 15 (2) No credit against the tax may reduce the minimum franchise
16 tax imposed under Chapter 2 (commencing with Section 23101).
- 17 (e) Any credit which is partially or totally denied under
18 subdivision (d) is allowed to be carried over to reduce the “tax”
19 in the following year, and succeeding years if necessary, if the
20 provisions relating to that credit include a provision to allow a
21 carryover of the unused portion of that credit.
- 22 (f) Unless otherwise provided, any remaining carryover from a
23 credit that has been repealed or made inoperative is allowed to be
24 carried over under the provisions of that section as it read
25 immediately prior to being repealed or becoming inoperative.
- 26 (g) Unless otherwise provided, if two or more taxpayers share
27 in costs that would be eligible for a tax credit allowed under this
28 part, each taxpayer is eligible to receive the tax credit in proportion
29 to his or her respective share of the costs paid or incurred.
- 30 (h) Unless otherwise provided, in the case of an—S “S”
31 corporation, any credit allowed by this part is computed at the—S
32 “S” corporation level, and any limitation on the expenses
33 qualifying for the credit or limitation upon the amount of the credit
34 applies to the—S “S” corporation and to each shareholder.
- 35 (i) (1) With respect to any taxpayer that directly or indirectly
36 owns an interest in a business entity that is disregarded for tax
37 purposes pursuant to Section 23038 and any regulations thereunder,
38 the amount of any credit or credit carryforward allowable for any
39 taxable year attributable to the disregarded business entity is limited
40 in accordance with paragraphs (2) and (3).

1 (2) The amount of any credit otherwise allowed under this part,
2 including any credit carryover from prior years, that may be applied
3 to reduce the taxpayer's "tax," as defined in subdivision (a), for
4 the taxable year is limited to an amount equal to the excess of the
5 taxpayer's regular tax (as defined in Section 23455), determined
6 by including income attributable to the disregarded business entity
7 that generated the credit or credit carryover, over the taxpayer's
8 regular tax (as defined in Section 23455), determined by excluding
9 the income attributable to that disregarded business entity. No
10 credit is allowed if the taxpayer's regular tax (as defined in Section
11 23455), determined by including the income attributable to the
12 disregarded business entity is less than the taxpayer's regular tax
13 (as defined in Section 23455), determined by excluding the income
14 attributable to the disregarded business entity.

15 (3) If the amount of a credit allowed pursuant to the section
16 establishing the credit exceeds the amount allowable under this
17 subdivision in any taxable year, the excess amount may be carried
18 over to subsequent taxable years pursuant to subdivisions (d), (e),
19 and (f).

20 (j) (1) Unless otherwise specifically provided, in the case of a
21 taxpayer that is a partner or shareholder of an eligible pass-through
22 entity described in paragraph (2), any credit passed through to the
23 taxpayer in the taxpayer's first taxable year beginning on or after
24 the date the credit is no longer operative may be claimed by the
25 taxpayer in that taxable year, notwithstanding the repeal of the
26 statute authorizing the credit prior to the close of that taxable year.

27 (2) For purposes of this subdivision, "eligible pass-through
28 entity" means any partnership or-S "S" corporation that files its
29 return on a fiscal year basis pursuant to Section 18566, and that is
30 entitled to a credit pursuant to this part for the taxable year that
31 begins during the last year a credit is operative.

32 (3) This subdivision applies to credits that become inoperative
33 on or after the operative date of the act adding this subdivision.

34 SEC. 6. Section 23685 is added to the Revenue and Taxation
35 Code, to read:

36 23685. (a) (1) For taxable years beginning on or after January
37 1, 2007, subject to the limitation in paragraph (2), there shall be
38 allowed to a qualified taxpayer, as designated by the California
39 Film Commission pursuant to subdivision (i), that makes an
40 irrevocable election pursuant to subdivision (i) to claim the credit

1 authorized by this section, as a credit against the “tax,” as defined
2 in Section 23036, an amount equal to 12 percent of the qualified
3 amount. A movie of the week and a miniseries, for which an
4 executed licensing agreement from a network or basic cable entity
5 is provided, shall be entitled to an additional 3 percent of the
6 qualified amount.

7 (2) The credit allowed by paragraph (1) shall not exceed the
8 lesser of:

9 (A) The amount of the credit allocated to the qualified taxpayer
10 by the California Film Commission based on the initial application.

11 (B) The amount of the credit calculated based on actual
12 allowable expenditures on the qualified motion picture.

13 (C) Three million dollars (\$3,000,000) per qualified motion
14 picture.

15 (b) For purposes of this section:

16 (1) “Ancillary product” means any article for sale to the public
17 that contains a portion of, or any element of, the motion picture.

18 (2) “Budget” means an estimate of all expenses paid or incurred
19 during the production period of a motion picture. It shall be the
20 same budget used by the qualified taxpayer and production
21 company for all qualified motion picture purposes.

22 (3) “Clip use” means a use of any portion of a motion picture,
23 other than the qualified motion picture, used in the qualified motion
24 picture.

25 (4) (A) “Employee fringe benefits” means the amount allowable
26 as a deduction under this part to the qualified taxpayer involved
27 in the production of the qualified motion picture for any year during
28 the production period with respect to any of the following:

29 (i) Employer contributions under any pension, profit-sharing,
30 annuity, or similar plan.

31 (ii) Employer-provided coverage under any accident or health
32 plan for employees.

33 (iii) The employer’s cost of life or disability insurance provided
34 to employees.

35 (B) Any amount treated as wages under clause (i) of
36 subparagraph (A) of paragraph (21) shall not be taken into account
37 under this paragraph.

38 (5) “Licensing” means any grant of rights to distribute the
39 qualified motion picture, in whole or in part.

1 (6) “Movie of the week” and “miniseries” both mean a motion
2 picture, produced for initial exploitation on television, which
3 contains a scripted storyline requiring two or more consecutive
4 hours of programming.

5 (7) “New to California” means a television series that has not
6 previously engaged in principal photography in this state, other
7 than for a production that is a pilot or presentation.

8 (8) “New use” means any use of a motion picture in a medium
9 other than the medium for which it was initially created.

10 (9) (A) “Postproduction” means the final activities in a qualified
11 motion picture’s production, including editing, foley recording,
12 automatic dialogue replacement, sound editing, scoring and music
13 editing, beginning and end credits, negative cutting, negative
14 processing and duplication, the addition of sound and visual effects,
15 soundmixing, film to tape transfers, encoding, and color correction.

16 (B) “Postproduction” does not include the manufacture or
17 shipping of release prints.

18 (10) “Preproduction” means the process of preparation for actual
19 physical production which begins after a qualified motion picture
20 has received a firm agreement of financial commitment, or is
21 greenlit, with, for example, the establishment of a dedicated
22 production office, the hiring of key crew members, and includes,
23 but is not limited to, activities that include location scouting and
24 execution of contracts with vendors of equipment and stage space.

25 (11) “Principal photography” means the phase of production
26 during which the motion picture is actually shot, as distinguished
27 from preproduction and postproduction.

28 (12) “Production accountant” means an employee of the
29 production company whose duties include some or all of the
30 following activities: oversight of production budgets, cost
31 reporting, order management, payment of expenses, and the review
32 of financial reports for accuracy and completeness.

33 (13) “Production company” means a company primarily engaged
34 in qualified production activities that have been approved by the
35 California Film Commission.

36 (14) “Production period” means the period of time in which the
37 preproduction, principal photography, and postproduction occurs
38 until the qualified motion picture is completed, as described in
39 clause (v) of subparagraph (C) of paragraph (18).

40 (15) (A) “Qualified amount” means all of the following:

1 (i) The total amount paid or incurred during the production
2 period for qualified wages with respect to the production of each
3 qualified motion picture.

4 (ii) The total amount paid or incurred during the production
5 period for qualified property.

6 (iii) Amounts paid or incurred for qualified wages and qualified
7 property related to the qualified motion picture for preproduction
8 costs that include set design and construction, props, wardrobe,
9 prosthetics, testing, and location scouting that are paid or incurred.

10 In the case of a television series described in clause (ii) of
11 subparagraph (C) of paragraph (18), the amounts paid or incurred
12 for the items described in this subparagraph shall be ratably
13 allocated amongst the episodes produced in the first season of
14 production.

15 (B) Notwithstanding subparagraph (A), the term “qualified
16 amount” shall not include any qualified wages paid or incurred
17 for services performed nor any qualified property purchased or
18 leased before January 1, 2007.

19 (16) “Qualified entity” means a personal service corporation as
20 defined in Section 269A(b)(1) of the Internal Revenue Code, a
21 payroll services corporation, or any entity receiving qualified wages
22 with respect to services performed by a qualified individual.

23 (17) (A) “Qualified individual” means any individual who
24 performs services during the production period in an activity related
25 to the production of a qualified motion picture.

26 (B) “Qualified individual” shall not include either of the
27 following:

28 (i) Any individual related to the qualified taxpayer as described
29 in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal
30 Revenue Code.

31 (ii) Any 5 percent owner, as defined in Section 416(i)(1)(B) of
32 the Internal Revenue Code, of the qualified taxpayer.

33 (18) (A) “Qualified motion picture” means any motion picture
34 that is produced, adapted, or altered for exploitation in, on, or
35 through any medium or by any device, including, but not limited
36 to, a motion picture produced for exploitation in movie theaters,
37 through any form of television, videotapes, videodiscs, DVDs, or
38 any other digital format or on commercial carriers. “Qualified
39 motion picture” shall also include, but shall not be limited to, all

1 adapted versions thereof, whether adapted for exploitation in any
2 language, for any media, or otherwise.

3 (B) (i) “Qualified motion picture” shall not include any motion
4 picture produced for private noncommercial use, such as weddings
5 or graduations, made by students as part of any educational course,
6 or any motion picture produced for industrial purposes.

7 (ii) “Qualified motion picture” shall not include a news program,
8 current events or public events program, talk show, game show,
9 sporting event or activity, awards show, telethon or other
10 production that solicits funds, reality television program, a feature
11 where 80 percent or more of the content consists of
12 computer-generated images, clip-based programming if more than
13 50 percent of the content is comprised of licensed footage,
14 documentaries, variety programs, daytime dramas, strip shows,
15 one-half-hour (air time) episodic television shows, or any
16 production that falls within the recordkeeping requirements of
17 Section 2257 of Title 18 of the United States Code.

18 (C) To qualify as a “qualified motion picture,” all of the
19 following additional conditions shall be satisfied:

20 (i) The qualified motion picture shall be a feature with a
21 minimum budget of five hundred thousand dollars (\$500,000) and
22 a maximum budget of seventy-five million dollars (\$75,000,000),
23 or a movie of the week or miniseries with a minimum budget of
24 five hundred thousand dollars (\$500,000) and a maximum budget
25 of seventy-five million dollars (\$75,000,000).

26 (ii) A qualified motion picture shall also include a single episode
27 in a single season, not to exceed 22 episodes per season, of a
28 television series new to California with a minimum budget of five
29 hundred thousand dollars (\$500,000) and a maximum budget of
30 one million eight hundred thousand dollars (\$1,800,000). This
31 clause shall only apply to the first three seasons of a television
32 series that is new to California.

33 (iii) The actual expenses totaled at the completion of the
34 qualified motion picture must fall within the fiscal ranges
35 established in clause (i) or (ii) at the time of application to the
36 California Film Commission.

37 (iv) At least 75 percent of the total days spent in principal
38 photography of a qualified motion picture occur wholly in
39 California.

1 (v) Production of the motion picture is completed within 30
2 months of the date on which the qualified taxpayer's application
3 was approved by the California Film Commission. For purposes
4 of this section, a qualified motion picture is "completed" when the
5 process of postproduction has been finished, and a final answer
6 print or broadcast delivery air master of the qualified motion picture
7 is produced.

8 (vi) Principal photography of the qualified motion picture begins
9 within 180 days of the designation of the taxpayer as a qualified
10 taxpayer by the California Film Commission.

11 (D) For the purposes of clauses (i) and (ii) of subparagraph (C)
12 the following additional rules apply:

13 (i) In computing the total amounts paid or incurred for the
14 production of a qualified motion picture, all amounts paid or
15 incurred by all persons or entities that share in the costs of the
16 qualified motion picture shall be aggregated.

17 (ii) In the case of a television series, described in clause (ii) of
18 subparagraph (C), each episode shall be treated as a separate
19 qualified motion picture.

20 (E) For purposes of computing the limitations under this
21 paragraph, "wages" means all amounts described in subparagraph
22 (A) of paragraph (21), provided that these amounts are paid or
23 services performed or rendered within this state.

24 (19) (A) "Qualified property" means tangible personal property
25 purchased or leased in California and is used primarily in the
26 production of a qualified motion picture.

27 (B) "Qualified property" shall not include a story, script, or
28 scenario to be used for a qualified motion picture, or the literary,
29 dramatic, or musical material upon which the qualified motion
30 picture is based or may be adapted, or any rights related to the
31 foregoing.

32 (20) (A) "Qualified taxpayer" means an applicant who has been
33 allocated tax credits by the California Film Commission pursuant
34 to subdivision (i).

35 (B) In the case of any passthrough entity, the determination of
36 whether a taxpayer is a qualified taxpayer under this section shall
37 be made at the entity level and any credit under this section shall
38 be allowed to the passthrough entity and passed through to the
39 partners or shareholders in accordance with applicable provisions
40 of Part 10 (commencing with Section 17001) or Part 11

1 (commencing with Section 23001). For purposes of this paragraph,
2 “passthrough entity” means any partnership or “S” corporation.

3 (21) (A) “Qualified wages” means all of the following:

4 (i) Any wages reported under Section 13050 of the
5 Unemployment Insurance Code that were paid or incurred by the
6 production company involved in the production of a qualified
7 motion picture with respect to a qualified individual for services
8 performed on the qualified motion picture within this state.

9 (ii) The portion of any employee fringe benefits paid or incurred
10 by the production company involved in the production of the
11 qualified motion picture that are properly allocable to qualified
12 wage amounts described in clause (i).

13 (iii) Any payments made to a qualified entity for services
14 performed on a qualified motion picture in this state by qualified
15 individuals within the meaning of paragraph (17).

16 (iv) Remuneration paid to an independent contractor, as
17 described in Section 2750.5 of the Labor Code, who is a qualified
18 individual for services performed within this state by that qualified
19 individual.

20 (B) “Qualified wages” shall not include any of the following:

21 (i) Expenses, including wages, for legal or accounting services,
22 except production accountants.

23 (ii) Expenses, including wages, in excess of the first twenty-five
24 thousand dollars (\$25,000) paid per person per qualified motion
25 picture for writers, directors, music directors, music composers,
26 music supervisors, producers, and performers, other than
27 background actors with no scripted lines.

28 (iii) Expenses, including wages, related to new use, reuse, clip
29 use, licensing, secondary markets, or residual compensation, or
30 the creation of any ancillary product, including, but not limited to,
31 a soundtrack album, toy, game, trailer, or teaser.

32 (iv) Expenses, including wages, paid or incurred with respect
33 to acquisition, development, turnaround, or any rights thereto.

34 (v) Expenses, including wages, related to financing, overhead,
35 marketing, promotion, or distribution of a qualified motion picture.

36 (22) “Residual compensation” means supplemental
37 compensation paid at the time that a motion picture is exhibited
38 through new use, reuse, clip use, or in secondary markets, as
39 distinguished from payments made during production.

1 (23) “Reuse” means any use of a qualified motion picture in the
2 same medium for which it was created, following the initial use
3 in that medium.

4 (24) “Secondary markets” means media in which a qualified
5 motion picture is exhibited following the initial media in which it
6 is exhibited.

7 (c) (1) Notwithstanding subdivision (i) of Section 23036, related
8 to credits attributable to a disregarded business entity, in the case
9 where the credit allowed by this section exceeds the taxpayer’s
10 tax liability computed under this part, the excess shall be credited
11 against other amounts due, if any, from the taxpayer and, except
12 as provided in paragraph (2), the balance, if any, shall be refunded
13 to the taxpayer.

14 (2) No portion of the credit allowed by this section shall be
15 refunded to an “S” corporation.

16 (3) Notwithstanding Section 23803, the amount of credit claimed
17 by an “S” corporation pursuant to this section shall be reduced by
18 an amount equal to the amount of credit claimed by the
19 shareholders of the “S” corporation.

20 (4) Those amounts that are determined by the Franchise Tax
21 Board to be necessary to make the refunds required by this
22 subdivision, notwithstanding Section 13340 of the Government
23 Code, shall be continuously appropriated from the Corporation
24 Tax Fund, commencing with the 2007-08 fiscal year, but otherwise
25 without regard to fiscal years, to the Franchise Tax Board for the
26 purpose of making those refunds.

27 (d) The amount of any credit allowed under this section to the
28 qualified taxpayer shall be treated as an item of income of the
29 qualified taxpayer from a separate trade or business conducted
30 wholly within this state for the taxable year in which the credit is
31 allowed.

32 (e) No credit shall be allowed pursuant to this section unless
33 the qualified taxpayer substantiates, by adequate books and records
34 or by sufficient evidence corroborating his or her own statement,
35 that:

36 (1) The qualified wages and the qualified property on which
37 the credit was calculated were actually paid or incurred in the
38 amount claimed. Substantiation of this item shall include proof
39 that the services were performed in California and the qualified
40 property was purchased or leased in California.

- 1 (2) The motion picture was a qualified motion picture.
2 Substantiation of this item shall include, but not limited to, the
3 following:
- 4 (A) Identification of each qualified individual.
 - 5 (B) The specific start and end dates of production.
 - 6 (C) The total wages paid and the amount and type of qualified
7 property purchased.
 - 8 (D) The amount of qualified wages paid to each qualified
9 individual.
 - 10 (E) Certification from the Director of the California Film
11 Commission that identifies the motion picture as a qualified motion
12 picture.
 - 13 (f) The Franchise Tax Board shall provide an annual listing to
14 the State Board of Equalization, in a form and manner agreed upon
15 by the Franchise Tax Board and the State Board of Equalization,
16 of the qualified taxpayers who, during that reporting period, have
17 claimed a credit under this section, including the amount of the
18 credit allowed to each qualified taxpayer.
 - 19 (g) Subdivision (c) of Section 19341, relating to interest on
20 overpayments, shall not apply to any return claiming a credit under
21 this section.
 - 22 (h) If the qualified taxpayer fails to attach the certification issued
23 by the California Film Commission, in accordance with subdivision
24 (i), the credit shall be disallowed and assessed and collected under
25 Section 19051.
 - 26 (i) (1) For purposes of this section, the Director of the California
27 Film Commission shall do all of the following:
 - 28 (A) Allocate tax credits to applicants.
 - 29 (B) Establish a procedure for qualified taxpayers to file with
30 the California Film Commission a written application, on a form
31 jointly prescribed by the California Film Commission and the
32 Franchise Tax Board, for allocation of tax credits. The application
33 shall be filed under penalty of perjury and include, but not be
34 limited to, the following information:
 - 35 (i) The budget for the motion picture production.
 - 36 (ii) A one-line shooting schedule.
 - 37 (iii) A financing plan for the production.
 - 38 (iv) An application fee.
 - 39 (v) The copyright registration number for the screenplay, as
40 reflected on the certificate of registration issued under the authority

1 of Section 410 of Title 17 of the United States Code, relating to
2 registration of claim and issuance of certificate.

3 (vi) Any other information deemed relevant by the California
4 Film Commission.

5 (C) Establish a procedure for qualified taxpayers to make an
6 irrevocable election to claim the tax credit allocation as a credit
7 pursuant to this section or as a refund or credit pursuant to Section
8 6902.5.

9 (D) Determine and designate who is a qualified taxpayer meeting
10 the requirements of this section.

11 (E) Process and approve, or reject, all applications on a
12 first-come, first-served basis.

13 (F) Provide for the cancellation of the allocated credits if
14 principal photography on the qualified motion picture does not
15 begin within 180 days after notification of the credit allocation by
16 the California Film Commission in accordance with subdivision
17 (j).

18 (G) Establish specific audit requirements, in addition to those
19 provided under current law, that must be complied with prior to
20 the issuance of the certificate required by subparagraph (H), and
21 provide for the reallocation of previously approved credits that are
22 disallowed pursuant to the audit requirements, in accordance with
23 subdivision (j).

24 (H) Issue a certificate to the qualified taxpayer setting forth the
25 name of the qualified taxpayer, the identification of the qualified
26 motion picture, and the total amount of the tax credit allocated.

27 (2) No later than March 1, 2008, the California Film
28 Commission shall promulgate rules and regulations necessary to
29 establish procedures, processes, requirements, and rules identified
30 in or required to implement this section. Rules and regulations
31 may be adopted on an emergency basis if necessary to meet the
32 March 1, 2008, deadline. The California Film Commission may
33 amend these rules and regulations as necessary. The California
34 Film Commission may adopt rules and regulations to more
35 narrowly define the terms listed in subdivision (b) to limit their
36 meaning, but may not expand the definition of any terms defined
37 in subdivision (b).

38 (j) The aggregate amount of credits that may be allocated in any
39 calendar year pursuant to this section and Section 17053.85 shall
40 be an amount equal to the sum of all the following:

1 (1) ____ million dollars (\$____) for each calendar quarter, and
2 each calendar quarter thereafter.

3 (2) The unused credit ceiling, if any, for the preceding calendar
4 quarter.

5 (3) The amount of previously allocated credit canceled or
6 disallowed in the preceding calendar quarter by reason of
7 subparagraph (F) or subparagraph (G) of paragraph (1) of
8 subdivision (i).

9 (k) The California Film Commission shall provide a list, at least
10 annually, to the Franchise Tax Board, in the form and manner as
11 shall be determined by the California Film Commission and the
12 Franchise Tax Board, of the names, taxpayer identification
13 numbers, including taxpayer identification numbers of each partner
14 or shareholder, as applicable, the qualified motion pictures for
15 which tax credit was allocated, and the total amount of the tax
16 credit allocated to each qualified taxpayer.

17 (l) This section shall remain in effect only until January 1, 2018,
18 and as of that date is repealed, unless a later enacted statute, that
19 is enacted before January 1, 2018, deletes or extends that date.

20 SEC. 7. Section 23686 is added to the Revenue and Taxation
21 Code, to read:

22 23686. (a) (1) For taxable years beginning on or after January
23 1, 2007, subject to the limitation in paragraph (2), there shall be
24 allowed to a qualified commercial production company, as
25 designated by the California Film Commission pursuant to
26 subdivision (h), as a credit against the “tax,” as defined in Section
27 23036, an amount equal to 12 percent of the incremental qualified
28 production costs.

29 (2) The credit allowed by paragraph (1) shall not exceed:

30 (A) Five hundred thousand dollars (\$500,000) per qualified
31 production company per calendar year.

32 (B) The amount of the credit allocated by the California Film
33 Commission to the qualified commercial production company
34 pursuant to subdivision (h).

35 (b) For the purposes of this section:

36 (1) “Base year” is the taxable year preceding the taxable year
37 in which the credit is claimed.

38 (2) (A) “Employee fringe benefits” means the amount allowable
39 as a deduction under this part to the qualified commercial
40 production company involved in the production of the qualified

1 commercial for any year during the production period with respect
2 to any of the following:

3 (i) Employer contributions under any pension, profit-sharing,
4 annuity, or similar plan.

5 (ii) Employer-provided coverage under any accident or health
6 plan for employees.

7 (iii) The employer's cost of life or disability insurance provide
8 to employees.

9 (B) Any amount treated as wages under clause (i) of
10 subparagraph (A) of paragraph (10) shall not be taken in account
11 under this paragraph.

12 (3) "Incremental qualified production costs" are any qualified
13 production costs for the taxable year greater than the qualified
14 production costs for the base year.

15 (4) "Principal photography" means the phase of production
16 during which the qualified commercial is actually shot.

17 (5) "Postproduction" means the final activities in a qualified
18 commercial's production, including, but not limited to, offline
19 editorial, online editorial, dailies, color correction, compositing,
20 CGI, graphics, sound editorial, sound mixing, sound design,
21 automated dialogue replacement, foley recording, music
22 composition and scoring, and duplication associated with the above
23 process.

24 (6) (A) "Qualified commercial" means a commercial or
25 advertisement composed of moving images and sounds that is
26 recorded on film, videotape, or other digital medium, created for
27 display on a network, regional channel, or cable where 75 percent
28 of the total production days spent in principal photography occur
29 wholly in California.

30 (B) "Qualified commercial" shall not include any program length
31 production with an advertising component including a documentary
32 length commercial, an infomercial, news, or current affairs
33 program, interview or talk program, network promotion (short
34 form content intended to promote other programming), sporting
35 event, game show, award ceremonies, daytime dramas, reality
36 entertainment programming or program intended primarily for
37 industrial, corporate, or institutional end users, fundraising or
38 political commercials, a program consisting of primarily of stock
39 footage, a program produced by organization organized under
40 Section 527 of the Internal Revenue Code, or any production that

1 falls within the recordkeeping requirements of Section 2257 of
2 Title 18 of the United States Code.

3 (7) (A) “Qualified commercial production company” means a
4 taxpayer, allocated tax credits by the California Film Commission
5 pursuant to subdivision (h), that is principally engaged in the
6 production of a qualified commercial and has control over the
7 selection of production location, deployment, or management of
8 the production equipment, and directly employs the production
9 crew on the qualified commercial, or is a taxpayer who provides
10 qualified postproduction services.

11 (B) In the case of any passthrough entity, the determination of
12 whether a taxpayer is a qualified commercial production company
13 under this section shall be made at the entity level and any credit
14 under this section shall be allowed to the passthrough entity and
15 passed through to the partners or shareholders in accordance with
16 applicable provisions of Part 10 (commencing with Section 17001)
17 or Part 11 (commencing with Section 23001). For the purposes of
18 this paragraph, “passthrough entity” means any partnership or “S”
19 corporation.

20 (8) (A) “Qualified individual” means any individual who
21 performs services during the production period in an activity related
22 to the production of a qualified commercial.

23 (B) “Qualified individual” shall not include either of the
24 following:

25 (i) Any individual related to the qualified commercial production
26 company as described in subparagraph (A), (B), (C), or Section
27 51(i)(1) of the Internal Revenue Code.

28 (ii) Any 5 percent owner, as defined in Section 416(i)(1)(B) of
29 the Internal Revenue Code, of the qualified commercial production
30 company.

31 (9) “Qualified production costs” means all of the following:

32 (A) Costs for tangible property used and services performed
33 directly and predominately in the production of a qualified
34 commercial.

35 (B) Costs for qualified wages, technical and crew production
36 costs, allocable portions of depreciation on equipment directly
37 used in production, rental or other expenditures for commercial
38 production facilities, props, makeup, wardrobe, film processing,
39 camera rental, sound recording, set construction, lighting,
40 on-location meals, and lodging.

1 (C) Costs for equipment and services required to complete
2 postproduction of the qualified commercial.

3 (D) “Qualified production costs” does not include costs for
4 story, script, or scenario to be used for a qualified commercial, or
5 any qualified wages paid or incurred before January 1, 2007.

6 (10) (A) “Qualified wages” means all of the following:

7 (i) Any wages reported under Section 13050 of the
8 Unemployment Insurance Code that were paid or incurred by the
9 qualified commercial production company involved in the
10 production of a qualified commercial with respect to a qualified
11 individual for services performed on the qualified commercial
12 production within this state.

13 (ii) The portion of any employee fringe benefits paid or incurred
14 by the qualified commercial production company involved in the
15 production of a qualified commercial that are properly allocation
16 to qualified wage amounts described in clause (i).

17 (iii) Remuneration paid to a qualified individual for services
18 performed within this state by that qualified individual.

19 (iv) Remuneration paid to an independent contractor, as
20 described in Section 2750.5 of the Labor Code, who is a qualified
21 individual for services performed in this state by that qualified
22 individual.

23 (B) “Qualified wages” shall not include wages, salaries, or other
24 compensation for writers, directors, music directors, producers
25 and performers, other than background actors with no scripted
26 lines who are employed by a qualified commercial production
27 company.

28 (c) (1) Notwithstanding subdivision (g) of Section 23036,
29 relating to credits attributable to a disregarded business entity, in
30 the case where the credit allowed by this section exceeds the
31 taxpayer’s tax liability computed under this part, the excess shall
32 be credited against other amounts due, if any, from the taxpayer
33 and, except as provided in paragraph (2), the balance, if any, shall
34 be refunded to the taxpayer.

35 (2) No portion of the credit allowed by this section shall be
36 refunded to an “S” corporation.

37 (3) Notwithstanding Section 23803, the amount of credit claimed
38 by an “S” corporation pursuant to this section shall be reduced by
39 an amount equal to the amount of credit claimed by the
40 shareholders of the “S” corporation.

1 (4) Those amounts that are determined by the Franchise Tax
2 Board to be necessary to make the refunds required by this
3 subdivision, notwithstanding Section 13340 of the Government
4 Code, shall be continuously appropriated from the Corporation
5 Tax Fund, commencing with the 2007-08 fiscal year, but otherwise
6 without regard to fiscal years, to the Franchise Tax Board for the
7 purpose of making those refunds.

8 (d) The amount of any credit allowed under this section to the
9 qualified commercial production company shall be treated as an
10 item of income of the qualified commercial production company
11 from a separate trade or business conducted wholly within this
12 state for the taxable year in which the credit is allowed.

13 (e) No credit shall be allowed pursuant to this section unless
14 the qualified commercial production company substantiates, by
15 adequate books and records or by sufficient evidence corroborating
16 his or her own statement, that:

17 (1) The incremental qualified production costs upon which the
18 credit was calculated were actually paid or incurred in the amount
19 claimed.

20 (2) The commercial was a qualified commercial. Substantiation
21 of this item shall include, but is not limited to, the following:

22 (A) Identification of each qualified individual.

23 (B) The specific start and end dates of production.

24 (C) The total wages paid.

25 (D) The amount of qualified wages paid to each qualified
26 individual.

27 (E) Certification from the Director of the California Film
28 Commission as required in subdivision (h).

29 (f) Subdivision (c) of Section 19341, relating to interest on
30 overpayments, shall not apply to any return claiming a credit under
31 this section.

32 (g) If the qualified commercial production company fails to
33 attach the certification issued by the California Film Commission,
34 in accordance with subdivision (h), the credit shall be disallowed
35 and assessed under Section 19051.

36 (h) (1) For purposes of this section, the Director of the
37 California Film Commission shall do all of the following:

38 (A) Allocate tax credits to applicants, including establishing a
39 procedure to allocate tax credits among qualified commercial

1 production companies pursuant to paragraph (2) of subdivision
2 (i).

3 (B) Establish a procedure for qualified commercial production
4 companies to file with the commission a written application, on a
5 form jointly prescribed by the commission and the Franchise Tax
6 Board, for allocation of tax credits. The application shall be filed
7 under penalty of perjury and include, but not be limited to, the
8 following information:

9 (i) The qualified production costs for the base year.

10 (ii) The qualified production costs for the taxable year in which
11 the credit is claimed.

12 (iii) An application fee.

13 (iv) Any other information deemed relevant by the commission.

14 (C) Determine and designate who is a qualified commercial
15 production company meeting the requirements of this section.

16 (D) Process and approve, or reject, all applications.

17 (E) Establish specific audit requirements, in addition to those
18 provided under current law that must be complied with prior to
19 the issuance of the certificate required by subparagraph (F), and
20 to provide for the reallocation of previously approved credits that
21 are disallowed pursuant to the audit requirements, in accordance
22 with subdivision (i).

23 (F) Issue a certificate to the qualified taxpayer setting forth the
24 name of the qualified taxpayer and the total amount of the tax
25 credit allocated.

26 (2) No later than March 1, 2008, the California Film
27 Commission shall promulgate rules and regulations necessary to
28 establish procedures, processes, requirements, and rules identified
29 in or required to implement this section. Rules and regulations
30 may be adopted on an emergency basis if necessary to meet the
31 March 1, 2008, deadline. The California Film Commission may
32 amend these rules and regulations as necessary. The California
33 Film Commission may adopt rules and regulations to more
34 narrowly define the terms listed in subdivision (b) to limit their
35 meaning, but may not expand the definition of any terms defined
36 in subdivision (b).

37 (i) (1) The aggregate amount of credits that may be allocated
38 in any calendar year pursuant to this section and Section 17053.86
39 shall be an amount equal to the sum of all of the following:

1 (A) _____ million dollars (\$_____) for the 2008 calendar year,
2 and each calendar year thereafter.

3 (B) The unused credit ceiling, if any, for the preceding calendar
4 years.

5 (C) The amount of previously allocated credit cancelled or
6 disallowed in the calendar year by reason of subparagraph (E) of
7 paragraph (1) of subdivision (h).

8 (2) If the amount allocable to qualified commercial production
9 companies exceeds the aggregate amount of credits that may be
10 allocated in any calendar year, the credits shall be distributed to
11 qualified commercial production companies as follows:

12 (A) The California Film Commission shall allocate the credits
13 on a pro rata basis to qualified commercial production companies
14 for the designated period.

15 (B) The California Film Commission will compute the pro rata
16 allocation based on submitted applications from all qualified
17 commercial production companies within 120 days of the
18 application due date.

19 (j) The California Film Commission shall provide a list, at least
20 annually, to the Franchise Tax Board, in the form and manner as
21 shall be determined by the California Film Commission and the
22 Franchise Tax Board, of the names, taxpayer identification
23 numbers, including taxpayer identification numbers of each partner
24 or shareholder, as applicable, the qualified motion pictures for
25 which tax credit was allocated, and the total amount of the tax
26 credit allocated to each qualified taxpayer.

27 (k) This section shall remain in effect only until January 1, 2018,
28 and as of that date is repealed, unless a later enacted statute, that
29 is enacted before January 1, 2018, deletes or extends that date.

30 SEC. 8. (a) On or before December 31, 2012, the Business,
31 Transportation and Housing Agency shall report to the Legislature
32 on the economic impact of the tax incentives created by this act.
33 In preparing the report, the agency shall consider, but is not limited
34 to considering, all of the following:

35 (1) The number and increase or decrease of qualified motion
36 pictures and qualified commercials produced in California.

37 (2) The amount of total qualified wages paid or incurred in
38 California.

39 (3) The level of employment in the production industry in
40 California.

1 (b) The agency may consult with the Employment Development
2 Department, the Franchise Tax Board, the State Board of
3 Equalization, representatives of industry and labor organizations,
4 and agencies of local government before completing its report.

5 SEC. 9. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.

14 SEC. 10. This act provides for a tax levy within the meaning
15 of Article IV of the Constitution and shall go into immediate effect.