

AMENDED IN ASSEMBLY MARCH 19, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1839

Introduced by Assembly Members Gatto and Bocanegra

(Principal coauthors: Assembly Members Allen, Bloom, Bonta, Brown, Campos, Dababneh, Garcia, Gorell, Hall, Muratsuchi, V. Manuel Pérez, Rendon, and Wilk)

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(Coauthors: Senators Berryhill, *Correa*, Gaines, *Galgiani*, *Huff*, Knight, Liu, Pavley, Torres, and Walters)

February 18, 2014

An act to add Sections 17053.95 and 23695 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1839, as amended, Gatto. ~~Taxation: credits:~~ *Income taxes:* qualified motion pictures.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including a credit against those taxes for taxable years beginning on or after January 1, 2011, in an amount equal to an applicable percentage of either 20% or 25%, respectively, of the qualified expenditures, as defined,

attributable to the production of a qualified motion picture in California, or, where the qualified motion picture is a television series that relocated to California or is an independent film, as provided. Existing law imposes specified duties on the California Film Commission related to the administration of the credits, including a requirement to allocate the tax credits until July 1, 2017, and limits the aggregate amount of credits that may be allocated to qualified motion pictures in any fiscal year to \$100,000,000 through the 2016–17 fiscal year.

This bill would establish similar credits under the Personal Income Tax Law and the Corporation Tax Law for taxable years beginning on or after January 1, 2016, to be allocated by the California Film Commission on and after July 1, 2016 and before July 1, 2021. This bill would, as compared to the existing tax credits, extend the scope of the credits for a ~~feature film~~ *qualified motion picture* to the applicable percentage of qualified expenditures up to \$100,000,000, *would* extend the credit to qualified expenditures for television pilot episodes *and qualified expenditures relating to music scoring and music editing*, and *would* determine an applicable percentage of 25% or 20% for qualified expenditures for television series relocating to California based on the number of years the series has received the credit since relocation to California and where in California photography occurs. This bill would limit the aggregate amount of these new credits to be allocated in each fiscal year to an unspecified amount, and would also set aside specific credit allocation amounts for each fiscal year for independent films and for television series that relocate to California.

The bill would state that its provisions are severable.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

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

- 1 SECTION 1. Section 17053.95 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 17053.95. (a) (1) For taxable years beginning on or after
- 4 January 1, 2016, there shall be allowed to a qualified taxpayer a
- 5 credit against the “net tax,” as defined in Section 17039, in an
- 6 amount equal to the applicable percentage, as specified in
- 7 paragraph (4), of the qualified expenditures for the production of
- 8 a qualified motion picture in California. A credit shall not be

1 allowed under this section for any qualified expenditures for the
2 production of a motion picture in California if a credit has been
3 claimed for those same expenditures under Section 17053.85.

4 (2) The credit shall be allowed for the taxable year in which the
5 California Film Commission issues the credit certificate pursuant
6 to subdivision (g) for the qualified motion picture, and shall be for
7 the applicable percentage of all qualified expenditures paid or
8 incurred by the qualified taxpayer in all taxable years for that
9 qualified motion picture.

10 (3) The amount of the credit allowed to a qualified taxpayer
11 shall be limited to the amount specified in the credit certificate
12 issued to the qualified taxpayer by the California Film Commission
13 pursuant to subdivision (g).

14 (4) For purposes of paragraphs (1) and (2), the applicable
15 percentage shall be:

16 (A) Twenty percent of the qualified expenditures attributable
17 to the production of a ~~feature in California, up to one hundred~~
18 ~~million dollars (\$100,000,000), or attributable to a television series~~
19 ~~in its second or subsequent year of receiving a tax credit allocation~~
20 ~~pursuant to this section since relocation to California~~ *qualified*
21 *motion picture in California, including, but not limited to, a feature,*
22 *up to one hundred million dollars (\$100,000,000), or a television*
23 *series in its second or subsequent years of receiving a tax credit*
24 *allocation pursuant to this section.*

25 (B) Twenty-five percent of the qualified expenditures
26 attributable to the production of a qualified motion picture in
27 California where the qualified motion picture is a television series
28 that relocated to California in its first year of receiving a tax credit
29 allocation pursuant to this section or is an independent film.

30 (C) (i) The California Film Commission shall increase the
31 applicable percentage by 5 percent, *not to exceed a maximum of*
32 *25 percent*, if the qualified motion picture incurred or paid the
33 qualified expenditures relating to original photography outside the
34 Los Angeles zone.

35 (ii) For purposes of this subparagraph:

36 (I) “Applicable period” means the period that commences with
37 pre production and ends when original photography concludes.
38 The applicable period includes the time necessary to strike a remote
39 location and return to the Los Angeles zone.

1 (II) “Los Angeles zone” means the area within a circle 30 miles
2 in radius from Beverly Boulevard and La Cienega Boulevard, Los
3 Angeles, California, and includes Agua Dulce, Castaic, including
4 Lake Castaic, Leo Carillo State Beach, Ontario International
5 Airport, Piru, and Pomona, including the Los Angeles County
6 Fairgrounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch
7 property is within the Los Angeles zone.

8 (III) “Original photography” includes principal photography,
9 additional unit photography, and reshooting original footage.

10 (IV) “Qualified expenditures relating to original photography
11 outside the Los Angeles zone” means amounts paid or incurred
12 during the applicable period for tangible personal property used
13 or consumed outside the Los Angeles zone and relating to original
14 photography outside the Los Angeles zone and qualified wages
15 paid for services performed outside the Los Angeles zone and
16 relating to original photography outside the Los Angeles zone.

17 (D) *Twenty-five percent of the qualified expenditures relating*
18 *to music scoring and music editing attributable to the production*
19 *of a qualified motion picture in California.*

20 (b) For purposes of this section:

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

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

28 (3) “Clip use” means a use of any portion of a motion picture,
29 other than the qualified motion picture, used in the qualified motion
30 picture.

31 (4) “Credit certificate” means the certificate issued by the
32 California Film Commission pursuant to subparagraph (C) of
33 paragraph (2) of subdivision (g).

34 (5) (A) “Employee fringe benefits” means the amount allowable
35 as a deduction under this part to the qualified taxpayer involved
36 in the production of the qualified motion picture, exclusive of any
37 amounts contributed by employees, for any year during the
38 production period with respect to any of the following:

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

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

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

5 (B) Any amount treated as wages under clause (i) of
6 subparagraph (A) of paragraph (18) shall not be taken into account
7 under this paragraph.

8 (6) “Independent film” means a motion picture with a minimum
9 budget of one million dollars (\$1,000,000) and a maximum budget
10 of ten million dollars (\$10,000,000) that is produced by a company
11 that is not publicly traded and publicly traded companies do not
12 own, directly or indirectly, more than 25 percent of the producing
13 company.

14 (7) “Licensing” means any grant of rights to distribute the
15 qualified motion picture, in whole or in part.

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

18 (9) (A) “Post production” means the final activities in a
19 qualified motion picture’s production, including editing, foley
20 recording, automatic dialogue replacement, sound editing, scoring,
21 music track recording by musicians and music editing, beginning
22 and end credits, negative cutting, negative processing and
23 duplication, the addition of sound and visual effects, sound mixing,
24 film-to-tape transfers, encoding, and color correction.

25 (B) “Post production” does not include the manufacture or
26 shipping of release prints *or their equivalent*.

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

34 (11) “Principal photography” means the phase of production
35 during which the motion picture is actually shot, as distinguished
36 from preproduction and post production.

37 (12) “Production period” means the period beginning with
38 preproduction and ending upon completion of post production.

39 (13) “Qualified entity” means a personal service corporation as
40 defined in Section 269A(b)(1) of the Internal Revenue Code, a

1 payroll services corporation, or any entity receiving qualified wages
2 with respect to services performed by a qualified individual.

3 (14) (A) “Qualified individual” means any individual who
4 performs services during the production period in an activity related
5 to the production of a qualified motion picture.

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

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

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

13 (15) (A) “Qualified motion picture” means a motion picture
14 that is produced for distribution to the general public, regardless
15 of medium, that is one of the following:

16 (i) A feature with a minimum production budget of one million
17 dollars (\$1,000,000).

18 (ii) A movie of the week or miniseries with a minimum
19 production budget of five hundred thousand dollars (\$500,000).

20 (iii) A new one-hour television series of episodes longer than
21 40 minutes each of running time, exclusive of commercials, that
22 is produced in California, with a minimum production budget of
23 one million dollars (\$1,000,000) per episode.

24 (iv) An independent film.

25 (v) A television series that relocated to California.

26 (vi) A pilot for a new television series that is longer than 40
27 minutes of running time, exclusive of commercials, that is produced
28 in California, and with a minimum production budget of one
29 million dollars (\$1,000,000).

30 (B) To qualify as a “qualified motion picture,” all of the
31 following conditions shall be satisfied:

32 (i) At least 75 percent of the principal photography days occur
33 wholly in California or 75 percent of the production budget is
34 incurred for payment for services performed within the state and
35 the purchase or rental of property used within the state.

36 (ii) Production of the qualified motion picture is completed
37 within 30 months from the date on which the qualified taxpayer’s
38 application is approved by the California Film Commission. For
39 purposes of this section, a qualified motion picture is “completed”
40 when the process of post production has been finished.

1 (iii) The copyright for the motion picture is registered with the
2 United States Copyright Office pursuant to Title 17 of the United
3 States Code.

4 (iv) Principal photography of the qualified motion picture
5 commences after the date on which the application is approved by
6 the California Film Commission, but no later than 180 days after
7 the date of that approval unless death, disability, or disfigurement
8 of the director or of a principal cast member, an act of God,
9 including, but not limited to, fire, flood, earthquake, storm,
10 hurricane, or other natural disaster, terrorist activities, or
11 government sanction has directly prevented a production's ability
12 to begin principal photography within the prescribed 180-day
13 commencement period.

14 (C) For the purposes of subparagraph (A), in computing the
15 total wages paid or incurred for the production of a qualified
16 motion picture, all amounts paid or incurred by all persons or
17 entities that share in the costs of the qualified motion picture shall
18 be aggregated.

19 (D) "Qualified motion picture" shall not include commercial
20 advertising, music videos, a motion picture produced for private
21 noncommercial use, such as weddings, graduations, or as part of
22 an educational course and made by students, a news program,
23 current events or public events program, talk show, game show,
24 sporting event or activity, awards show, telethon or other
25 production that solicits funds, reality television program, clip-based
26 programming if more than 50 percent of the content is comprised
27 of licensed footage, documentaries, variety programs, daytime
28 dramas, strip shows, one-half hour (air time) episodic television
29 shows, or any production that falls within the recordkeeping
30 requirements of Section 2257 of Title 18 of the United States Code.

31 (16) "Qualified expenditures" means amounts paid or incurred
32 for tangible personal property purchased or leased, and used, within
33 this state in the production of a qualified motion picture and
34 payments, including qualified wages, for services performed within
35 this state in the production of a qualified motion picture.

36 (17) (A) "Qualified taxpayer" means a taxpayer who has paid
37 or incurred qualified expenditures and has been issued a credit
38 certificate by the California Film Commission pursuant to
39 subdivision (g).

1 (B) In the case of any pass-thru entity, the determination of
 2 whether a taxpayer is a qualified taxpayer under this section shall
 3 be made at the entity level and any credit under this section is not
 4 allowed to the pass-thru entity, but shall be passed through to the
 5 partners or shareholders in accordance with applicable provisions
 6 of Part 10 (commencing with Section 17001) or Part 11
 7 (commencing with Section 23001). For purposes of this paragraph,
 8 “pass-thru entity” means any entity taxed as a partnership or “S”
 9 corporation.

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

11 (i) Any wages subject to withholding under Division 6
 12 (commencing with Section 13000) of the Unemployment Insurance
 13 Code that were paid or incurred by any taxpayer involved in the
 14 production of a qualified motion picture with respect to a qualified
 15 individual for services performed on the qualified motion picture
 16 production within this state.

17 (ii) The portion of any employee fringe benefits paid or incurred
 18 by any taxpayer involved in the production of the qualified motion
 19 picture that are properly allocable to qualified wage amounts
 20 described in clauses (i), (iii), and (iv).

21 (iii) Any payments made to a qualified entity for services
 22 performed in this state by qualified individuals within the meaning
 23 of paragraph (14).

24 (iv) Remuneration paid to an independent contractor who is a
 25 qualified individual for services performed within this state by that
 26 qualified individual.

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

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

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

36 (iv) Expenses, including wages, paid per person per qualified
 37 motion picture for writers, directors, music directors, music
 38 composers, music supervisors, producers, and performers, other
 39 than background actors with no scripted lines.

1 (19) “Residual compensation” means supplemental
2 compensation paid at the time that a motion picture is exhibited
3 through new use, reuse, clip use, or in secondary markets, as
4 distinguished from payments made during production.

5 (20) “Reuse” means any use of a qualified motion picture in the
6 same medium for which it was created, following the initial use
7 in that medium.

8 (21) “Secondary markets” means media in which a qualified
9 motion picture is exhibited following the initial media in which it
10 is exhibited.

11 (22) “Television series that relocated to California” means a
12 television series, without regard to episode length or initial media
13 exhibition, that filmed all of its prior season or seasons outside of
14 California and for which the taxpayer certifies that the credit
15 provided pursuant to this section is the primary reason for
16 relocating to California.

17 (23) “Pilot for a new television series” means the initial episode
18 produced for a proposed television series.

19 (c) (1) Notwithstanding any other law, a qualified taxpayer
20 may sell any credit allowed under this section that is attributable
21 to an independent film, as defined in paragraph (6) of subdivision
22 (b), to an unrelated party.

23 (2) The qualified taxpayer shall report to the Franchise Tax
24 Board prior to the sale of the credit, in the form and manner
25 specified by the Franchise Tax Board, all required information
26 regarding the purchase and sale of the credit, including the social
27 security or other taxpayer identification number of the unrelated
28 party to whom the credit has been sold, the face amount of the
29 credit sold, and the amount of consideration received by the
30 qualified taxpayer for the sale of the credit.

31 (3) In the case where the credit allowed under this section
32 exceeds the “net tax,” the excess credit may be carried over to
33 reduce the “net tax” in the following taxable year, and succeeding
34 five taxable years, if necessary, until the credit has been exhausted.

35 (4) A credit shall not be sold pursuant to this subdivision to
36 more than one taxpayer, nor may the credit be resold by the
37 unrelated party to another taxpayer or other party.

38 (5) A party that has acquired tax credits under this section shall
39 be subject to the requirements of this section.

1 (6) In no event may a qualified taxpayer assign or sell any tax
2 credit to the extent the tax credit allowed by this section is claimed
3 on any tax return of the qualified taxpayer.

4 (7) In the event that both the taxpayer originally allocated a
5 credit under this section by the California Film Commission and
6 a taxpayer to whom the credit has been sold both claim the same
7 amount of credit on their tax returns, the Franchise Tax Board may
8 disallow the credit of either taxpayer, so long as the statute of
9 limitations upon assessment remains open.

10 (8) Chapter 3.5 (commencing with Section 11340) of Part 1 of
11 Division 3 of Title 2 of the Government Code does not apply to
12 any standard, criterion, procedure, determination, rule, notice, or
13 guideline established or issued by the Franchise Tax Board
14 pursuant to this subdivision.

15 (9) Subdivision (g) of Section 17039 shall not apply to any
16 credit sold pursuant to this subdivision.

17 (10) For purposes of this subdivision, the unrelated party or
18 parties that purchase a credit pursuant to this subdivision shall be
19 treated as a qualified taxpayer pursuant to paragraph (1) of
20 subdivision (a).

21 (d) No credit shall be allowed pursuant to this section unless
22 the qualified taxpayer provides the following to the California
23 Film Commission:

- 24 (1) Identification of each qualified individual.
- 25 (2) The specific start and end dates of production.
- 26 (3) The total wages paid.
- 27 (4) The amount of qualified wages paid to each qualified
28 individual.

29 (5) The copyright registration number, as reflected on the
30 certificate of registration issued under the authority of Section 410
31 of Title 17 of the United States Code, relating to registration of
32 claim and issuance of certificate. The registration number shall be
33 provided on the return claiming the credit.

34 (6) The total amounts paid or incurred to purchase or lease
35 tangible personal property used in the production of a qualified
36 motion picture.

37 (7) Information to substantiate its qualified expenditures.

38 (8) Information required by the California Film Commission
39 under regulations promulgated pursuant to subdivision (g)
40 necessary to verify the amount of credit claimed.

1 (e) The California Film Commission may prescribe rules and
2 regulations to carry out the purposes of this section including any
3 rules and regulations necessary to establish procedures, processes,
4 requirements, application fee structure, and rules identified in or
5 required to implement this section, including credit and logo
6 requirements. The regulations shall include provisions to set aside
7 a percentage of annual credit allocations for independent films and
8 television series relocating to California, pursuant to subdivision
9 (i).

10 (f) If the qualified taxpayer fails to provide the copyright
11 registration number as required in paragraph (5) of subdivision
12 (d), the credit shall be disallowed and assessed and collected under
13 Section 19051 until the procedures are satisfied.

14 (g) For purposes of this section, the California Film Commission
15 shall do the following:

16 (1) On or and after July 1, 2016, and before July 1, 2021,
17 allocate tax credits to applicants.

18 (A) Establish a procedure for applicants to file with the
19 California Film Commission a written application, on a form jointly
20 prescribed by the California Film Commission and the Franchise
21 Tax Board for the allocation of the tax credit. The application shall
22 include, but not be limited to, the following information:

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

24 (ii) The number of production days.

25 (iii) A financing plan for the production.

26 (iv) The diversity of the workforce employed by the applicant,
27 including, but not limited to, the ethnic and racial makeup of the
28 individuals employed by the applicant during the production of
29 the qualified motion picture, to the extent possible.

30 (v) All members of a combined reporting group, if known at
31 the time of the application.

32 (vi) Financial information, if available, including, but not limited
33 to, the most recently produced balance sheets, annual statements
34 of profits and losses, audited or unaudited financial statements,
35 summary budget projections or results, or the functional equivalent
36 of these documents of a partnership or owner of a single member
37 limited liability company that is disregarded pursuant to Section
38 23038. The information provided pursuant to this clause shall be
39 confidential and shall not be subject to public disclosure.

1 (vii) The names of all partners in a partnership not publicly
2 traded or the names of all members of a limited liability company
3 classified as a partnership not publicly traded for California income
4 tax purposes that have a financial interest in the applicant's
5 qualified motion picture. The information provided pursuant to
6 this clause shall be confidential and shall not be subject to public
7 disclosure.

8 (viii) Detailed narratives, for use only by the Legislative
9 Analyst's Office in conducting a study of the effectiveness of this
10 credit, that describe the extent to which the credit is expected to
11 influence or affect filming and other business location decisions,
12 hiring decisions, salary decisions, and any other financial matters
13 of the applicant.

14 (ix) Any other information deemed relevant by the California
15 Film Commission or the Franchise Tax Board.

16 (B) Establish criteria, consistent with the requirements of this
17 section, for allocating tax credits.

18 (C) Determine and designate applicants who meet the
19 requirements of this section.

20 (D) Process and approve, or reject, all applications on a
21 first-come-first-served basis.

22 (E) Subject to the annual cap established as provided in
23 subdivision (i), allocate an aggregate amount of credits under this
24 section and Section 23695, and allocate any carryover of
25 unallocated credits from prior years.

26 (2) Certify tax credits allocated to qualified taxpayers.

27 (A) Establish a verification procedure for the amount of qualified
28 expenditures paid or incurred by the applicant, including, but not
29 limited to, updates to the information in subparagraph (A) of
30 paragraph (1) of subdivision (g).

31 (B) Establish audit requirements that must be satisfied before
32 a credit certificate may be issued by the California Film
33 Commission.

34 (C) (i) Establish a procedure for a qualified taxpayer to report
35 to the California Film Commission, prior to the issuance of a credit
36 certificate, the following information:

37 (I) If readily available, a list of the states, provinces, or other
38 jurisdictions in which any member of the applicant's combined
39 reporting group in the same business unit as the qualified taxpayer
40 that, in the preceding calendar year, has produced a qualified

1 motion picture intended for release in the United States market.
2 For purposes of this clause, “qualified motion picture” shall not
3 include any episodes of a television series that were complete or
4 in production prior to July 1, 2016.

5 (II) Whether a qualified motion picture described in subclause
6 (I) was awarded any financial incentive by the state, province, or
7 other jurisdiction that was predicated on the performance of
8 primary principal photography or post production in that location.

9 (ii) The California Film Commission may provide that the report
10 required by this subparagraph be filed in a single report provided
11 on a calendar year basis for those qualified taxpayers that receive
12 multiple credit certificates in a calendar year.

13 (D) Issue a credit certificate to a qualified taxpayer upon
14 completion of the qualified motion picture reflecting the credit
15 amount allocated after qualified expenditures have been verified
16 under this section. The amount of credit shown in the credit
17 certificate shall not exceed the amount of credit allocated to that
18 qualified taxpayer pursuant to this section.

19 (3) Obtain, when possible, the following information from
20 applicants that do not receive an allocation of credit:

21 (A) Whether the qualified motion picture that was the subject
22 of the application was completed.

23 (B) If completed, in which state or foreign jurisdiction was the
24 primary principal photography completed.

25 (C) Whether the applicant received any financial incentives
26 from the state or foreign jurisdiction to make the qualified motion
27 picture in that location.

28 (4) Provide the Legislative Analyst’s Office, upon request, any
29 or all application materials or any other materials received from,
30 or submitted by, the applicants, in electronic format when available,
31 including, but not limited to, information provided pursuant to
32 clauses (i) to (ix), inclusive, of subparagraph (A) of paragraph (1).

33 (5) The information provided to the California Film Commission
34 pursuant to this section shall constitute confidential tax information
35 for purposes of Article 2 (commencing with Section 19542) of
36 Chapter 7 of Part 10.2.

37 (h) (1) The California Film Commission shall annually provide
38 the Legislative Analyst’s Office, the Franchise Tax Board, and the
39 board with a list of qualified taxpayers and the tax credit amounts
40 allocated to each qualified taxpayer by the California Film

1 Commission. The list shall include the names and taxpayer
2 identification numbers, including taxpayer identification numbers
3 of each partner or shareholder, as applicable, of the qualified
4 taxpayer.

5 (2) (A) Notwithstanding paragraph (5) of subdivision (g), the
6 California Film Commission shall annually post on its Internet
7 Web site and make available for public release the following:

8 (i) A table which includes all of the following information: a
9 list of qualified taxpayers and the tax credit amounts allocated to
10 each qualified taxpayer by the California Film Commission, the
11 number of production days in California the qualified taxpayer
12 represented in its application would occur, the number of California
13 jobs that the qualified taxpayer represented in its application would
14 be directly created by the production, and the total amount of
15 qualified expenditures expected to be spent by the production.

16 (ii) A narrative staff summary describing the production of the
17 qualified taxpayer as well as background information regarding
18 the qualified taxpayer contained in the qualified taxpayer’s
19 application for the credit.

20 (B) Nothing in this subdivision shall be construed to make the
21 information submitted by an applicant for a tax credit under this
22 section a public record.

23 (i) (1) The aggregate amount of credits that may be allocated
24 in any fiscal year pursuant to this section and Section 23695 shall
25 be an amount equal to the sum of all of the following:

26 (A) ___dollars (\$___) in credits for the 2016–17 fiscal year
27 and each fiscal year thereafter, through and including the 2020–21
28 fiscal year.

29 (B) The unused allocation credit amount, if any, for the
30 preceding fiscal year.

31 (C) The amount of previously allocated credits not certified.

32 ~~(2) If the amount of credits applied for in any particular fiscal~~
33 ~~year exceeds the aggregate amount of tax credits authorized to be~~
34 ~~allocated under this section, that excess shall be treated as having~~
35 ~~been applied for on the first day of the subsequent fiscal year.~~
36 ~~However, credits may not be allocated from a fiscal year other~~
37 ~~than the fiscal year in which the credit was originally applied for~~
38 ~~or the immediately succeeding fiscal year.~~

39 (3)

1 (2) (A) Notwithstanding the foregoing, the California Film
2 Commission shall set aside the lesser of 10 percent of the amount
3 specified in subparagraph (A) of paragraph (1) or twenty million
4 dollars (\$20,000,000) of tax credits each fiscal year for independent
5 films allocated in accordance with rules and regulations developed
6 pursuant to subdivision (e).

7 (B) Notwithstanding the foregoing, the California Film
8 Commission shall set aside up to thirty million dollars
9 (\$30,000,000) of tax credit each fiscal year for television series
10 that relocated to California in its first year of receiving a tax credit
11 allocation pursuant to this section allocated in accordance with
12 rules and regulations developed pursuant to subdivision (e).

13 ~~(4)~~

14 (3) Any act that reduces the amount that may be allocated
15 pursuant to paragraph (1) constitutes a change in state taxes for
16 the purpose of increasing revenues within the meaning of Section
17 3 of Article XIII A of the California Constitution and may be
18 passed by not less than two-thirds of all Members elected to each
19 of the two houses of the Legislature.

20 (j) The California Film Commission shall have the authority to
21 allocate tax credits in accordance with this section and in
22 accordance with any regulations prescribed pursuant to subdivision
23 (e) upon adoption.

24 SEC. 2. Section 23695 is added to the Revenue and Taxation
25 Code, to read:

26 23695. (a) (1) For taxable years beginning on or after January
27 1, 2016, there shall be allowed to a qualified taxpayer a credit
28 against the "tax," as defined in Section 23036, in an amount equal
29 to the applicable percentage, as specified in paragraph (4), of the
30 qualified expenditures for the production of a qualified motion
31 picture in California. A credit shall not be allowed under this
32 section for any qualified expenditures for the production of a
33 motion picture in California if a credit has been claimed for those
34 same expenditures under Section 23695.

35 (2) The credit shall be allowed for the taxable year in which the
36 California Film Commission issues the credit certificate pursuant
37 to subdivision (g) for the qualified motion picture, and shall be for
38 the applicable percentage of all qualified expenditures paid or
39 incurred by the qualified taxpayer in all taxable years for that
40 qualified motion picture.

1 (3) The amount of the credit allowed to a qualified taxpayer
2 shall be limited to the amount specified in the credit certificate
3 issued to the qualified taxpayer by the California Film Commission
4 pursuant to subdivision (g).

5 (4) For purposes of paragraphs (1) and (2), the applicable
6 percentage shall be:

7 (A) Twenty percent of the qualified expenditures attributable
8 to the production of a ~~feature in California, up to one hundred~~
9 ~~million dollars (\$100,000,000), or attributable to a television series~~
10 ~~in its second or subsequent year of receiving a tax credit allocation~~
11 ~~pursuant to this section since relocation to California~~ *qualified*
12 *motion picture in California, including, but not limited to, a feature,*
13 *up to one hundred million dollars (\$100,000,000), or a television*
14 *series in its second or subsequent years of receiving a tax credit*
15 *allocation pursuant to this section.*

16 (B) Twenty-five percent of the qualified expenditures
17 attributable to the production of a qualified motion picture in
18 California where the qualified motion picture is a television series
19 that relocated to California in its first year of receiving a tax credit
20 allocation pursuant to this section or is an independent film.

21 (C) (i) The California Film Commission shall increase the
22 applicable percentage by 5 percent, *not to exceed a maximum of*
23 *25 percent*, if the qualified motion picture incurred or paid the
24 qualified expenditures relating to original photography outside the
25 Los Angeles zone.

26 (ii) For purposes of this subparagraph:

27 (I) “Applicable period” means the period that commences with
28 preproduction and ends when original photography concludes. The
29 applicable period includes the time necessary to strike a remote
30 location and return to the Los Angeles zone.

31 (II) “Los Angeles zone” means the area within a circle 30 miles
32 in radius from Beverly Boulevard and La Cienega Boulevard, Los
33 Angeles, California, and includes Agua Dulce, Castaic, including
34 Lake Castaic, Leo Carillo State Beach, Ontario International
35 Airport, Piru, and Pomona, including the Los Angeles County Fair
36 grounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch property
37 is within the Los Angeles zone.

38 (III) “Original photography” includes principal photography,
39 additional unit photography, and reshooting original footage.

1 (IV) “Qualified expenditures relating to original photography
2 outside the Los Angeles zone” means amounts paid or incurred
3 during the applicable period for tangible personal property used
4 or consumed outside the Los Angeles zone and relating to original
5 photography outside the Los Angeles zone and qualified wages
6 paid for services performed outside the Los Angeles zone and
7 relating to original photography outside the Los Angeles zone.

8 (D) *Twenty-five percent of the qualified expenditures relating*
9 *to music scoring and music editing attributable to the production*
10 *of a qualified motion picture in California.*

11 (b) For purposes of this section:

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

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

19 (3) “Clip use” means a use of any portion of a motion picture,
20 other than the qualified motion picture, used in the qualified motion
21 picture.

22 (4) “Credit certificate” means the certificate issued by the
23 California Film Commission pursuant to subparagraph (C) of
24 paragraph (2) of subdivision (g).

25 (5) (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, exclusive of any
28 amounts contributed by employees, for any year during the
29 production period with respect to any of the following:

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

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

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

36 (B) Any amount treated as wages under clause (i) of
37 subparagraph (A) of paragraph (18) shall not be taken into account
38 under this paragraph.

39 (6) “Independent film” means a motion picture with a minimum
40 budget of one million dollars (\$1,000,000) and a maximum budget

1 of ten million dollars (\$10,000,000) that is produced by a company
2 that is not publicly traded and publicly traded companies do not
3 own, directly or indirectly, more than 25 percent of the producing
4 company.

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

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

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

16 (B) “Post production” does not include the manufacture or
17 shipping of release prints *or their equivalent*.

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 post production.

28 (12) “Production period” means the period beginning with
29 preproduction and ending upon completion of post production.

30 (13) “Qualified entity” means a personal service corporation as
31 defined in Section 269A(b)(1) of the Internal Revenue Code, a
32 payroll services corporation, or any entity receiving qualified wages
33 with respect to services performed by a qualified individual.

34 (14) (A) “Qualified individual” means any individual who
35 performs services during the production period in an activity related
36 to the production of a qualified motion picture.

37 (B) “Qualified individual” shall not include either of the
38 following:

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

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

6 (15) (A) “Qualified motion picture” means a motion picture
7 that is produced for distribution to the general public, regardless
8 of medium, that is one of the following:

9 (i) A feature with a minimum production budget of one million
10 dollars (\$1,000,000).

11 (ii) A movie of the week or miniseries with a minimum
12 production budget of five hundred thousand dollars (\$500,000).

13 (iii) A new one-hour television series of episodes longer than
14 40 minutes each of running time, exclusive of commercials, that
15 is produced in California, with a minimum production budget of
16 one million dollars (\$1,000,000) per episode.

17 (iv) An independent film.

18 (v) A television series that relocated to California.

19 (vi) A pilot for a new television series that is longer than 40
20 minutes of running time, exclusive of commercials, that is produced
21 in California, and with a minimum production budget of one
22 million dollars (\$1,000,000).

23 (B) To qualify as a “qualified motion picture,” all of the
24 following conditions shall be satisfied:

25 (i) At least 75 percent of the principal photography days occur
26 wholly in California or 75 percent of the production budget is
27 incurred for payment for services performed within the state and
28 the purchase or rental of property used within the state.

29 (ii) Production of the qualified motion picture is completed
30 within 30 months from the date on which the qualified taxpayer’s
31 application is approved by the California Film Commission. For
32 purposes of this section, a qualified motion picture is “completed”
33 when the process of post production has been finished.

34 (iii) The copyright for the motion picture is registered with the
35 United States Copyright Office pursuant to Title 17 of the United
36 States Code.

37 (iv) Principal photography of the qualified motion picture
38 commences after the date on which the application is approved by
39 the California Film Commission, but no later than 180 days after
40 the date of that approval unless death, disability, or disfigurement

1 of the director or of a principal cast member, an act of God,
2 including, but not limited to, fire, flood, earthquake, storm,
3 hurricane, or other natural disaster, terrorist activities, or
4 government sanction has directly prevented a production's ability
5 to begin principal photography within the prescribed 180-day
6 commencement period.

7 (C) For the purposes of subparagraph (A), in computing the
8 total wages paid or incurred for the production of a qualified
9 motion picture, all amounts paid or incurred by all persons or
10 entities that share in the costs of the qualified motion picture shall
11 be aggregated.

12 (D) "Qualified motion picture" shall not include commercial
13 advertising, music videos, a motion picture produced for private
14 noncommercial use, such as weddings, graduations, or as part of
15 an educational course and made by students, a news program,
16 current events or public events program, talk show, game show,
17 sporting event or activity, awards show, telethon or other
18 production that solicits funds, reality television program, clip-based
19 programming if more than 50 percent of the content is comprised
20 of licensed footage, documentaries, variety programs, daytime
21 dramas, strip shows, one-half hour (air time) episodic television
22 shows, or any production that falls within the recordkeeping
23 requirements of Section 2257 of Title 18 of the United States Code.

24 (16) "Qualified expenditures" means amounts paid or incurred
25 for tangible personal property purchased or leased, and used, within
26 this state in the production of a qualified motion picture and
27 payments, including qualified wages, for services performed within
28 this state in the production of a qualified motion picture.

29 (17) (A) "Qualified taxpayer" means a taxpayer who has paid
30 or incurred qualified expenditures and has been issued a credit
31 certificate by the California Film Commission pursuant to
32 subdivision (g).

33 (B) (i) In the case of any pass-thru entity, the determination of
34 whether a taxpayer is a qualified taxpayer under this section shall
35 be made at the entity level and any credit under this section is not
36 allowed to the pass-thru entity, but shall be passed through to the
37 partners or shareholders in accordance with applicable provisions
38 of Part 10 (commencing with Section 17001) or Part 11
39 (commencing with Section 23001). For purposes of this paragraph,

1 “pass-thru entity” means any entity taxed as a partnership or “S”
2 corporation.

3 (ii) In the case of an “S” corporation, the credit allowed under
4 this section shall not be used by an “S” corporation as a credit
5 against a tax imposed under Chapter 4.5 (commencing with Section
6 23800) of Part 11 of Division 2.

7 (18) (A) “Qualified wages” means all of the following:

8 (i) Any wages subject to withholding under Division 6
9 (commencing with Section 13000) of the Unemployment Insurance
10 Code that were paid or incurred by any taxpayer involved in the
11 production of a qualified motion picture with respect to a qualified
12 individual for services performed on the qualified motion picture
13 production within this state.

14 (ii) The portion of any employee fringe benefits paid or incurred
15 by any taxpayer involved in the production of the qualified motion
16 picture that are properly allocable to qualified wage amounts
17 described in clauses (i), (iii), and (iv).

18 (iii) Any payments made to a qualified entity for services
19 performed in this state by qualified individuals within the meaning
20 of paragraph (14).

21 (iv) Remuneration paid to an independent contractor who is a
22 qualified individual for services performed within this state by that
23 qualified individual.

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

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

29 (ii) Expenses, including wages, paid or incurred with respect to
30 acquisition, development, turnaround, or any rights thereto.

31 (iii) Expenses, including wages, related to financing, overhead,
32 marketing, promotion, or distribution of a qualified motion picture.

33 (iv) Expenses, including wages, paid per person per qualified
34 motion picture for writers, directors, music directors, music
35 composers, music supervisors, producers, and performers, other
36 than background actors with no scripted lines.

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

1 (20) “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 (21) “Secondary markets” means media in which a qualified
5 motion picture is exhibited following the initial media in which it
6 is exhibited.

7 (22) “Television series that relocated to California” means a
8 television series, without regard to episode length or initial media
9 exhibition, that filmed all of its prior season or seasons outside of
10 California and for which the taxpayer certifies that the credit
11 provided pursuant to this section is the primary reason for
12 relocating to California.

13 (23) “Pilot for a new television series” means the initial episode
14 produced for a proposed television series.

15 (c) (1) Notwithstanding subdivision (i) of Section 23036, in
16 the case where the credit allowed by this section exceeds the
17 taxpayer’s tax liability computed under this part, a qualified
18 taxpayer may elect to assign any portion of the credit allowed
19 under this section to one or more affiliated corporations for each
20 taxable year in which the credit is allowed. For purposes of this
21 subdivision, “affiliated corporation” has the meaning provided in
22 subdivision (b) of Section 25110, as that section was amended by
23 Chapter 881 of the Statutes of 1993, as of the last day of the taxable
24 year in which the credit is allowed, except that “100 percent” is
25 substituted for “more than 50 percent” wherever it appears in the
26 section, and “voting common stock” is substituted for “voting
27 stock” wherever it appears in the section.

28 (2) The election provided in paragraph (1):

29 (A) May be based on any method selected by the qualified
30 taxpayer that originally receives the credit.

31 (B) Shall be irrevocable for the taxable year the credit is allowed,
32 once made.

33 (C) May be changed for any subsequent taxable year if the
34 election to make the assignment is expressly shown on each of the
35 returns of the qualified taxpayer and the qualified taxpayer’s
36 affiliated corporations that assign and receive the credits.

37 (D) Shall be reported to the Franchise Tax Board, in the form
38 and manner specified by the Franchise Tax Board, along with all
39 required information regarding the assignment of the credit,
40 including the corporation number, the federal employer

1 identification number, or other taxpayer identification number of
2 the assignee, and the amount of the credit assigned.

3 (3) (A) Notwithstanding any other law, a qualified taxpayer
4 may sell any credit allowed under this section that is attributable
5 to an independent film, as defined in paragraph (6) of subdivision
6 (b), to an unrelated party.

7 (B) The qualified taxpayer shall report to the Franchise Tax
8 Board prior to the sale of the credit, in the form and manner
9 specified by the Franchise Tax Board, all required information
10 regarding the purchase and sale of the credit, including the social
11 security or other taxpayer identification number of the unrelated
12 party to whom the credit has been sold, the face amount of the
13 credit sold, and the amount of consideration received by the
14 qualified taxpayer for the sale of the credit.

15 (4) In the case where the credit allowed under this section
16 exceeds the “tax,” the excess credit may be carried over to reduce
17 the “tax” in the following taxable year, and succeeding five taxable
18 years, if necessary, until the credit has been exhausted.

19 (5) A credit shall not be sold pursuant to this subdivision to
20 more than one taxpayer, nor may the credit be resold by the
21 unrelated party to another taxpayer or other party.

22 (6) A party that has been assigned or acquired tax credits under
23 this paragraph shall be subject to the requirements of this section.

24 (7) In no event may a qualified taxpayer assign or sell any tax
25 credit to the extent the tax credit allowed by this section is claimed
26 on any tax return of the qualified taxpayer.

27 (8) In the event that both the taxpayer originally allocated a
28 credit under this section by the California Film Commission and
29 a taxpayer to whom the credit has been sold both claim the same
30 amount of credit on their tax returns, the Franchise Tax Board may
31 disallow the credit of either taxpayer, so long as the statute of
32 limitations upon assessment remains open.

33 (9) Chapter 3.5 (commencing with Section 11340) of Part 1 of
34 Division 3 of Title 2 of the Government Code does not apply to
35 any standard, criterion, procedure, determination, rule, notice, or
36 guideline established or issued by the Franchise Tax Board
37 pursuant to this subdivision.

38 (10) Subdivision (i) of Section 23036 shall not apply to any
39 credit sold pursuant to this subdivision.

40 (11) For purposes of this subdivision:

1 (A) An affiliated corporation or corporations that are assigned
2 a credit pursuant to paragraph (1) shall be treated as a qualified
3 taxpayer pursuant to paragraph (1) of subdivision (a).

4 (B) The unrelated party or parties that purchase a credit pursuant
5 to paragraph (3) shall be treated as a qualified taxpayer pursuant
6 to paragraph (1) of subdivision (a).

7 (d) No credit shall be allowed pursuant to this section unless
8 the qualified taxpayer provides the following to the California
9 Film Commission:

10 (1) Identification of each qualified individual.

11 (2) The specific start and end dates of production.

12 (3) The total wages paid.

13 (4) The amount of qualified wages paid to each qualified
14 individual.

15 (5) The copyright registration number, as reflected on the
16 certificate of registration issued under the authority of Section 410
17 of Title 17 of the United States Code, relating to registration of
18 claim and issuance of certificate. The registration number shall be
19 provided on the return claiming the credit.

20 (6) The total amounts paid or incurred to purchase or lease
21 tangible personal property used in the production of a qualified
22 motion picture.

23 (7) Information to substantiate its qualified expenditures.

24 (8) Information required by the California Film Commission
25 under regulations promulgated pursuant to subdivision (g)
26 necessary to verify the amount of credit claimed.

27 (e) The California Film Commission may prescribe rules and
28 regulations to carry out the purposes of this section including any
29 rules and regulations necessary to establish procedures, processes,
30 requirements, application fee structure, and rules identified in or
31 required to implement this section, including credit and logo
32 requirements. The regulations shall include provisions to set aside
33 a percentage of annual credit allocations for independent films and
34 television series relocating to California, pursuant to subdivision
35 (i).

36 (f) If the qualified taxpayer fails to provide the copyright
37 registration number as required in paragraph (5) of subdivision
38 (d), the credit shall be disallowed and assessed and collected under
39 Section 19051 until the procedures are satisfied.

1 (g) For purposes of this section, the California Film Commission
2 shall do the following:

3 (1) On or after July 1, 2016, and before July 1, 2021, allocate
4 tax credits to applicants.

5 (A) Establish a procedure for applicants to file with the
6 California Film Commission a written application, on a form jointly
7 prescribed by the California Film Commission and the Franchise
8 Tax Board for the allocation of the tax credit. The application shall
9 include, but not be limited to, the following information:

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

11 (ii) The number of production days.

12 (iii) A financing plan for the production.

13 (iv) The diversity of the workforce employed by the applicant,
14 including, but not limited to, the ethnic and racial makeup of the
15 individuals employed by the applicant during the production of
16 the qualified motion picture, to the extent possible.

17 (v) All members of a combined reporting group, if known at
18 the time of the application.

19 (vi) Financial information, if available, including, but not limited
20 to, the most recently produced balance sheets, annual statements
21 of profits and losses, audited or unaudited financial statements,
22 summary budget projections or results, or the functional equivalent
23 of these documents of a partnership or owner of a single member
24 limited liability company that is disregarded pursuant to Section
25 23038. The information provided pursuant to this clause shall be
26 confidential and shall not be subject to public disclosure.

27 (vii) The names of all partners in a partnership not publicly
28 traded or the names of all members of a limited liability company
29 classified as a partnership not publicly traded for California income
30 tax purposes that have a financial interest in the applicant's
31 qualified motion picture. The information provided pursuant to
32 this clause shall be confidential and shall not be subject to public
33 disclosure.

34 (viii) Detailed narratives, for use only by the Legislative
35 Analyst's Office in conducting a study of the effectiveness of this
36 credit, that describe the extent to which the credit is expected to
37 influence or affect filming and other business location decisions,
38 hiring decisions, salary decisions, and any other financial matters
39 of the applicant.

1 (ix) Any other information deemed relevant by the California
2 Film Commission or the Franchise Tax Board.

3 (B) Establish criteria, consistent with the requirements of this
4 section, for allocating tax credits.

5 (C) Determine and designate applicants who meet the
6 requirements of this section.

7 (D) Process and approve, or reject, all applications on a
8 first-come-first-served basis.

9 (E) Subject to the annual cap established as provided in
10 subdivision (i), allocate an aggregate amount of credits under this
11 section and Section 17053.95, and allocate any carryover of
12 unallocated credits from prior years.

13 (2) Certify tax credits allocated to qualified taxpayers.

14 (A) Establish a verification procedure for the amount of qualified
15 expenditures paid or incurred by the applicant, including, but not
16 limited to, updates to the information in subparagraph (A) of
17 paragraph (1) of subdivision (g).

18 (B) Establish audit requirements that must be satisfied before
19 a credit certificate may be issued by the California Film
20 Commission.

21 (C) (i) Establish a procedure for a qualified taxpayer to report
22 to the California Film Commission, prior to the issuance of a credit
23 certificate, the following information:

24 (I) If readily available, a list of the states, provinces, or other
25 jurisdictions in which any member of the applicant’s combined
26 reporting group in the same business unit as the qualified taxpayer
27 that, in the preceding calendar year, has produced a qualified
28 motion picture intended for release in the United States market.
29 For purposes of this clause, “qualified motion picture” shall not
30 include any episodes of a television series that were complete or
31 in production prior to July 1, 2016.

32 (II) Whether a qualified motion picture described in subclause
33 (I) was awarded any financial incentive by the state, province, or
34 other jurisdiction that was predicated on the performance of
35 primary principal photography or post production in that location.

36 (ii) The California Film Commission may provide that the report
37 required by this subparagraph be filed in a single report provided
38 on a calendar year basis for those qualified taxpayers that receive
39 multiple credit certificates in a calendar year.

1 (D) Issue a credit certificate to a qualified taxpayer upon
2 completion of the qualified motion picture reflecting the credit
3 amount allocated after qualified expenditures have been verified
4 under this section. The amount of credit shown in the credit
5 certificate shall not exceed the amount of credit allocated to that
6 qualified taxpayer pursuant to this section.

7 (3) Obtain, when possible, the following information from
8 applicants that do not receive an allocation of credit:

9 (A) Whether the qualified motion picture that was the subject
10 of the application was completed.

11 (B) If completed, in which state or foreign jurisdiction was the
12 primary principal photography completed.

13 (C) Whether the applicant received any financial incentives
14 from the state or foreign jurisdiction to make the qualified motion
15 picture in that location.

16 (4) Provide the Legislative Analyst's Office, upon request, any
17 or all application materials or any other materials received from,
18 or submitted by, the applicants, in electronic format when available,
19 including, but not limited to, information provided pursuant to
20 clauses (i) to (ix), inclusive, of subparagraph (A) of paragraph (1).

21 (5) The information provided to the California Film Commission
22 pursuant to this section shall constitute confidential tax information
23 for purposes of Article 2 (commencing with Section 19542) of
24 Chapter 7 of Part 10.2.

25 (h) (1) The California Film Commission shall annually provide
26 the Legislative Analyst's Office, the Franchise Tax Board, and the
27 board with a list of qualified taxpayers and the tax credit amounts
28 allocated to each qualified taxpayer by the California Film
29 Commission. The list shall include the names and taxpayer
30 identification numbers, including taxpayer identification numbers
31 of each partner or shareholder, as applicable, of the qualified
32 taxpayer.

33 (2) (A) Notwithstanding paragraph (5) of subdivision (g), the
34 California Film Commission shall annually post on its Internet
35 Web site and make available for public release the following:

36 (i) A table which includes all of the following information: a
37 list of qualified taxpayers and the tax credit amounts allocated to
38 each qualified taxpayer by the California Film Commission, the
39 number of production days in California the qualified taxpayer
40 represented in its application would occur, the number of California

1 jobs that the qualified taxpayer represented in its application would
2 be directly created by the production, and the total amount of
3 qualified expenditures expected to be spent by the production.

4 (ii) A narrative staff summary describing the production of the
5 qualified taxpayer as well as background information regarding
6 the qualified taxpayer contained in the qualified taxpayer's
7 application for the credit.

8 (B) Nothing in this subdivision shall be construed to make the
9 information submitted by an applicant for a tax credit under this
10 section a public record.

11 (i) (1) The aggregate amount of credits that may be allocated
12 in any fiscal year pursuant to this section and Section 17053.95
13 shall be an amount equal to the sum of all of the following:

14 (A) ____dollars (\$____) in credits for the 2016–17 fiscal year
15 and each fiscal year thereafter, through and including the 2020–21
16 fiscal year.

17 (B) The unused allocation credit amount, if any, for the
18 preceding fiscal year.

19 (C) The amount of previously allocated credits not certified.

20 ~~(2) If the amount of credits applied for in any particular fiscal~~
21 ~~year exceeds the aggregate amount of tax credits authorized to be~~
22 ~~allocated under this section, the excess shall be treated as having~~
23 ~~been applied for on the first day of the subsequent fiscal year.~~
24 ~~However, credits may not be allocated from a fiscal year other~~
25 ~~than the fiscal year in which the credit was originally applied for~~
26 ~~or the immediately succeeding fiscal year.~~

27 ~~(3)~~

28 (2) (A) Notwithstanding the foregoing, the California Film
29 Commission shall set aside the lesser of 10 percent of the amount
30 specified in subparagraph (A) of paragraph (1) or twenty million
31 dollars (\$20,000,000) of tax credits each fiscal year for independent
32 films allocated in accordance with rules and regulations developed
33 pursuant to subdivision (e).

34 (B) Notwithstanding the foregoing, the California Film
35 Commission shall set aside up to thirty million dollars
36 (\$30,000,000) of tax credit each fiscal year for television series
37 that relocated to California in its first year of receiving a tax credit
38 allocation pursuant to this section allocated in accordance with
39 rules and regulations developed pursuant to subdivision (e).

40 ~~(4)~~

1 (3) Any act that reduces the amount that may be allocated
 2 pursuant to paragraph (1) constitutes a change in state taxes for
 3 the purpose of increasing revenues within the meaning of Section
 4 3 of Article XIII A of the California Constitution and may be
 5 passed by not less than two-thirds of all Members elected to each
 6 of the two houses of the Legislature.

7 (j) The California Film Commission shall have the authority to
 8 allocate tax credits in accordance with this section and in
 9 accordance with any regulations prescribed pursuant to subdivision
 10 (e) upon adoption.

11 SEC. 3. The provisions of this act are severable. If any
 12 provision of this act or its application is held invalid, that invalidity
 13 shall not affect other provisions or applications that can be given
 14 effect without the invalid provision or application.

15 SEC. 4. This act provides for a tax levy within the meaning of
 16 Article IV of the Constitution and shall go into immediate effect.

17
 18 _____
 19 **CORRECTIONS:**
 20 **Text—Pages 4, 7, and 18.**
 21 _____