

AMENDED IN ASSEMBLY MAY 23, 2014

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, Ian Calderon, Campos, Dababneh, Garcia, Gorell, Hall, Muratsuchi, V. Manuel Pérez, Rendon, and Wilk)

(Principal coauthors: Senators Lieu and Padilla)

(Coauthors: Assembly Members Achadjian, Alejo, Ammiano, Bigelow, Bradford, Chávez, Cooley, Dahle, Daly, Dickinson, Fox, Beth Gaines, Gonzalez, Gray, Hagman, Harkey, Roger Hernández, Holden, Jones, Jones-Sawyer, Levine, Linder, Logue, Lowenthal, Maienschein, Medina, Melendez, Mullin, Nestande, Pan, Patterson, Perea, Quirk, Quirk-Silva, Rodriguez, Ting, Waldron, Weber, Wieckowski, and Williams)

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

February 18, 2014

An act to *amend Sections 17053.85, 23036, and 23685 of*, to add Sections 17053.95 and 23695 to, *and to repeal and amend Section 6902.5 of*, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1839, as amended, Gatto. 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. *Existing law, for taxable years beginning on or after January 1, 2011, in lieu of the credits authorized under the Personal Income Tax Law and the Corporation Tax Law for qualified motion pictures described above, also allows a credit against qualified state sales and use taxes, as provided.*

Existing law, including the Corporation Tax Law, provides for a tentative minimum tax and further provides that, except for specified credits, no other credit shall reduce the tax imposed below the tentative minimum tax.

This bill would, *with regard to existing credits relating to qualified motion pictures, require the tax credits to be allocated at least twice per fiscal year and 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~~ January 1, 2015, and before July 1, 2021.* This bill would, as compared to the existing tax credits, extend the scope of the credits for a 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, *qualified expenditures for qualified visual effects, and qualified expenditures relating to music scoring and music ~~editing~~ track recording by musicians, would provide limited credit allocation priority for specified television series,* 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. *This bill would, for taxable years beginning on or after January 1, 2016, in lieu of the credits authorized under the Personal Income Tax Law and the Corporation Tax Law for qualified motion pictures described above, allow a credit against qualified state sales and use taxes, as provided.*

This bill would, for taxable years, beginning on or after January 1, 2016, additionally allow the credit under the Corporation Tax Law for qualified expenditures for the production of qualified motion pictures to reduce the tentative minimum tax.

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 6902.5 of the Revenue and Taxation Code,
2 as added by Section 1 of Chapter 10 of the Third Extraordinary
3 Session of the Statutes of 2009, is repealed.
4 ~~6902.5. (a) For the purposes of this section:~~
5 ~~(1) “Qualified taxpayer” means a person who is a qualified~~
6 ~~taxpayer within the meaning of paragraph (17) of subdivision (b)~~
7 ~~of Section 17053.85 or 23685.~~
8 ~~(2) “Affiliate” means a qualified taxpayer’s affiliated corporation~~
9 ~~that has been assigned any portion of the credit amount by the~~
10 ~~qualified taxpayer pursuant to subdivision (c) of Section 23685.~~
11 ~~(3) “Credit amount” means an amount equal to the tax credit~~
12 ~~amount that would otherwise be allowed to a qualified taxpayer~~
13 ~~pursuant to Section 17053.85 or 23685 but for the election made~~
14 ~~pursuant to this section.~~
15 ~~(4) “Production period” means the production period as defined~~
16 ~~in paragraph (12) of subdivision (b) of Section 17053.85 or 23685.~~
17 ~~(5) (A) “Qualified sales and use taxes” means any state sales~~
18 ~~and use taxes imposed by Part 1 (commencing with Section 6001),~~
19 ~~on the operative date of the act adding this section.~~
20 ~~(B) Notwithstanding subparagraph (A), “qualified sales and use~~
21 ~~taxes” does not mean taxes imposed by Section 6051.2, 6051.5,~~
22 ~~6201.2, 6201.5, Part 1.5 (commencing with Section 7200), Part~~

1 ~~1.6 (commencing with Section 7251), or Section 35 of Article XIII~~
2 ~~of the California Constitution.~~

3 ~~(b) (1) A qualified taxpayer may, in lieu of claiming the credit~~
4 ~~allowed by Section 17053.85 or 23685, make an irrevocable~~
5 ~~election to apply the credit amount against qualified sales and use~~
6 ~~taxes imposed on the qualified taxpayer in accordance with this~~
7 ~~section.~~

8 ~~(2) An affiliate may, in lieu of claiming the assigned portion of~~
9 ~~the credit allowed by Section 23685, make an irrevocable election~~
10 ~~to apply the assigned portion of the credit amount against qualified~~
11 ~~sales and use taxes imposed on the affiliate in accordance with~~
12 ~~this section.~~

13 ~~(e) (1) A qualified taxpayer or affiliate shall submit to the board~~
14 ~~an irrevocable election, in a form as prescribed by the board, which~~
15 ~~shall include, but not be limited to, the following information:~~

16 ~~(A) Representation that the claimant is a qualified taxpayer or~~
17 ~~an affiliate.~~

18 ~~(B) Statement of the dates on which the production period began~~
19 ~~and ended.~~

20 ~~(C) The credit amount, and if an affiliate, the portion of the~~
21 ~~credit amount assigned to it and documentation supporting the~~
22 ~~assignment of that portion of the credit amount.~~

23 ~~(D) The amount of qualified sales and use taxes the claimant~~
24 ~~remitted to the board during the period commencing on the first~~
25 ~~day of the calendar quarter commencing immediately before the~~
26 ~~beginning of the production period, and ending on the date the~~
27 ~~claimant was required to file its most recent sales and use tax return~~
28 ~~with the board.~~

29 ~~(E) A copy of the credit certificate issued pursuant to~~
30 ~~subparagraph (C) of paragraph (2) of subdivision (g) of Section~~
31 ~~17053.85 or 23685.~~

32 ~~(2) The election shall be filed on or before the date on which~~
33 ~~the qualified taxpayer or affiliate would first be allowed to claim~~
34 ~~a credit pursuant to Section 17053.85 or 23685 on its tax return.~~

35 ~~(d) (1) The claimant may elect to obtain a refund of qualified~~
36 ~~sales and use taxes paid during the period described in~~
37 ~~subparagraph (D) of paragraph (1) of subdivision (c). If the~~
38 ~~claimant elects to obtain a refund of qualified sales and use taxes;~~
39 ~~the claimant shall file a claim for refund with the irrevocable~~
40 ~~election described in subdivision (c). The refund amount shall not~~

1 exceed, for a qualified taxpayer, the credit amount, or for an
2 affiliate, the portion of the credit amount assigned to it.

3 (2) ~~No interest shall be paid on any amount refunded or credited
4 pursuant to paragraph (1).~~

5 (e) ~~If the claimant does not elect to obtain a refund or in the
6 case where the credit amount, or assigned portion, exceeds the
7 amount of its claim for refund for the qualified sales and use taxes,
8 the claimant may, for the reporting periods in the five years
9 following the last reporting period as described in subparagraph
10 (D) of paragraph (1) of subdivision (c), offset any remaining credit
11 amount, or assigned portion, against the qualified sales and use
12 taxes imposed during those reporting periods.~~

13 (f) ~~Section 6961 shall apply to any refund, or part thereof, that
14 is erroneously made and any credit, or part thereof, that is
15 erroneously allowed pursuant to this section.~~

16 (g) ~~The board shall provide an annual listing to the Franchise
17 Tax Board, in a form and manner agreed upon by the board and
18 the Franchise Tax Board, of the qualified taxpayers, or affiliates
19 that have been assigned a portion of the credit allowed under
20 Section 23685 pursuant to subdivision (c) of Section 23685, who,
21 during the year, have made an irrevocable election pursuant to this
22 section and the credit amount, or portion of the credit amount,
23 claimed by each qualified taxpayer or affiliate.~~

24 (h) ~~The board may prescribe rules and regulations for the
25 administration of this section.~~

26 *SEC. 2. Section 6902.5 of the Revenue and Taxation Code, as
27 added by Section 1 of Chapter 17 of the Third Extraordinary
28 Session of the Statutes of 2009, is amended to read:*

29 6902.5. (a) For the purposes of this section:

30 (1) "Qualified taxpayer" means a person who is a qualified
31 taxpayer within the meaning of paragraph (17) of subdivision (b)
32 of Section ~~17053.85 or 23685~~: *17053.85, 17053.95, 23685, or*
33 *23695.*

34 (2) "Affiliate" means a qualified taxpayer's affiliated corporation
35 that has been assigned any portion of the credit amount by the
36 qualified taxpayer pursuant to subdivision (c) of Section 23685 *or*
37 *subdivision (c) of Section 23695.*

38 (3) "Credit amount" means an amount equal to the tax credit
39 amount that would otherwise be allowed to a qualified taxpayer

1 pursuant to Section ~~17053.85 or 23685~~ 17053.85, 17053.95, 23685,
 2 or 23695 but for the election made pursuant to this section.

3 (4) “Production period” means the production period as defined
 4 in paragraph (12) of subdivision (b) of Section ~~17053.85 or 23685~~.
 5 17053.85, 17053.95, 23685, or 23695.

6 (5) (A) “Qualified sales and use taxes” means any state sales
 7 and use taxes imposed by Part 1 (commencing with Section 6001),
 8 on the operative date of the act adding this section.

9 (B) Notwithstanding subparagraph (A), “qualified sales and use
 10 taxes” does not mean taxes imposed by Section 6051.2, 6051.5,
 11 6201.2, 6201.5, Part 1.5 (commencing with Section 7200), Part
 12 1.6 (commencing with Section 7251), or Section 35 of Article XIII
 13 of the California Constitution.

14 (b) (1) A qualified taxpayer may, in lieu of claiming the credit
 15 allowed by Section ~~17053.85 or 23685~~, 17053.85, 17053.95, 23685,
 16 or 23695 make an irrevocable election to apply the credit amount
 17 against qualified sales and use taxes imposed on the qualified
 18 taxpayer in accordance with this section.

19 (2) An affiliate may, in lieu of claiming the assigned portion of
 20 the credit allowed by Section 23685 or 23695, make an irrevocable
 21 election to apply the assigned portion of the credit amount against
 22 qualified sales and use taxes imposed on the affiliate in accordance
 23 with this section.

24 (c) (1) A qualified taxpayer or affiliate shall submit to the board
 25 an irrevocable election, in a form as prescribed by the board, which
 26 shall include, but not be limited to, the following information:

27 (A) Representation that the claimant is a qualified taxpayer or
 28 an affiliate.

29 (B) Statement of the dates on which the production period began
 30 and ended.

31 (C) The credit amount, and if an affiliate, the portion of the
 32 credit amount assigned to it and documentation supporting the
 33 assignment of that portion of the credit amount.

34 (D) The amount of qualified sales and use taxes the claimant
 35 remitted to the board during the period commencing on the first
 36 day of the calendar quarter commencing immediately before the
 37 beginning of the production period, and ending on the date the
 38 claimant was required to file its most recent sales and use tax return
 39 with the board.

1 (E) A copy of the credit certificate issued pursuant to
2 subparagraph (C) of paragraph (2) of subdivision (g) of Section
3 17053.85 or 23685 *or subparagraph (D) of paragraph (2) of*
4 *subdivision (g) of Section 17053.95 or 23695.*

5 (2) The election shall be filed on or before the date on which
6 the qualified taxpayer or affiliate would first be allowed to claim
7 a credit pursuant to Section ~~17053.85 or 23685~~ 17053.85, 17053.95,
8 23685, *or 23695* on its tax return.

9 (d) (1) The claimant may elect to obtain a refund of qualified
10 sales and use taxes paid during the period described in
11 subparagraph (D) of paragraph (1) of subdivision (c). If the
12 claimant elects to obtain a refund of qualified sales and use taxes,
13 the claimant shall file a claim for refund with the irrevocable
14 election described in subdivision (c). The refund amount shall not
15 exceed, for a qualified taxpayer, the credit amount, or for an
16 affiliate, the portion of the credit amount assigned to it.

17 (2) No interest shall be paid on any amount refunded or credited
18 pursuant to paragraph (1).

19 (e) If the claimant does not elect to obtain a refund or in the
20 case where the credit amount, or assigned portion, exceeds the
21 amount of its claim for refund for the qualified sales and use taxes,
22 the claimant may, for the reporting periods in the five years
23 following the last reporting period as described in subparagraph
24 (D) of paragraph (1) of subdivision (c), offset any remaining credit
25 amount, or assigned portion, against the qualified sales and use
26 taxes imposed during those reporting periods.

27 (f) Section 6961 shall apply to any refund, or part thereof, that
28 is erroneously made and any credit, or part thereof, that is
29 erroneously allowed pursuant to this section.

30 (g) The board shall provide an annual listing to the Franchise
31 Tax Board, in a form and manner agreed upon by the board and
32 the Franchise Tax Board, of the qualified taxpayers, or affiliates
33 that have been assigned a portion of the credit allowed under
34 Section 23685 pursuant to subdivision (c) of Section 23685 *or*
35 *Section 23695 pursuant to subdivision (c) of Section 23695*, who,
36 during the year, have made an irrevocable election pursuant to this
37 section and the credit amount, or portion of the credit amount,
38 claimed by each qualified taxpayer or affiliate.

39 (h) The board may prescribe rules and regulations for the
40 administration of this section.

1 SEC. 3. Section 17053.85 of the Revenue and Taxation Code
2 is amended to read:

3 17053.85. (a) (1) For taxable years beginning on or after
4 January 1, 2011, 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.

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

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

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

21 (A) Twenty percent of the qualified expenditures attributable
22 to the production of a qualified motion picture in California.

23 (B) Twenty-five percent of the qualified expenditures
24 attributable to the production of a qualified motion picture in
25 California where the qualified motion picture is a television series
26 that relocated to California or an independent film.

27 (b) For purposes of this section:

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

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

35 (3) “Clip use” means a use of any portion of a motion picture,
36 other than the qualified motion picture, used in the qualified motion
37 picture.

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

- 1 (5) (A) “Employee fringe benefits” means the amount allowable
2 as a deduction under this part to the qualified taxpayer involved
3 in the production of the qualified motion picture, exclusive of any
4 amounts contributed by employees, for any year during the
5 production period with respect to any of the following:
- 6 (i) Employer contributions under any pension, profit-sharing,
7 annuity, or similar plan.
 - 8 (ii) Employer-provided coverage under any accident or health
9 plan for employees.
 - 10 (iii) The employer’s cost of life or disability insurance provided
11 to employees.
- 12 (B) Any amount treated as wages under clause (i) of
13 subparagraph (A) of paragraph (18) shall not be taken into account
14 under this paragraph.
- 15 (6) “Independent film” means a motion picture with a minimum
16 budget of one million dollars (\$1,000,000) and a maximum budget
17 of ten million dollars (\$10,000,000) that is produced by a company
18 that is not publicly traded and publicly traded companies do not
19 own, directly or indirectly, more than 25 percent of the producing
20 company.
- 21 (7) “Licensing” means any grant of rights to distribute the
22 qualified motion picture, in whole or in part.
- 23 (8) “New use” means any use of a motion picture in a medium
24 other than the medium for which it was initially created.
- 25 (9) (A) “Postproduction” means the final activities in a qualified
26 motion picture’s production, including editing, foley recording,
27 automatic dialogue replacement, sound editing, scoring and music
28 editing, beginning and end credits, negative cutting, negative
29 processing and duplication, the addition of sound and visual effects,
30 soundmixing, film-to-tape transfers, encoding, and color correction.
- 31 (B) “Postproduction” does not include the manufacture or
32 shipping of release prints.
- 33 (10) “Preproduction” means the process of preparation for actual
34 physical production which begins after a qualified motion picture
35 has received a firm agreement of financial commitment, or is
36 greenlit, with, for example, the establishment of a dedicated
37 production office, the hiring of key crew members, and includes,
38 but is not limited to, activities that include location scouting and
39 execution of contracts with vendors of equipment and stage space.

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

4 (12) “Production period” means the period beginning with
5 preproduction and ending upon completion of postproduction.

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

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

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

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

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

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

23 (i) A feature with a minimum production budget of one million
24 dollars (\$1,000,000) and a maximum production budget of
25 seventy-five million dollars (\$75,000,000).

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

28 (iii) A new television series produced in California with a
29 minimum production budget of one million dollars (\$1,000,000)
30 licensed for original distribution on basic cable.

31 (iv) An independent film.

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

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

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

39 (ii) Production of the qualified motion picture is completed
40 within 30 months from the date on which the qualified taxpayer’s

1 application is approved by the California Film Commission. For
2 purposes of this section, a qualified motion picture is “completed”
3 when the process of postproduction has been finished.

4 (iii) The copyright for the motion picture is registered with the
5 United States Copyright Office pursuant to Title 17 of the United
6 States Code.

7 (iv) Principal photography of the qualified motion picture
8 commences after the date on which the application is approved by
9 the California Film Commission, but no later than 180 days after
10 the date of that approval.

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

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

28 (16) “Qualified expenditures” means amounts paid or incurred
29 to purchase or lease tangible personal property used within this
30 state in the production of a qualified motion picture and payments,
31 including qualified wages, for services performed within this state
32 in the production of a qualified motion picture.

33 (17) (A) “Qualified taxpayer” means a taxpayer who has paid
34 or incurred qualified expenditures and has been issued a credit
35 certificate by the California Film Commission pursuant to
36 subdivision (g).

37 (B) In the case of any pass-thru entity, the determination of
38 whether a taxpayer is a qualified taxpayer under this section shall
39 be made at the entity level and any credit under this section is not
40 allowed to the pass-thru entity, but shall be passed through to the

1 partners or shareholders in accordance with applicable provisions
2 of Part 10 (commencing with Section 17001) or Part 11
3 (commencing with Section 23001). For purposes of this paragraph,
4 “pass-thru entity” means any entity taxed as a partnership or “S”
5 corporation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (7) In the event that both the taxpayer originally allocated a
38 credit under this section by the California Film Commission and
39 a taxpayer to whom the credit has been sold both claim the same
40 amount of credit on their tax returns, the Franchise Tax Board may

1 disallow the credit of either taxpayer, so long as the statute of
2 limitations upon assessment remains open.

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

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

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

14 (d) No credit shall be allowed pursuant to this section unless
15 the qualified taxpayer provides the following to the California
16 Film Commission:

- 17 (1) Identification of each qualified individual.
- 18 (2) The specific start and end dates of production.
- 19 (3) The total wages paid.
- 20 (4) The amount of qualified wages paid to each qualified
21 individual.
- 22 (5) The copyright registration number, as reflected on the
23 certificate of registration issued under the authority of Section 410
24 of Title 17 of the United States Code, relating to registration of
25 claim and issuance of certificate. The registration number shall be
26 provided on the return claiming the credit.

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

- 30 (7) Information to substantiate its qualified expenditures.
- 31 (8) Information required by the California Film Commission
32 under regulations promulgated pursuant to subdivision (g)
33 necessary to verify the amount of credit claimed.

34 (e) The California Film Commission may prescribe rules and
35 regulations to carry out the purposes of this section including any
36 rules and regulations necessary to establish procedures, processes,
37 requirements, and rules identified in or required to implement this
38 section. The regulations shall include provisions to set aside a
39 percentage of annual credit allocations for independent films.

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

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

7 (1) On or after July 1, 2009, and before July 1, 2017, *in no fewer*
8 *than two allocations per fiscal year*, allocate tax credits to
9 applicants.

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

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

16 (ii) The number of production days.

17 (iii) A financing plan for the production.

18 (iv) The diversity of the workforce employed by the applicant,
19 including, but not limited to, the ethnic and racial makeup of the
20 individuals employed by the applicant during the production of
21 the qualified motion picture, to the extent possible.

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

24 (vi) Financial information, if available, including, but not limited
25 to, the most recently produced balance sheets, annual statements
26 of profits and losses, audited or unaudited financial statements,
27 summary budget projections or results, or the functional equivalent
28 of these documents of a partnership or owner of a single member
29 limited liability company that is disregarded pursuant to Section
30 23038. The information provided pursuant to this clause shall be
31 confidential and shall not be subject to public disclosure.

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

39 (viii) Detailed narratives, for use only by the Legislative
40 Analyst's Office in conducting a study of the effectiveness of this

1 credit, that describe the extent to which the credit is expected to
2 influence or affect filming and other business location decisions,
3 hiring decisions, salary decisions, and any other financial matters
4 of the applicant.

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

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

9 (C) Determine and designate applicants who meet the
10 requirements of this section.

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

13 (E) Subject to the annual cap established as provided in
14 subdivision (i), allocate an aggregate amount of credits under this
15 section and Section 23685, and allocate any carryover of
16 unallocated credits from prior years.

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

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

22 (B) Establish audit requirements that must be satisfied before
23 a credit certificate may be issued by the California Film
24 Commission.

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

28 (I) If readily available, a list of the states, provinces, or other
29 jurisdictions in which any member of the applicant's combined
30 reporting group in the same business unit as the qualified taxpayer
31 that, in the preceding calendar year, has produced a qualified
32 motion picture intended for release in the United States market.
33 For purposes of this clause, "qualified motion picture" shall not
34 include any episodes of a television series that were complete or
35 in production prior to July 1, 2009.

36 (II) Whether a qualified motion picture described in subclause
37 (I) was awarded any financial incentive by the state, province, or
38 other jurisdiction that was predicated on the performance of
39 primary principal photography or postproduction in that location.

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

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

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

13 (A) Whether the qualified motion picture that was the subject
14 of the application was completed.

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

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

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

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

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

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

1 (i) A table which includes all of the following information: a
2 list of qualified taxpayers and the tax credit amounts allocated to
3 each qualified taxpayer by the California Film Commission, the
4 number of production days in California the qualified taxpayer
5 represented in its application would occur, the number of California
6 jobs that the qualified taxpayer represented in its application would
7 be directly created by the production, and the total amount of
8 qualified expenditures expected to be spent by the production.

9 (ii) A narrative staff summary describing the production of the
10 qualified taxpayer as well as background information regarding
11 the qualified taxpayer contained in the qualified taxpayer's
12 application for the credit.

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

16 (i) (1) The aggregate amount of credits that may be allocated
17 in any fiscal year pursuant to this section and Section 23685 shall
18 be an amount equal to the sum of all of the following:

19 (A) One hundred million dollars (\$100,000,000) in credits for
20 the 2009–10 fiscal year and each fiscal year thereafter, through
21 and including the 2016–17 fiscal year.

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

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

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

32 (3) Notwithstanding the foregoing, the California Film
33 Commission shall set aside up to ten million dollars (\$10,000,000)
34 of tax credits each fiscal year for independent films allocated in
35 accordance with rules and regulations developed pursuant to
36 subdivision (e).

37 (4) Any act that reduces the amount that may be allocated
38 pursuant to paragraph (1) constitutes a change in state taxes for
39 the purpose of increasing revenues within the meaning of Section
40 3 of Article XIII A of the California Constitution and may be passed

1 by not less than two-thirds of all Members elected to each of the
2 two houses of the Legislature.

3 (j) The California Film Commission shall have the authority to
4 allocate tax credits in accordance with this section and in
5 accordance with any regulations prescribed pursuant to subdivision
6 (e) upon adoption.

7 **SECTION 4.**

8 *SEC. 4.* Section 17053.95 is added to the Revenue and Taxation
9 Code, to read:

10 17053.95. (a) (1) For taxable years beginning on or after
11 January 1, 2016, there shall be allowed to a qualified taxpayer a
12 credit against the “net tax,” as defined in Section 17039, in an
13 amount equal to the applicable percentage, as specified in
14 paragraph (4), of the qualified expenditures for the production of
15 a qualified motion picture in California. A credit shall not be
16 allowed under this section for any qualified expenditures for the
17 production of a motion picture in California if a credit has been
18 claimed for those same expenditures under Section 17053.85.

19 (2) The credit shall be allowed for the taxable year in which the
20 California Film Commission issues the credit certificate pursuant
21 to subdivision (g) for the qualified motion picture, *but in no*
22 *instance prior to July 1, 2016*, and shall be for the applicable
23 percentage of all qualified expenditures paid or incurred by the
24 qualified taxpayer in all taxable years for that qualified motion
25 picture.

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

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

32 (A) Twenty percent of the qualified expenditures attributable
33 to the production of a qualified motion picture in California,
34 including, but not limited to, a feature, up to one hundred million
35 dollars (\$100,000,000) *in qualified expenditures*, or a television
36 series *that relocated to California that is* in its second or
37 subsequent years of receiving a tax credit allocation pursuant to
38 this section *or Section 17053.85*.

39 (B) Twenty-five percent of the qualified expenditures
40 attributable to the production of a qualified motion picture in

1 California where the qualified motion picture is a television series
 2 that relocated to California in its first year of receiving a tax credit
 3 allocation pursuant to this section ~~or is an independent film.~~

4 (C) *Twenty-five percent of the qualified expenditures, up to ten*
 5 *million dollars (\$10,000,000), attributable to the production of a*
 6 *qualified motion picture that is an independent film.*

7 ~~(C)~~

8 (D) (i) The California Film Commission shall increase the
 9 applicable percentage by 5 percent, not to exceed a maximum of
 10 25 percent, if the qualified motion picture ~~incurred or paid or~~
 11 *incurred outside the Los Angeles zone* the qualified expenditures
 12 relating to original photography outside the Los Angeles zone.

13 (ii) For purposes of this subparagraph:

14 (I) “Applicable period” means the period that commences with
 15 ~~pre-production~~ *preproduction* and ends when original photography
 16 concludes. The applicable period includes the time necessary to
 17 strike a remote location and return to the Los Angeles zone.

18 (II) “Los Angeles zone” means the area within a circle 30 miles
 19 in radius from Beverly Boulevard and La Cienega Boulevard, Los
 20 Angeles, California, and includes Agua Dulce, Castaic, including
 21 Lake Castaic, Leo Carillo State Beach, Ontario International
 22 Airport, Piru, and Pomona, including the Los Angeles County
 23 Fairgrounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch
 24 property is within the Los Angeles zone.

25 (III) “Original photography” includes principal ~~photography,~~
 26 ~~additional unit photography,~~ *photography* and reshooting original
 27 footage.

28 (IV) “Qualified expenditures relating to original photography
 29 outside the Los Angeles zone” means amounts paid or incurred
 30 during the applicable period for tangible personal property
 31 *purchased or leased and* used or consumed outside the Los Angeles
 32 zone and relating to original photography outside the Los Angeles
 33 zone and qualified wages paid for services performed outside the
 34 Los Angeles zone and relating to original photography outside the
 35 Los Angeles zone.

36 ~~(D)~~

37 (E) Twenty-five percent of the qualified expenditures relating
 38 to music scoring and music ~~editing~~ *track recording by musicians*
 39 attributable to the production of a qualified motion picture in
 40 California.

1 (F) *Twenty-five percent of the qualified expenditures relating*
2 *to qualified visual effects.*

3 (b) For purposes of this section:

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

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

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

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

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

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

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

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

28 (B) Any amount treated as wages under clause (i) of
29 subparagraph (A) of paragraph ~~(18)~~ (20) shall not be taken into
30 account under this paragraph.

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

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

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

- 1 (9) *“Pilot for a new television series” means the initial episode*
 2 *produced for a proposed television series.*
 3 ~~(9)~~
- 4 (10) (A) ~~“Post production”~~ *“Postproduction”* means the final
 5 activities in a qualified motion picture’s production, including
 6 editing, foley recording, automatic dialogue replacement, sound
 7 editing, scoring, music track recording by musicians and music
 8 editing, beginning and end credits, negative cutting, negative
 9 processing and duplication, the addition of sound and visual effects,
 10 sound mixing, film-to-tape transfers, encoding, and color
 11 correction.
 12 (B) ~~“Post production”~~ *“Postproduction”* does not include the
 13 manufacture or shipping of release prints or their equivalent.
 14 ~~(10)~~
- 15 (11) *“Preproduction”* means the process of preparation for actual
 16 physical production which begins after a qualified motion picture
 17 has received a firm agreement of financial commitment, or is
 18 greenlit, with, for example, the establishment of a dedicated
 19 production office, the hiring of key crew members, and includes,
 20 but is not limited to, activities that include location scouting and
 21 execution of contracts with vendors of equipment and stage space.
 22 ~~(11)~~
- 23 (12) *“Principal photography”* means the phase of production
 24 during which the motion picture is actually shot, as distinguished
 25 from preproduction and ~~post production~~ *postproduction*.
 26 ~~(12)~~
- 27 (13) *“Production period”* means the period beginning with
 28 preproduction and ending upon completion of ~~post production~~
 29 *postproduction*.
 30 ~~(13)~~
- 31 (14) *“Qualified entity”* means a personal service corporation as
 32 defined in Section 269A(b)(1) of the Internal Revenue Code, a
 33 payroll services corporation, or any entity receiving qualified wages
 34 with respect to services performed by a qualified individual.
- 35 (15) *“Qualified expenditures” means amounts paid or incurred*
 36 *for tangible personal property purchased or leased, and used,*
 37 *within this state in the production of a qualified motion picture*
 38 *and payments, including qualified wages, for services performed*
 39 *within this state in the production of a qualified motion picture.*
 40 ~~(14)~~

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

4 (B) “Qualified individual” shall not include either of the
5 following:

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

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

11 ~~(15)~~

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

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

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

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

23 (iv) An independent film.

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

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

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

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

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

37 (18) (A) “Qualified taxpayer” means a taxpayer who has paid
38 or incurred qualified expenditures and has been issued a credit
39 certificate by the California Film Commission pursuant to
40 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 (19) *“Qualified visual effects” means visual effects where at*
11 *least 75 percent or a minimum of ten million dollars (\$10,000,000)*
12 *of the qualified expenditures for the visual effects is paid or*
13 *incurred in California.*

14 ~~(18)~~

15 (20) (A) “Qualified wages” means all of the following:

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

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

26 (iii) Any payments made to a qualified entity for services
27 performed in this state by qualified individuals within the meaning
28 of paragraph ~~(14)~~ (16).

29 (iv) Remuneration paid to an independent contractor who is a
30 qualified individual for services performed within this state by that
31 qualified individual.

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

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

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

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

1 (iv) Expenses, including wages, paid per person per qualified
2 motion picture for writers, directors, music directors, music
3 composers, music supervisors, producers, and performers, other
4 than background actors with no scripted lines.

5 ~~(19)~~

6 (21) “Residual compensation” means supplemental
7 compensation paid at the time that a motion picture is exhibited
8 through new use, reuse, clip use, or in secondary markets, as
9 distinguished from payments made during production.

10 ~~(20)~~

11 (22) “Reuse” means any use of a qualified motion picture in the
12 same medium for which it was created, following the initial use
13 in that medium.

14 ~~(21)~~

15 (23) “Secondary markets” means media in which a qualified
16 motion picture is exhibited following the initial media in which it
17 is exhibited.

18 ~~(22)~~

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

25 ~~(23) “Pilot for a new television series” means the initial episode
26 produced for a proposed television series.~~

27 (25) “Visual effects” means the creation, alteration, or
28 enhancement of images that cannot be captured on a set or location
29 during live action photography and therefore is accomplished in
30 postproduction. It includes, but is not limited to, matte paintings,
31 animation, set extensions, computer-generated objects, characters
32 and environments, compositing (combining two or more elements
33 in a final image), and wire removals. “Visual effects” does not
34 include fully animated projects, whether created by traditional or
35 digital means.

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

1 (2) The qualified taxpayer shall report to the Franchise Tax
2 Board prior to the sale of the credit, in the form and manner
3 specified by the Franchise Tax Board, all required information
4 regarding the purchase and sale of the credit, including the social
5 security or other taxpayer identification number of the unrelated
6 party to whom the credit has been sold, the face amount of the
7 credit sold, and the amount of consideration received by the
8 qualified taxpayer for the sale of the credit.

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

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

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

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

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

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

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

34 (10) For purposes of this subdivision, the unrelated party or
35 parties that purchase a credit pursuant to this subdivision shall be
36 treated as a qualified taxpayer pursuant to paragraph (1) of
37 subdivision (a).

38 (d) No credit shall be allowed pursuant to this section unless
39 the qualified taxpayer provides the following to the California
40 Film Commission:

- 1 (1) Identification of each qualified individual.
- 2 (2) The specific start and end dates of production.
- 3 (3) The total wages paid.
- 4 (4) The amount of qualified wages paid to each qualified
5 individual.
- 6 (5) The copyright registration number, as reflected on the
7 certificate of registration issued under the authority of Section 410
8 of Title 17 of the United States Code, relating to registration of
9 claim and issuance of certificate. The registration number shall be
10 provided on the return claiming the credit.
- 11 (6) The total amounts paid or incurred to purchase or lease
12 tangible personal property used in the production of a qualified
13 motion picture.
- 14 (7) Information to substantiate its qualified expenditures.
- 15 (8) Information required by the California Film Commission
16 under regulations promulgated pursuant to subdivision (g)
17 necessary to verify the amount of credit claimed.
- 18 (e) (1) The California Film Commission may prescribe rules
19 and regulations to carry out the purposes of this section including
20 any rules and regulations necessary to establish procedures,
21 processes, requirements, application fee structure, and rules
22 identified in or required to implement this section, including credit
23 and logo requirements. The regulations shall include provisions
24 to set aside a percentage of annual credit allocations for
25 independent films and television series relocating to California,
26 pursuant to subdivision (i).
- 27 (2) *Implementation of this section is deemed an emergency and*
28 *necessary for the immediate preservation of the public peace,*
29 *health, and safety, or general welfare and, therefore, the California*
30 *Film Commission is hereby authorized to adopt emergency*
31 *regulations necessary to implement this section during the 2014–15*
32 *fiscal year in accordance with the rulemaking provisions of the*
33 *Administrative Procedures Act (Chapter 3.5 (commencing with*
34 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
35 *Code).*
- 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 and after July 1, 2016, and before July 1, 2021,~~
4 ~~allocate tax credits to applicants.~~

5 *(1) On or after January 1, 2015, and before July 1, 2021, in no*
6 *fewer than two allocation procedures per fiscal year, allocate tax*
7 *credits to applicants.*

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

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

14 (ii) The number of production days.

15 (iii) A financing plan for the production.

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

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

22 (vi) Financial information, if available, including, but not limited
23 to, the most recently produced balance sheets, annual statements
24 of profits and losses, audited or unaudited financial statements,
25 summary budget projections or results, or the functional equivalent
26 of these documents of a partnership or owner of a single member
27 limited liability company that is disregarded pursuant to Section
28 23038. The information provided pursuant to this clause shall be
29 confidential and shall not be subject to public disclosure.

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

37 (viii) Detailed narratives, for use only by the Legislative
38 Analyst's Office in conducting a study of the effectiveness of this
39 credit, that describe the extent to which the credit is expected to
40 influence or affect filming and other business location decisions,

1 hiring decisions, salary decisions, and any other financial matters
2 of the applicant.

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

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

7 (C) Determine and designate applicants who meet the
8 requirements of this section.

9 (D) ~~Process~~(i) *Except as provided in subparagraph (2), process*
10 *and approve, or reject, all applications on a first-come-first-served*
11 *basis.*

12 *(ii) Any new one-hour television series, as described in clause*
13 *(iii) of subparagraph (A) of paragraph (17) of subdivision (b), any*
14 *television series that relocated to California, as described in clause*
15 *(v) of subparagraph (A) of paragraph (17) of subdivision (b), and*
16 *any new one-hour television series based on a pilot for a new*
17 *television series, described in paragraph (9) of subdivision (b),*
18 *that has been approved and issued a credit allocation by the*
19 *California Film Commission either under this section or Section*
20 *17053.85 shall be placed at the top of the queue for an open*
21 *allocation period once in each subsequent year in the life of that*
22 *television series whenever credits are allocated within a fiscal*
23 *year.*

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

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

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

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

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

39 (I) If readily available, a list of the states, provinces, or other
40 jurisdictions in which any member of the applicant's combined

1 reporting group in the same business unit as the qualified taxpayer
2 that, in the preceding calendar year, has produced a qualified
3 motion picture intended for release in the United States market.
4 For purposes of this clause, “qualified motion picture” shall not
5 include any episodes of a television series that were complete or
6 in production prior to July 1, 2016.

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

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

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

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

24 (A) Whether the qualified motion picture that was the subject
25 of the application was completed.

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

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

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

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

1 (h) (1) The California Film Commission shall annually provide
 2 the Legislative Analyst’s Office, the Franchise Tax Board, and the
 3 board with a list of qualified taxpayers and the tax credit amounts
 4 allocated to each qualified taxpayer by the California Film
 5 Commission. The list shall include the names and taxpayer
 6 identification numbers, including taxpayer identification numbers
 7 of each partner or shareholder, as applicable, of the qualified
 8 taxpayer.

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

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

20 (ii) A narrative staff summary describing the production of the
 21 qualified taxpayer as well as background information regarding
 22 the qualified taxpayer contained in the qualified taxpayer’s
 23 application for the credit.

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

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

30 (A) _____dollars (\$_____) in credits for the 2016–17 fiscal year
 31 and each fiscal year thereafter, through and including the 2020–21
 32 fiscal year.

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

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

36 (2) (A) Notwithstanding the foregoing, the California Film
 37 Commission shall set aside the lesser of 10 percent of the amount
 38 specified in subparagraph (A) of paragraph (1) or twenty million
 39 dollars (\$20,000,000) of tax credits each fiscal year for independent

1 films allocated in accordance with rules and regulations developed
2 pursuant to subdivision (e).

3 (B) Notwithstanding the foregoing, the California Film
4 Commission shall set aside up to thirty million dollars
5 (\$30,000,000) of tax credit each fiscal year for television series
6 that relocated to California in its first year of receiving a tax credit
7 allocation pursuant to this section allocated in accordance with
8 rules and regulations developed pursuant to subdivision (e).

9 (3) Any act that reduces the amount that may be allocated
10 pursuant to paragraph (1) constitutes a change in state taxes for
11 the purpose of increasing revenues within the meaning of Section
12 3 of Article XIII A of the California Constitution and may be
13 passed by not less than two-thirds of all Members elected to each
14 of the two houses of the Legislature.

15 (j) The California Film Commission shall have the authority to
16 allocate tax credits in accordance with this section and in
17 accordance with any regulations prescribed pursuant to subdivision
18 (e) upon adoption.

19 *SEC. 5. Section 23036 of the Revenue and Taxation Code is*
20 *amended to read:*

21 23036. (a) (1) The term “tax” includes any of the following:

22 (A) The tax imposed under Chapter 2 (commencing with Section
23 23101).

24 (B) The tax imposed under Chapter 3 (commencing with Section
25 23501).

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

28 (D) The tax on S corporations imposed under Section 23802.

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

32 (b) For purposes of Article 5 (commencing with Section 18661)
33 of Chapter 2, Article 3 (commencing with Section 19031) of
34 Chapter 4, Article 6 (commencing with Section 19101) of Chapter
35 4, and Chapter 7 (commencing with Section 19501) of Part 10.2,
36 and for purposes of Sections 18601, 19001, and 19005, the term
37 “tax” also includes all of the following:

38 (1) The tax on limited partnerships, imposed under Section
39 17935, the tax on limited liability companies, imposed under
40 Section 17941, and the tax on registered limited liability

1 partnerships and foreign limited liability partnerships imposed
2 under Section 17948.

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

5 (3) The tax on built-in gains of S corporations, imposed under
6 Section 23809.

7 (4) The tax on excess passive investment income of S
8 corporations, imposed under Section 23811.

9 (c) Notwithstanding any other provision of this part, credits are
10 allowed against the “tax” in the following order:

11 (1) Credits that do not contain carryover provisions.

12 (2) Credits that, when the credit exceeds the “tax,” allow the
13 excess to be carried over to offset the “tax” in succeeding taxable
14 years, except for those credits that are allowed to reduce the “tax”
15 below the tentative minimum tax, as defined by Section 23455.
16 The order of credits within this paragraph shall be determined by
17 the Franchise Tax Board.

18 (3) The minimum tax credit allowed by Section 23453.

19 (4) Credits that are allowed to reduce the “tax” below the
20 tentative minimum tax, as defined by Section 23455.

21 (5) Credits for taxes withheld under Section 18662.

22 (d) Notwithstanding any other provision of this part, each of
23 the following applies:

24 (1) A credit may not reduce the “tax” below the tentative
25 minimum tax (as defined by paragraph (1) of subdivision (a) of
26 Section 23455), except the following credits:

27 (A) The credit allowed by former Section 23601 (relating to
28 solar energy).

29 (B) The credit allowed by former Section 23601.4 (relating to
30 solar energy).

31 (C) The credit allowed by former Section 23601.5 (relating to
32 solar energy).

33 (D) The credit allowed by Section 23609 (relating to research
34 expenditures).

35 (E) The credit allowed by former Section 23609.5 (relating to
36 clinical testing expenses).

37 (F) The credit allowed by Section 23610.5 (relating to
38 low-income housing).

39 (G) The credit allowed by former Section 23612 (relating to
40 sales and use tax credit).

- 1 (H) The credit allowed by Section 23612.2 (relating to enterprise
2 zone sales or use tax credit).
- 3 (I) The credit allowed by former Section 23612.6 (relating to
4 Los Angeles Revitalization Zone sales tax credit).
- 5 (J) The credit allowed by former Section 23622 (relating to
6 enterprise zone hiring credit).
- 7 (K) The credit allowed by Section 23622.7 (relating to enterprise
8 zone hiring credit).
- 9 (L) The credit allowed by former Section 23623 (relating to
10 program area hiring credit).
- 11 (M) The credit allowed by former Section 23623.5 (relating to
12 Los Angeles Revitalization Zone hiring credit).
- 13 (N) The credit allowed by former Section 23625 (relating to
14 Los Angeles Revitalization Zone hiring credit).
- 15 (O) The credit allowed by Section 23633 (relating to targeted
16 tax area sales or use tax credit).
- 17 (P) The credit allowed by Section 23634 (relating to targeted
18 tax area hiring credit).
- 19 (Q) The credit allowed by former Section 23649 (relating to
20 qualified property).
- 21 (R) For taxable years beginning on or after January 1, 2011, the
22 credit allowed by Section 23685 (relating to qualified motion
23 pictures).
- 24 (S) *For taxable years beginning on or after January 1, 2016,*
25 *the credit allowed by Section 23695 (relating to qualified motion*
26 *pictures).*
- 27 (2) A credit against the tax may not reduce the minimum
28 franchise tax imposed under Chapter 2 (commencing with Section
29 23101).
- 30 (e) Any credit which is partially or totally denied under
31 subdivision (d) is allowed to be carried over to reduce the “tax”
32 in the following year, and succeeding years if necessary, if the
33 provisions relating to that credit include a provision to allow a
34 carryover of the unused portion of that credit.
- 35 (f) Unless otherwise provided, any remaining carryover from a
36 credit that has been repealed or made inoperative is allowed to be
37 carried over under the provisions of that section as it read
38 immediately prior to being repealed or becoming inoperative.
- 39 (g) Unless otherwise provided, if two or more taxpayers share
40 in costs that would be eligible for a tax credit allowed under this

1 part, each taxpayer is eligible to receive the tax credit in proportion
2 to his or her respective share of the costs paid or incurred.

3 (h) Unless otherwise provided, in the case of an S corporation,
4 any credit allowed by this part is computed at the S corporation
5 level, and any limitation on the expenses qualifying for the credit
6 or limitation upon the amount of the credit applies to the S
7 corporation and to each shareholder.

8 (i) (1) With respect to any taxpayer that directly or indirectly
9 owns an interest in a business entity that is disregarded for tax
10 purposes pursuant to Section 23038 and any regulations thereunder,
11 the amount of any credit or credit carryforward allowable for any
12 taxable year attributable to the disregarded business entity is limited
13 in accordance with paragraphs (2) and (3).

14 (2) The amount of any credit otherwise allowed under this part,
15 including any credit carryover from prior years, that may be applied
16 to reduce the taxpayer's "tax," as defined in subdivision (a), for
17 the taxable year is limited to an amount equal to the excess of the
18 taxpayer's regular tax (as defined in Section 23455), determined
19 by including income attributable to the disregarded business entity
20 that generated the credit or credit carryover, over the taxpayer's
21 regular tax (as defined in Section 23455), determined by excluding
22 the income attributable to that disregarded business entity. A credit
23 is not allowed if the taxpayer's regular tax (as defined in Section
24 23455), determined by including the income attributable to the
25 disregarded business entity is less than the taxpayer's regular tax
26 (as defined in Section 23455), determined by excluding the income
27 attributable to the disregarded business entity.

28 (3) If the amount of a credit allowed pursuant to the section
29 establishing the credit exceeds the amount allowable under this
30 subdivision in any taxable year, the excess amount may be carried
31 over to subsequent taxable years pursuant to subdivisions (d), (e),
32 and (f).

33 (j) (1) Unless otherwise specifically provided, in the case of a
34 taxpayer that is a partner or shareholder of an eligible pass-thru
35 entity described in paragraph (2), any credit passed through to the
36 taxpayer in the taxpayer's first taxable year beginning on or after
37 the date the credit is no longer operative may be claimed by the
38 taxpayer in that taxable year, notwithstanding the repeal of the
39 statute authorizing the credit prior to the close of that taxable year.

1 (2) For purposes of this subdivision, “eligible pass-thru entity”
2 means any partnership or S corporation that files its return on a
3 fiscal year basis pursuant to Section 18566, and that is entitled to
4 a credit pursuant to this part for the taxable year that begins during
5 the last year a credit is operative.

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

8 *SEC. 6. Section 23685 of the Revenue and Taxation Code is*
9 *amended to read:*

10 23685. (a) (1) For taxable years beginning on or after January
11 1, 2011, there shall be allowed to a qualified taxpayer a credit
12 against the “tax,” as defined in Section 23036, in an amount equal
13 to the applicable percentage, as specified in paragraph (4), of the
14 qualified expenditures for the production of a qualified motion
15 picture in California.

16 (2) The credit shall be allowed for the taxable year in which the
17 California Film Commission issues the credit certificate pursuant
18 to subdivision (g) for the qualified motion picture, and shall be for
19 the applicable percentage of all qualified expenditures paid or
20 incurred by the qualified taxpayer in all taxable years for that
21 qualified motion picture.

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

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

28 (A) Twenty percent of the qualified expenditures attributable
29 to the production of a qualified motion picture in California.

30 (B) Twenty-five percent of the qualified expenditures
31 attributable to the production of a qualified motion picture in
32 California where the qualified motion picture is a television series
33 that relocated to California or an independent film.

34 (b) For purposes of this section:

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

38 (2) “Budget” means an estimate of all expenses paid or incurred
39 during the production period of a qualified motion picture. It shall

1 be the same budget used by the qualified taxpayer and production
2 company for all qualified motion picture purposes.

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

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

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

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

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

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

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

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

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

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

33 (9) (A) “Postproduction” means the final activities in a qualified
34 motion picture’s production, including editing, foley recording,
35 automatic dialogue replacement, sound editing, scoring and music
36 editing, beginning and end credits, negative cutting, negative
37 processing and duplication, the addition of sound and visual effects,
38 soundmixing, film-to-tape transfers, encoding, and color correction.

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

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

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

11 (12) “Production period” means the period beginning with
12 preproduction and ending upon completion of postproduction.

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

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

20 (B) “Qualified individual” shall not include either of the
21 following:

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

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

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

30 (i) A feature with a minimum production budget of one million
31 dollars (\$1,000,000) and a maximum production budget of
32 seventy-five million dollars (\$75,000,000).

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

35 (iii) A new television series produced in California with a
36 minimum production budget of one million dollars (\$1,000,000)
37 licensed for original distribution on basic cable.

38 (iv) An independent film.

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

1 (B) To qualify as a “qualified motion picture,” all of the
2 following conditions shall be satisfied:
3 (i) At least 75 percent of the production days occur wholly in
4 California or 75 percent of the production budget is incurred for
5 payment for services performed within the state and the purchase
6 or rental of property used within the state.
7 (ii) Production of the qualified motion picture is completed
8 within 30 months from the date on which the qualified taxpayer’s
9 application is approved by the California Film Commission. For
10 purposes of this section, a qualified motion picture is “completed”
11 when the process of postproduction has been finished.
12 (iii) The copyright for the motion picture is registered with the
13 United States Copyright Office pursuant to Title 17 of the United
14 States Code.
15 (iv) Principal photography of the qualified motion picture
16 commences after the date on which the application is approved by
17 the California Film Commission, but no later than 180 days after
18 the date of that approval.
19 (C) For the purposes of subparagraph (A), in computing the
20 total wages paid or incurred for the production of a qualified
21 motion picture, all amounts paid or incurred by all persons or
22 entities that share in the costs of the qualified motion picture shall
23 be aggregated.
24 (D) “Qualified motion picture” shall not include commercial
25 advertising, music videos, a motion picture produced for private
26 noncommercial use, such as weddings, graduations, or as part of
27 an educational course and made by students, a news program,
28 current events or public events program, talk show, game show,
29 sporting event or activity, awards show, telethon or other
30 production that solicits funds, reality television program, clip-based
31 programming if more than 50 percent of the content is comprised
32 of licensed footage, documentaries, variety programs, daytime
33 dramas, strip shows, one-half hour (air time) episodic television
34 shows, or any production that falls within the recordkeeping
35 requirements of Section 2257 of Title 18 of the United States Code.
36 (16) “Qualified expenditures” means amounts paid or incurred
37 to purchase or lease tangible personal property used within this
38 state in the production of a qualified motion picture and payments,
39 including qualified wages, for services performed within this state
40 in the production of a qualified motion picture.

1 (17) (A) “Qualified taxpayer” means a taxpayer who has paid
2 or incurred qualified expenditures and has been issued a credit
3 certificate by the California Film Commission pursuant to
4 subdivision (g).

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

14 (ii) In the case of an “S” corporation, the credit allowed under
15 this section shall not be used by an “S” corporation as a credit
16 against a tax imposed under Chapter 4.5 (commencing with Section
17 23800) of Part 11 of Division 2.

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

19 (i) Any wages subject to withholding under Division 6
20 (commencing with Section 13000) of the Unemployment Insurance
21 Code that were paid or incurred by any taxpayer involved in the
22 production of a qualified motion picture with respect to a qualified
23 individual for services performed on the qualified motion picture
24 production within this state.

25 (ii) The portion of any employee fringe benefits paid or incurred
26 by any taxpayer involved in the production of the qualified motion
27 picture that are properly allocable to qualified wage amounts
28 described in clause (i).

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

32 (iv) Remuneration paid to an independent contractor who is a
33 qualified individual for services performed within this state by that
34 qualified individual.

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

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

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

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

5 (iv) Expenses, including wages, paid per person per qualified
6 motion picture for writers, directors, music directors, music
7 composers, music supervisors, producers, and performers, other
8 than background actors with no scripted lines.

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

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

16 (21) “Secondary markets” means media in which a qualified
17 motion picture is exhibited following the initial media in which it
18 is exhibited.

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

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

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

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

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

3 (C) May be changed for any subsequent taxable year if the
4 election to make the assignment is expressly shown on each of the
5 returns of the qualified taxpayer and the qualified taxpayer's
6 affiliated corporations that assign and receive the credits.

7 (D) Shall be reported to the Franchise Tax Board, in the form
8 and manner specified by the Franchise Tax Board, along with all
9 required information regarding the assignment of the credit,
10 including the corporation number, the federal employer
11 identification number, or other taxpayer identification number of
12 the assignee, and the amount of the credit assigned.

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

17 (B) The qualified taxpayer shall report to the Franchise Tax
18 Board prior to the sale of the credit, in the form and manner
19 specified by the Franchise Tax Board, all required information
20 regarding the purchase and sale of the credit, including the social
21 security or other taxpayer identification number of the unrelated
22 party to whom the credit has been sold, the face amount of the
23 credit sold, and the amount of consideration received by the
24 qualified taxpayer for the sale of the credit.

25 (4) In the case where the credit allowed under this section
26 exceeds the "tax," the excess credit may be carried over to reduce
27 the "tax" in the following taxable year, and succeeding five taxable
28 years, if necessary, until the credit has been exhausted.

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

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

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

37 (8) In the event that both the taxpayer originally allocated a
38 credit under this section by the California Film Commission and
39 a taxpayer to whom the credit has been sold both claim the same
40 amount of credit on their tax returns, the Franchise Tax Board may

1 disallow the credit of either taxpayer, so long as the statute of
2 limitations upon assessment remains open.

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

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

10 (11) For purposes of this subdivision:

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

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

17 (d) No credit shall be allowed pursuant to this section unless
18 the qualified taxpayer provides the following to the California
19 Film Commission:

20 (1) Identification of each qualified individual.

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

22 (3) The total wages paid.

23 (4) The amount of qualified wages paid to each qualified
24 individual.

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

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

33 (7) Information to substantiate its qualified expenditures.

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

37 (e) The California Film Commission may prescribe rules and
38 regulations to carry out the purposes of this section including any
39 rules and regulations necessary to establish procedures, processes,
40 requirements, and rules identified in or required to implement this

1 section. The regulations shall include provisions to set aside a
2 percentage of annual credit allocations for independent films.

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

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

9 (1) On or after July 1, 2009, and before July 1, 2017, *in no fewer*
10 *than two allocations per fiscal year*, allocate tax credits to
11 applicants.

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

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

18 (ii) The number of production days.

19 (iii) A financing plan for the production.

20 (iv) The diversity of the workforce employed by the applicant,
21 including, but not limited to, the ethnic and racial makeup of the
22 individuals employed by the applicant during the production of
23 the qualified motion picture, to the extent possible.

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

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

34 (vii) The names of all partners in a partnership not publicly
35 traded or the names of all members of a limited liability company
36 classified as a partnership not publicly traded for California income
37 tax purposes that have a financial interest in the applicant's
38 qualified motion picture. The information provided pursuant to
39 this clause shall be confidential and shall not be subject to public
40 disclosure.

1 (viii) Detailed narratives, for use only by the Legislative
2 Analyst's Office in conducting a study of the effectiveness of this
3 credit, that describe the extent to which the credit is expected to
4 influence or affect filming and other business location decisions,
5 hiring decisions, salary decisions, and any other financial matters
6 of the applicant.

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

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

11 (C) Determine and designate applicants who meet the
12 requirements of this section.

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

15 (E) Subject to the annual cap established as provided in
16 subdivision (i), allocate an aggregate amount of credits under this
17 section and Section 17053.85, and allocate any carryover of
18 unallocated credits from prior years.

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

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

24 (B) Establish audit requirements that must be satisfied before
25 a credit certificate may be issued by the California Film
26 Commission.

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

30 (I) If readily available, a list of the states, provinces, or other
31 jurisdictions in which any member of the applicant's combined
32 reporting group in the same business unit as the qualified taxpayer
33 that, in the preceding calendar year, has produced a qualified
34 motion picture intended for release in the United States market.
35 For purposes of this clause, "qualified motion picture" shall not
36 include any episodes of a television series that were complete or
37 in production prior to July 1, 2009.

38 (II) Whether a qualified motion picture described in subclause
39 (I) was awarded any financial incentive by the state, province, or

1 other jurisdiction that was predicated on the performance of
2 primary principal photography or postproduction in that location.

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

7 (D) Issue a credit certificate to a qualified taxpayer upon
8 completion of the qualified motion picture reflecting the credit
9 amount allocated after qualified expenditures have been verified
10 under this section. The amount of credit shown in the credit
11 certificate shall not exceed the amount of credit allocated to that
12 qualified taxpayer pursuant to this section.

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

15 (A) Whether the qualified motion picture that was the subject
16 of the application was completed.

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

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

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

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

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

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

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

12 (ii) A narrative staff summary describing the production of the
13 qualified taxpayer as well as background information regarding
14 the qualified taxpayer contained in the qualified taxpayer's
15 application for the credit.

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

19 (i) (1) The aggregate amount of credits that may be allocated
20 in any fiscal year pursuant to this section and Section 17053.85
21 shall be an amount equal to the sum of all of the following:

22 (A) One hundred million dollars (\$100,000,000) in credits for
23 the 2009–10 fiscal year and each fiscal year thereafter, through
24 and including the 2016–17 fiscal year.

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

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

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

35 (3) Notwithstanding the foregoing, the California Film
36 Commission shall set aside up to ten million dollars (\$10,000,000)
37 of tax credits each fiscal year for independent films allocated in
38 accordance with rules and regulations developed pursuant to
39 subdivision (e).

1 (4) 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 passed
5 by not less than two-thirds of all Members elected to each of the
6 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. 2.~~

12 ~~SEC. 7.~~ Section 23695 is added to the Revenue and Taxation
13 Code, to read:

14 23695. (a) (1) For taxable years beginning on or after January
15 1, 2016, there shall be allowed to a qualified taxpayer a credit
16 against the “tax,” as defined in Section 23036, in an amount equal
17 to the applicable percentage, as specified in paragraph (4), of the
18 qualified expenditures for the production of a qualified motion
19 picture in California. A credit shall not be allowed under this
20 section for any qualified expenditures for the production of a
21 motion picture in California if a credit has been claimed for those
22 same expenditures under ~~Section 23695~~ 23685.

23 (2) The credit shall be allowed for the taxable year in which the
24 California Film Commission issues the credit certificate pursuant
25 to subdivision (g) for the qualified motion picture, *but in no*
26 *instance prior to July 1, 2016*, and shall be for the applicable
27 percentage of all qualified expenditures paid or incurred by the
28 qualified taxpayer in all taxable years for that qualified motion
29 picture.

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

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

36 (A) Twenty percent of the qualified expenditures attributable
37 to the production of a qualified motion picture in California,
38 including, but not limited to, a feature, up to one hundred million
39 dollars (\$100,000,000) *in qualified expenditures*, or a television
40 series *that relocated to California that is* in its second or

1 subsequent years of receiving a tax credit allocation pursuant to
 2 this section *or Section 23685*.

3 (B) Twenty-five percent of the qualified expenditures
 4 attributable to the production of a qualified motion picture in
 5 California where the qualified motion picture is a television series
 6 that relocated to California in its first year of receiving a tax credit
 7 allocation pursuant to this section ~~or is an independent film~~.

8 (C) *Twenty-five percent of the qualified expenditures, up to ten*
 9 *million dollars (\$10,000,000), attributable to the production of a*
 10 *qualified motion picture that is an independent film.*

11 ~~(C)~~

12 (D) (i) The California Film Commission shall increase the
 13 applicable percentage by 5 percent, not to exceed a maximum of
 14 25 percent, if the qualified motion picture ~~incurred or paid or~~
 15 *incurred outside the Los Angeles zone* the qualified expenditures
 16 relating to original photography outside the Los Angeles zone.

17 (ii) For purposes of this subparagraph:

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

22 (II) “Los Angeles zone” means the area within a circle 30 miles
 23 in radius from Beverly Boulevard and La Cienega Boulevard, Los
 24 Angeles, California, and includes Agua Dulce, Castaic, including
 25 Lake Castaic, Leo Carillo State Beach, Ontario International
 26 Airport, Piru, and Pomona, including the Los Angeles County Fair
 27 grounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch property
 28 is within the Los Angeles zone.

29 (III) “Original photography” includes principal ~~photography,~~
 30 ~~additional unit photography,~~ *photography* and reshooting original
 31 footage.

32 (IV) “Qualified expenditures relating to original photography
 33 outside the Los Angeles zone” means amounts paid or incurred
 34 during the applicable period for tangible personal property
 35 *purchased or leased and* used or consumed outside the Los Angeles
 36 zone and relating to original photography outside the Los Angeles
 37 zone and qualified wages paid for services performed outside the
 38 Los Angeles zone and relating to original photography outside the
 39 Los Angeles zone.

40 ~~(D)~~

1 (E) Twenty-five percent of the qualified expenditures relating
2 to music scoring and music ~~editing~~ *track recording by musicians*
3 attributable to the production of a qualified motion picture in
4 California.

5 (F) *Twenty-five percent of the qualified expenditures relating*
6 *to qualified visual effects.*

7 (b) For purposes of this section:

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

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

15 (3) “Clip use” means a use of any portion of a motion picture,
16 other than the qualified motion picture, used in the qualified motion
17 picture.

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

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

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

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

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

32 (B) Any amount treated as wages under clause (i) of
33 subparagraph (A) of paragraph ~~(18)~~ (20) shall not be taken into
34 account under this paragraph.

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

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

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

5 (9) “*Pilot for a new television series*” means the initial episode
6 produced for a proposed television series.

7 ~~(9)~~

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

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

18 ~~(10)~~

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

26 ~~(11)~~

27 (12) “Principal photography” means the phase of production
28 during which the motion picture is actually shot, as distinguished
29 from preproduction and ~~post production~~ *postproduction*.

30 ~~(12)~~

31 (13) “Production period” means the period beginning with
32 preproduction and ending upon completion of ~~post production~~
33 *postproduction*.

34 ~~(13)~~

35 (14) “Qualified entity” means a personal service corporation as
36 defined in Section 269A(b)(1) of the Internal Revenue Code, a
37 payroll services corporation, or any entity receiving qualified wages
38 with respect to services performed by a qualified individual.

39 (15) “*Qualified expenditures*” means amounts paid or incurred
40 for tangible personal property purchased or leased, and used,

1 *within this state in the production of a qualified motion picture*
2 *and payments, including qualified wages, for services performed*
3 *within this state in the production of a qualified motion picture.*

4 ~~(14)~~

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

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

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

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

15 ~~(15)~~

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

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

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

23 (iii) A new one-hour television series of episodes longer than
24 40 minutes each of running time, exclusive of commercials, that
25 is produced in California, with a minimum production budget of
26 one million dollars (\$1,000,000) per episode.

27 (iv) An independent film.

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

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

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

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

39 (ii) Production of the qualified motion picture is completed
40 within 30 months from the date on which the qualified taxpayer’s

1 application is approved by the California Film Commission. For
2 purposes of this section, a qualified motion picture is “completed”
3 when the process of ~~post-production~~ *postproduction* has been
4 finished.

5 (iii) The copyright for the motion picture is registered with the
6 United States Copyright Office pursuant to Title 17 of the United
7 States Code.

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

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

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

35 ~~(16) “Qualified expenditures” means amounts paid or incurred~~
36 ~~for tangible personal property purchased or leased, and used, within~~
37 ~~this state in the production of a qualified motion picture and~~
38 ~~payments, including qualified wages, for services performed within~~
39 ~~this state in the production of a qualified motion picture.~~

40 (17)

1 (18) (A) “Qualified taxpayer” means a taxpayer who has paid
2 or incurred qualified expenditures and has been issued a credit
3 certificate by the California Film Commission pursuant to
4 subdivision (g).

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

14 (ii) In the case of an “S” corporation, the credit allowed under
15 this section shall not be used by an “S” corporation as a credit
16 against a tax imposed under Chapter 4.5 (commencing with Section
17 23800) of Part 11 of Division 2.

18 (19) *“Qualified visual effects” means visual effects where at*
19 *least 75 percent or a minimum of ten million dollars (\$10,000,000)*
20 *of the qualified expenditures for the visual effects is paid or*
21 *incurred in California.*

22 ~~(18)~~

23 (20) (A) “Qualified wages” means all of the following:

24 (i) Any wages subject to withholding under Division 6
25 (commencing with Section 13000) of the Unemployment Insurance
26 Code that were paid or incurred by any taxpayer involved in the
27 production of a qualified motion picture with respect to a qualified
28 individual for services performed on the qualified motion picture
29 production within this state.

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

34 (iii) Any payments made to a qualified entity for services
35 performed in this state by qualified individuals within the meaning
36 of paragraph ~~(14)~~ (16).

37 (iv) Remuneration paid to an independent contractor who is a
38 qualified individual for services performed within this state by that
39 qualified individual.

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

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

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

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

9 (iv) Expenses, including wages, paid per person per qualified
10 motion picture for writers, directors, music directors, music
11 composers, music supervisors, producers, and performers, other
12 than background actors with no scripted lines.

13 ~~(19)~~

14 (21) “Residual compensation” means supplemental
15 compensation paid at the time that a motion picture is exhibited
16 through new use, reuse, clip use, or in secondary markets, as
17 distinguished from payments made during production.

18 ~~(20)~~

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

22 ~~(21)~~

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

26 ~~(22)~~

27 (24) “Television series that relocated to California” means a
28 television series, without regard to episode length or initial media
29 exhibition, that filmed all of its prior season or seasons outside of
30 California and for which the taxpayer certifies that the credit
31 provided pursuant to this section is the primary reason for
32 relocating to California.

33 ~~(23) “Pilot for a new television series” means the initial episode
34 produced for a proposed television series.~~

35 (25) “Visual effects” means the creation, alteration, or
36 enhancement of images that cannot be captured on a set or location
37 during live action photography and therefore is accomplished in
38 postproduction. It includes, but is not limited to, matte paintings,
39 animation, set extensions, computer-generated objects, characters
40 and environments, compositing (combining two or more elements

1 *in a final image), and wire removals. “Visual effects” does not*
2 *include fully animated projects, whether created by traditional or*
3 *digital means.*

4 (c) (1) Notwithstanding subdivision (i) of Section 23036, in
5 the case where the credit allowed by this section exceeds the
6 taxpayer’s tax liability computed under this part, a qualified
7 taxpayer may elect to assign any portion of the credit allowed
8 under this section to one or more affiliated corporations for each
9 taxable year in which the credit is allowed. For purposes of this
10 subdivision, “affiliated corporation” has the meaning provided in
11 subdivision (b) of Section 25110, as that section was amended by
12 Chapter 881 of the Statutes of 1993, as of the last day of the taxable
13 year in which the credit is allowed, except that “100 percent” is
14 substituted for “more than 50 percent” wherever it appears in the
15 section, and “voting common stock” is substituted for “voting
16 stock” wherever it appears in the section.

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

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

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

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

26 (D) Shall be reported to the Franchise Tax Board, in the form
27 and manner specified by the Franchise Tax Board, along with all
28 required information regarding the assignment of the credit,
29 including the corporation number, the federal employer
30 identification number, or other taxpayer identification number of
31 the assignee, and the amount of the credit assigned.

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

36 (B) The qualified taxpayer shall report to the Franchise Tax
37 Board prior to the sale of the credit, in the form and manner
38 specified by the Franchise Tax Board, all required information
39 regarding the purchase and sale of the credit, including the social
40 security or other taxpayer identification number of the unrelated

1 party to whom the credit has been sold, the face amount of the
2 credit sold, and the amount of consideration received by the
3 qualified taxpayer for the sale of the credit.

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

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

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

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

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

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

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

29 (11) For purposes of this subdivision:

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

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

36 (d) No credit shall be allowed pursuant to this section unless
37 the qualified taxpayer provides the following to the California
38 Film Commission:

- 39 (1) Identification of each qualified individual.
40 (2) The specific start and end dates of production.

1 (3) The total wages paid.

2 (4) The amount of qualified wages paid to each qualified
3 individual.

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

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

12 (7) Information to substantiate its qualified expenditures.

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

16 (e) (1) The California Film Commission may prescribe rules
17 and regulations to carry out the purposes of this section including
18 any rules and regulations necessary to establish procedures,
19 processes, requirements, application fee structure, and rules
20 identified in or required to implement this section, including credit
21 and logo requirements. The regulations shall include provisions
22 to set aside a percentage of annual credit allocations for
23 independent films and television series relocating to California,
24 pursuant to subdivision (i).

25 (2) *Implementation of this section is deemed an emergency and*
26 *necessary for the immediate preservation of the public peace,*
27 *health, and safety, or general welfare and, therefore, the California*
28 *Film Commission is hereby authorized to adopt emergency*
29 *regulations necessary to implement this section during the 2014–15*
30 *fiscal year in accordance with the rulemaking provisions of the*
31 *Administrative Procedures Act (Chapter 3.5 (commencing with*
32 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
33 *Code).*

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

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

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

3 *(1) On or after January 1, 2015, and before July 1, 2021, in no*
4 *fewer than two allocation procedures per fiscal year, allocate tax*
5 *credits to applicants.*

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

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

12 (ii) The number of production days.

13 (iii) A financing plan for the production.

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

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

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

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

35 (viii) Detailed narratives, for use only by the Legislative
36 Analyst's Office in conducting a study of the effectiveness of this
37 credit, that describe the extent to which the credit is expected to
38 influence or affect filming and other business location decisions,
39 hiring decisions, salary decisions, and any other financial matters
40 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~~(i) *Except as provided in subparagraph (2), process*
8 *and approve, or reject, all applications on a first-come-first-served*
9 *basis.*

10 (ii) *Any new one-hour television series, as described in clause*
11 *(iii) of subparagraph (A) of paragraph (17) of subdivision (b), any*
12 *television series that relocated to California, as described in clause*
13 *(v) of subparagraph (A) of paragraph (17) of subdivision (b), and*
14 *any new one-hour television series based on a pilot for a new*
15 *television series, described in paragraph (9) of subdivision (b),*
16 *that has been approved and issued a credit allocation by the*
17 *California Film Commission either under this section or Section*
18 *23685 shall be placed at the top of the queue for an open allocation*
19 *period once in each subsequent year in the life of that television*
20 *series whenever credits are allocated within a fiscal year.*

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

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

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

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

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

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

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

4 (II) Whether a qualified motion picture described in subclause
5 (I) was awarded any financial incentive by the state, province, or
6 other jurisdiction that was predicated on the performance of
7 primary principal photography or ~~post-production~~ *postproduction*
8 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 17053.95
25 shall 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) (A) Notwithstanding the foregoing, the California Film
33 Commission shall set aside the lesser of 10 percent of the amount
34 specified in subparagraph (A) of paragraph (1) or twenty million
35 dollars (\$20,000,000) of tax credits each fiscal year for independent
36 films allocated in accordance with rules and regulations developed
37 pursuant to subdivision (e).

38 (B) Notwithstanding the foregoing, the California Film
39 Commission shall set aside up to thirty million dollars
40 (\$30,000,000) of tax credit each fiscal year for television series

1 that relocated to California in its first year of receiving a tax credit
2 allocation pursuant to this section allocated in accordance with
3 rules and regulations developed pursuant to subdivision (e).

4 (3) Any act that reduces the amount that may be allocated
5 pursuant to paragraph (1) constitutes a change in state taxes for
6 the purpose of increasing revenues within the meaning of Section
7 3 of Article XIII A of the California Constitution and may be
8 passed by not less than two-thirds of all Members elected to each
9 of the two houses of the Legislature.

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

14 ~~SEC. 3.~~

15 *SEC. 8.* The provisions of this act are severable. If any
16 provision of this act or its application is held invalid, that invalidity
17 shall not affect other provisions or applications that can be given
18 effect without the invalid provision or application.

19 ~~SEC. 4.~~

20 *SEC. 9.* This act provides for a tax levy within the meaning of
21 Article IV of the Constitution and shall go into immediate effect.