

AMENDED IN SENATE JUNE 17, 2014

AMENDED IN ASSEMBLY MAY 23, 2014

AMENDED IN ASSEMBLY MARCH 19, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1839**

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**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)**

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

February 18, 2014

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An act to amend ~~Sections 17053.85, 23036, and 23685~~ *Section 23036* 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 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 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  
2 Code, as added by Section 1 of Chapter 10 of the Third  
3 Extraordinary Session of the Statutes of 2009, is repealed.

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

7 6902.5. (a) For the purposes of this section:

8 (1) "Qualified taxpayer" means a person who is a qualified  
9 taxpayer within the meaning of paragraph (17) of subdivision (b)  
10 of Section 17053.85, 17053.95, 23685, or 23695.

11 (2) "Affiliate" means a qualified taxpayer's affiliated corporation  
12 that has been assigned any portion of the credit amount by the  
13 qualified taxpayer pursuant to subdivision (c) of Section 23685 or  
14 subdivision (c) of Section 23695.

15 (3) "Credit amount" means an amount equal to the tax credit  
16 amount that would otherwise be allowed to a qualified taxpayer  
17 pursuant to Section 17053.85, 17053.95, 23685, or 23695 but for  
18 the election made pursuant to this section.

19 (4) "Production period" means the production period as defined  
20 in paragraph (12) of subdivision (b) of Section 17053.85, 17053.95,  
21 23685, or 23695.

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

4 (B) Notwithstanding subparagraph (A), “qualified sales and use  
5 taxes” does not mean taxes imposed by Section 6051.2, 6051.5,  
6 6201.2, 6201.5, Part 1.5 (commencing with Section 7200), Part  
7 1.6 (commencing with Section 7251), or Section 35 of Article XIII  
8 of the California Constitution.

9 (b) (1) A qualified taxpayer may, in lieu of claiming the credit  
10 allowed by Section 17053.85, 17053.95, 23685, or 23695 make  
11 an irrevocable election to apply the credit amount against qualified  
12 sales and use taxes imposed on the qualified taxpayer in accordance  
13 with this section.

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

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

22 (A) Representation that the claimant is a qualified taxpayer or  
23 an affiliate.

24 (B) Statement of the dates on which the production period began  
25 and ended.

26 (C) The credit amount, and if an affiliate, the portion of the  
27 credit amount assigned to it and documentation supporting the  
28 assignment of that portion of the credit amount.

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

35 (E) A copy of the credit certificate issued pursuant to  
36 subparagraph (C) of paragraph (2) of subdivision (g) of Section  
37 17053.85 or 23685 or subparagraph (D) of paragraph (2) of  
38 subdivision (g) of Section 17053.95 or 23695.

39 (2) The election shall be filed on or before the date on which  
40 the qualified taxpayer or affiliate would first be allowed to claim

1 a credit pursuant to Section 17053.85, 17053.95, 23685, or 23695  
2 on its tax return.

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

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

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

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

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

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

35 ~~SEC. 3. Section 17053.85 of the Revenue and Taxation Code~~  
36 ~~is amended to read:~~

37 ~~17053.85. (a) (1) For taxable years beginning on or after~~  
38 ~~January 1, 2011, there shall be allowed to a qualified taxpayer a~~  
39 ~~credit against the "net tax," as defined in Section 17039, in an~~  
40 ~~amount equal to the applicable percentage, as specified in~~

1 paragraph (4), of the qualified expenditures for the production of  
2 a qualified motion picture in California.

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

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

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

15 (A) ~~Twenty percent of the qualified expenditures attributable~~  
16 ~~to the production of a qualified motion picture in California.~~

17 (B) ~~Twenty-five percent of the qualified expenditures~~  
18 ~~attributable to the production of a qualified motion picture in~~  
19 ~~California where the qualified motion picture is a television series~~  
20 ~~that relocated to California or an independent film.~~

21 (b) ~~For purposes of this section:~~

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

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

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

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

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

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

- 1     ~~(13) “Qualified entity” means a personal service corporation as~~  
2 ~~defined in Section 269A(b)(1) of the Internal Revenue Code, a~~  
3 ~~payroll services corporation, or any entity receiving qualified wages~~  
4 ~~with respect to services performed by a qualified individual.~~  
5     ~~(14) (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) (A) “Qualified motion picture” means a motion picture~~  
16 ~~that is produced for distribution to the general public, regardless~~  
17 ~~of medium, that is one of the following:~~  
18     ~~(i) A feature with a minimum production budget of one million~~  
19 ~~dollars (\$1,000,000) and a maximum production budget of~~  
20 ~~seventy-five million dollars (\$75,000,000).~~  
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 television series produced in California with a~~  
24 ~~minimum production budget of one million dollars (\$1,000,000)~~  
25 ~~licensed for original distribution on basic cable.~~  
26     ~~(iv) An independent film.~~  
27     ~~(v) A television series that relocated to California.~~  
28     ~~(B) To qualify as a “qualified motion picture,” all of the~~  
29 ~~following conditions shall be satisfied:~~  
30     ~~(i) At least 75 percent of the production days occur wholly in~~  
31 ~~California or 75 percent of the production budget is incurred for~~  
32 ~~payment for services performed within the state and the purchase~~  
33 ~~or rental of property used within the state.~~  
34     ~~(ii) Production of the qualified motion picture is completed~~  
35 ~~within 30 months from the date on which the qualified taxpayer’s~~  
36 ~~application is approved by the California Film Commission. For~~  
37 ~~purposes of this section, a qualified motion picture is “completed”~~  
38 ~~when the process of postproduction has been finished.~~

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

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

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

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

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

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

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

1 ~~“pass-thru entity” means any entity taxed as a partnership or “S”~~  
2 ~~corporation.~~  
3 ~~(18) (A) “Qualified wages” means all of the following:~~  
4 ~~(i) Any wages subject to withholding under Division 6~~  
5 ~~(commencing with Section 13000) of the Unemployment Insurance~~  
6 ~~Code that were paid or incurred by any taxpayer involved in the~~  
7 ~~production of a qualified motion picture with respect to a qualified~~  
8 ~~individual for services performed on the qualified motion picture~~  
9 ~~production within this state.~~  
10 ~~(ii) The portion of any employee fringe benefits paid or incurred~~  
11 ~~by any taxpayer involved in the production of the qualified motion~~  
12 ~~picture that are properly allocable to qualified wage amounts~~  
13 ~~described in clause (i).~~  
14 ~~(iii) Any payments made to a qualified entity for services~~  
15 ~~performed in this state by qualified individuals within the meaning~~  
16 ~~of paragraph (14).~~  
17 ~~(iv) Remuneration paid to an independent contractor who is a~~  
18 ~~qualified individual for services performed within this state by that~~  
19 ~~qualified individual.~~  
20 ~~(B) “Qualified wages” shall not include any of the following:~~  
21 ~~(i) Expenses, including wages, related to new use, reuse, clip~~  
22 ~~use, licensing, secondary markets, or residual compensation, or~~  
23 ~~the creation of any ancillary product, including, but not limited to,~~  
24 ~~a soundtrack album, toy, game, trailer, or teaser.~~  
25 ~~(ii) Expenses, including wages, paid or incurred with respect to~~  
26 ~~acquisition, development, turnaround, or any rights thereto.~~  
27 ~~(iii) Expenses, including wages, related to financing, overhead,~~  
28 ~~marketing, promotion, or distribution of a qualified motion picture.~~  
29 ~~(iv) Expenses, including wages, paid per person per qualified~~  
30 ~~motion picture for writers, directors, music directors, music~~  
31 ~~composers, music supervisors, producers, and performers, other~~  
32 ~~than background actors with no scripted lines.~~  
33 ~~(19) “Residual compensation” means supplemental~~  
34 ~~compensation paid at the time that a motion picture is exhibited~~  
35 ~~through new use, reuse, clip use, or in secondary markets, as~~  
36 ~~distinguished from payments made during production.~~  
37 ~~(20) “Reuse” means any use of a qualified motion picture in the~~  
38 ~~same medium for which it was created, following the initial use~~  
39 ~~in that medium.~~

1     ~~(21) “Secondary markets” means media in which a qualified~~  
2 ~~motion picture is exhibited following the initial media in which it~~  
3 ~~is exhibited.~~

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

10     ~~(e) (1) Notwithstanding any other law, a qualified taxpayer~~  
11 ~~may sell any credit allowed under this section that is attributable~~  
12 ~~to an independent film, as defined in paragraph (6) of subdivision~~  
13 ~~(b), to an unrelated party.~~

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

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

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

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

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

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

1     ~~(8) Chapter 3.5 (commencing with Section 11340) of Part 1 of~~  
2     ~~Division 3 of Title 2 of the Government Code does not apply to~~  
3     ~~any standard, criterion, procedure, determination, rule, notice, or~~  
4     ~~guideline established or issued by the Franchise Tax Board~~  
5     ~~pursuant to this subdivision.~~  
6     ~~(9) Subdivision (g) of Section 17039 shall not apply to any~~  
7     ~~credit sold pursuant to this subdivision.~~  
8     ~~(10) For purposes of this subdivision, the unrelated party or~~  
9     ~~parties that purchase a credit pursuant to this subdivision shall be~~  
10    ~~treated as a qualified taxpayer pursuant to paragraph (1) of~~  
11    ~~subdivision (a).~~  
12    ~~(d) No credit shall be allowed pursuant to this section unless~~  
13    ~~the qualified taxpayer provides the following to the California~~  
14    ~~Film Commission:~~  
15    ~~(1) Identification of each qualified individual.~~  
16    ~~(2) The specific start and end dates of production.~~  
17    ~~(3) The total wages paid.~~  
18    ~~(4) The amount of qualified wages paid to each qualified~~  
19    ~~individual.~~  
20    ~~(5) The copyright registration number, as reflected on the~~  
21    ~~certificate of registration issued under the authority of Section 410~~  
22    ~~of Title 17 of the United States Code, relating to registration of~~  
23    ~~claim and issuance of certificate. The registration number shall be~~  
24    ~~provided on the return claiming the credit.~~  
25    ~~(6) The total amounts paid or incurred to purchase or lease~~  
26    ~~tangible personal property used in the production of a qualified~~  
27    ~~motion picture.~~  
28    ~~(7) Information to substantiate its qualified expenditures.~~  
29    ~~(8) Information required by the California Film Commission~~  
30    ~~under regulations promulgated pursuant to subdivision (g)~~  
31    ~~necessary to verify the amount of credit claimed.~~  
32    ~~(e) The California Film Commission may prescribe rules and~~  
33    ~~regulations to carry out the purposes of this section including any~~  
34    ~~rules and regulations necessary to establish procedures, processes,~~  
35    ~~requirements, and rules identified in or required to implement this~~  
36    ~~section. The regulations shall include provisions to set aside a~~  
37    ~~percentage of annual credit allocations for independent films.~~  
38    ~~(f) If the qualified taxpayer fails to provide the copyright~~  
39    ~~registration number as required in paragraph (5) of subdivision~~

- 1 ~~(d), the credit shall be disallowed and assessed and collected under~~  
2 ~~Section 19051 until the procedures are satisfied.~~
- 3 ~~(g) For purposes of this section, the California Film Commission~~  
4 ~~shall do the following:~~
- 5 ~~(1) On or after July 1, 2009, and before July 1, 2017, in no fewer~~  
6 ~~than two allocations per fiscal year, allocate tax credits to~~  
7 ~~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 and approve, or reject, all applications on a  
10 first-come-first-served basis.  
11 (E) Subject to the annual cap established as provided in  
12 subdivision (i), allocate an aggregate amount of credits under this  
13 section and Section 23685, and allocate any carryover of  
14 unallocated credits from prior years.  
15 (2) Certify tax credits allocated to qualified taxpayers.  
16 (A) Establish a verification procedure for the amount of qualified  
17 expenditures paid or incurred by the applicant, including, but not  
18 limited to, updates to the information in subparagraph (A) of  
19 paragraph (1) of subdivision (g).  
20 (B) Establish audit requirements that must be satisfied before  
21 a credit certificate may be issued by the California Film  
22 Commission.  
23 (C) (i) Establish a procedure for a qualified taxpayer to report  
24 to the California Film Commission, prior to the issuance of a credit  
25 certificate, the following information:  
26 (I) If readily available, a list of the states, provinces, or other  
27 jurisdictions in which any member of the applicant's combined  
28 reporting group in the same business unit as the qualified taxpayer  
29 that, in the preceding calendar year, has produced a qualified  
30 motion picture intended for release in the United States market.  
31 For purposes of this clause, "qualified motion picture" shall not  
32 include any episodes of a television series that were complete or  
33 in production prior to July 1, 2009.  
34 (II) Whether a qualified motion picture described in subclause  
35 (I) was awarded any financial incentive by the state, province, or  
36 other jurisdiction that was predicated on the performance of  
37 primary principal photography or postproduction in that location.  
38 (ii) The California Film Commission may provide that the report  
39 required by this subparagraph be filed in a single report provided

1 on a calendar year basis for those qualified taxpayers that receive  
2 multiple credit certificates in a calendar year.

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

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

11 ~~(A) Whether the qualified motion picture that was the subject~~  
12 ~~of the application was completed.~~

13 ~~(B) If completed, in which state or foreign jurisdiction was the~~  
14 ~~primary principal photography completed.~~

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

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

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

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

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

38 ~~(i) A table which includes all of the following information: a~~  
39 ~~list of qualified taxpayers and the tax credit amounts allocated to~~  
40 ~~each qualified taxpayer by the California Film Commission, the~~

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

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

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

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

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

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

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

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

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

34 (4) Any act that reduces the amount that may be allocated  
35 pursuant to paragraph (1) constitutes a change in state taxes for  
36 the purpose of increasing revenues within the meaning of Section  
37 3 of Article XIII A of the California Constitution and may be passed  
38 by not less than two-thirds of all Members elected to each of the  
39 two houses of the Legislature.

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

5 ~~SEC. 4.~~

6 *SEC. 3.* Section 17053.95 is added to the Revenue and Taxation  
7 Code, to read:

8 17053.95. (a) (1) For taxable years beginning on or after  
9 January 1, 2016, there shall be allowed to a qualified taxpayer a  
10 credit against the “net tax,” as defined in Section 17039, in an  
11 amount equal to the applicable percentage, as specified in  
12 paragraph (4), of the qualified expenditures for the production of  
13 a qualified motion picture in California. A credit shall not be  
14 allowed under this section for any qualified expenditures for the  
15 production of a motion picture in California if a credit has been  
16 claimed for those same expenditures under Section 17053.85.

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

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

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

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

37 (B) Twenty-five percent of the qualified expenditures  
38 attributable to the production of a qualified motion picture in  
39 California where the qualified motion picture is a television series

1 that relocated to California in its first year of receiving a tax credit  
2 allocation pursuant to this section.

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

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

11 (ii) For purposes of this subparagraph:

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

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

23 (III) “Original photography” includes principal photography  
24 and reshooting original footage.

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

33 (E) Twenty-five percent of the qualified expenditures relating  
34 to music scoring and music track recording by musicians  
35 attributable to the production of a qualified motion picture in  
36 California.

37 (F) Twenty-five percent of the qualified expenditures relating  
38 to qualified visual effects.

39 (b) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

37 (9) “Pilot for a new television series” means the initial episode  
38 produced for a proposed television series.

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

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

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

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

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

18 (13) “Production period” means the period beginning with  
19 preproduction and ending upon completion of postproduction.

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

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

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

32 (B) “Qualified individual” shall not include either of the  
33 following:

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

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

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

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

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

8 (iii) A new ~~one-hour~~ television series of episodes longer than  
9 40 minutes each of running time, exclusive of commercials, that  
10 is produced in California, with a minimum production budget of  
11 one million dollars (\$1,000,000) per episode.

12 (iv) An independent film.

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

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

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

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

24 (ii) Production of the qualified motion picture is completed  
25 within 30 months from the date on which the qualified taxpayer’s  
26 application is approved by the California Film Commission. For  
27 purposes of this section, a qualified motion picture is “completed”  
28 when the process of postproduction has been finished.

29 (iii) The copyright for the motion picture is registered with the  
30 United States Copyright Office pursuant to Title 17 of the United  
31 States Code.

32 (iv) Principal photography of the qualified motion picture  
33 commences after the date on which the application is approved by  
34 the California Film Commission, but no later than 180 days after  
35 the date of that approval unless death, disability, or disfigurement  
36 of the director or of a principal cast member, an act of God,  
37 including, but not limited to, fire, flood, earthquake, storm,  
38 hurricane, or other natural disaster, terrorist activities, or  
39 government sanction has directly prevented a production’s ability

1 to begin principal photography within the prescribed 180-day  
2 commencement period.

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

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

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

24 (B) In the case of any pass-thru entity, the determination of  
25 whether a taxpayer is a qualified taxpayer under this section shall  
26 be made at the entity level and any credit under this section is not  
27 allowed to the pass-thru entity, but shall be passed through to the  
28 partners or shareholders in accordance with applicable provisions  
29 of Part 10 (commencing with Section 17001) or Part 11  
30 (commencing with Section 23001). For purposes of this paragraph,  
31 “pass-thru entity” means any entity taxed as a partnership or “S”  
32 corporation.

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

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

38 (i) Any wages subject to withholding under Division 6  
39 (commencing with Section 13000) of the Unemployment Insurance  
40 Code that were paid or incurred by any taxpayer involved in the

1 production of a qualified motion picture with respect to a qualified  
2 individual for services performed on the qualified motion picture  
3 production within this state.

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

8 (iii) Any payments made to a qualified entity for services  
9 performed in this state by qualified individuals within the meaning  
10 of paragraph (16).

11 (iv) Remuneration paid to an independent contractor who is a  
12 qualified individual for services performed within this state by that  
13 qualified individual.

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

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

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

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

23 (iv) Expenses, including wages, paid per person per qualified  
24 motion picture for writers, directors, music directors, music  
25 composers, music supervisors, producers, and performers, other  
26 than background actors with no scripted lines.

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

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

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

37 (24) “Television series that relocated to California” means a  
38 television series, without regard to episode length or initial media  
39 exhibition, ~~that filmed all of its prior season or~~ *with a minimum*  
40 *production budget of one million dollars (\$1,000,000) per episode,*

1 *that filmed no fewer than its most recent two* seasons outside of  
 2 California and for which the taxpayer certifies that the credit  
 3 provided pursuant to this section is the primary reason for  
 4 relocating to California.

5 (25) “Visual effects” means the creation, alteration, or  
 6 enhancement of images that cannot be captured on a set or location  
 7 during live action photography and therefore is accomplished in  
 8 postproduction. It includes, but is not limited to, matte paintings,  
 9 animation, set extensions, computer-generated objects, characters  
 10 and environments, compositing (combining two or more elements  
 11 in a final image), and wire removals. “Visual effects” does not  
 12 include fully animated projects, whether created by traditional or  
 13 digital means.

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

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

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

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

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

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

38 (7) In the event that both the taxpayer originally allocated a  
 39 credit under this section by the California Film Commission and  
 40 a taxpayer to whom the credit has been sold both claim the same

1 amount of credit on their tax returns, the Franchise Tax Board may  
2 disallow the credit of either taxpayer, so long as the statute of  
3 limitations upon assessment remains open.

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

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

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

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

18 (1) Identification of each qualified individual.

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

20 (3) The total wages paid.

21 (4) The amount of qualified wages paid to each qualified  
22 individual.

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

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

31 (7) Information to substantiate its qualified expenditures.

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

35 (e) (1) The California Film Commission may prescribe rules  
36 and regulations to carry out the purposes of this section including  
37 any rules and regulations necessary to establish procedures,  
38 processes, requirements, application fee structure, and rules  
39 identified in or required to implement this section, including credit  
40 and logo requirements. The regulations shall include provisions

1 to set aside a percentage of annual credit allocations for  
2 independent films and television series relocating to California,  
3 pursuant to subdivision (i).

4 (2) Implementation of this section is deemed an emergency and  
5 necessary for the immediate preservation of the public peace,  
6 health, and safety, or general welfare and, therefore, the California  
7 Film Commission is hereby authorized to adopt emergency  
8 regulations necessary to implement this section during the 2014–15  
9 fiscal year in accordance with the rulemaking provisions of the  
10 Administrative Procedure Act (Chapter 3.5 (commencing with  
11 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
12 Code).

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

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

19 (1) On or after January 1, 2015, and before July 1, 2021, ~~in no~~  
20 ~~fewer than two allocation procedures~~ *one or more allocation*  
21 *periods* per fiscal year, allocate tax credits to applicants.

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

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

28 (ii) The number of production days.

29 (iii) A financing plan for the production.

30 (iv) The diversity of the workforce employed by the applicant,  
31 including, but not limited to, the ethnic and racial makeup of the  
32 individuals employed by the applicant during the production of  
33 the qualified motion picture, to the extent possible.

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

36 (vi) Financial information, if available, including, but not limited  
37 to, the most recently produced balance sheets, annual statements  
38 of profits and losses, audited or unaudited financial statements,  
39 summary budget projections or results, or the functional equivalent  
40 of these documents of a partnership or owner of a single member

1 limited liability company that is disregarded pursuant to Section  
2 23038. The information provided pursuant to this clause shall be  
3 confidential and shall not be subject to public disclosure.

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

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

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

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

21 (C) Determine and designate applicants who meet the  
22 requirements of this section.

23 (D) (i) Except as provided in ~~subparagraph (2)~~ *clauses (ii) and*  
24 *(iii)*, process and approve, or reject, all applications on a  
25 first-come-first-served basis.

26 (ii) Any new ~~one-hour~~ television series, as described in clause  
27 (iii) of subparagraph (A) of paragraph (17) of subdivision (b), *and*  
28 any television series that relocated to California, as described in  
29 clause (v) of subparagraph (A) of paragraph (17) of subdivision  
30 (b), ~~and any new one-hour television series based on a pilot for a~~  
31 ~~new television series, described in paragraph (9) of subdivision~~  
32 ~~(b)~~; that has been approved and issued a credit allocation by the  
33 California Film Commission either under this section or Section  
34 17053.85 shall be placed at the top of the queue for an open  
35 allocation period once in each subsequent year in the life of that  
36 television series whenever credits are allocated within a fiscal year.

37 (iii) *Any new television series based on a pilot for a new*  
38 *television series described in paragraph (9) of subdivision (b),*  
39 *where that pilot has been previously approved and issued a credit*  
40 *allocation by the California Film Commission under this section*

1 *or Section 17053.85, shall be placed at the top of the queue for an*  
2 *open allocation period once in the initial and in each subsequent*  
3 *year in the life of that television series whenever credits are*  
4 *allocated within a fiscal year.*

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

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

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

14 (B) Establish audit requirements that must be satisfied before  
15 a credit certificate may be issued by the California Film  
16 Commission.

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

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

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

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

36 (D) Issue a credit certificate to a qualified taxpayer upon  
37 completion of the qualified motion picture reflecting the credit  
38 amount allocated after qualified expenditures have been verified  
39 under this section. The amount of credit shown in the credit

1 certificate shall not exceed the amount of credit allocated to that  
2 qualified taxpayer pursuant to this section.

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

5 (A) Whether the qualified motion picture that was the subject  
6 of the application was completed.

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

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

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

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

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

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

32 (i) A table which includes all of the following information: a  
33 list of qualified taxpayers and the tax credit amounts allocated to  
34 each qualified taxpayer by the California Film Commission, the  
35 number of production days in California the qualified taxpayer  
36 represented in its application would occur, the number of California  
37 jobs that the qualified taxpayer represented in its application would  
38 be directly created by the production, and the total amount of  
39 qualified expenditures expected to be spent by the production.

1 (ii) A narrative staff summary describing the production of the  
2 qualified taxpayer as well as background information regarding  
3 the qualified taxpayer contained in the qualified taxpayer’s  
4 application for the credit.  
5 (B) Nothing in this subdivision shall be construed to make the  
6 information submitted by an applicant for a tax credit under this  
7 section a public record.  
8 (i) (1) The aggregate amount of credits that may be allocated  
9 in any fiscal year pursuant to this section and Section 23695 shall  
10 be an amount equal to the sum of all of the following:  
11 (A) \_\_\_\_\_dollars (\$\_\_\_\_\_) in credits for the 2016–17 fiscal year  
12 and each fiscal year thereafter, through and including the 2020–21  
13 fiscal year.  
14 (B) The unused allocation credit amount, if any, for the  
15 preceding fiscal year.  
16 (C) The amount of previously allocated credits not certified.  
17 (2) (A) Notwithstanding the foregoing, the California Film  
18 Commission shall set aside the lesser of 10 percent of the amount  
19 specified in subparagraph (A) of paragraph (1) or twenty million  
20 dollars (\$20,000,000) of tax credits each fiscal year for independent  
21 films allocated in accordance with rules and regulations developed  
22 pursuant to subdivision (e).  
23 (B) Notwithstanding the foregoing, the California Film  
24 Commission shall set aside up to thirty million dollars  
25 (\$30,000,000) of tax credit each fiscal year for television series  
26 that relocated to California in its first year of receiving a tax credit  
27 allocation pursuant to this section allocated in accordance with  
28 rules and regulations developed pursuant to subdivision (e).  
29 (3) Any act that reduces the amount that may be allocated  
30 pursuant to paragraph (1) constitutes a change in state taxes for  
31 the purpose of increasing revenues within the meaning of Section  
32 3 of Article XIII A of the California Constitution and may be  
33 passed by not less than two-thirds of all Members elected to each  
34 of the two houses of the Legislature.  
35 (j) The California Film Commission shall have the authority to  
36 allocate tax credits in accordance with this section and in  
37 accordance with any regulations prescribed pursuant to subdivision  
38 (e) upon adoption.

1     ~~SEC. 5.~~

2     ~~SEC. 4.~~ Section 23036 of the Revenue and Taxation Code is  
3 amended to read:

4     23036. (a) (1) The term “tax” includes any of the following:

5     (A) The tax imposed under Chapter 2 (commencing with Section  
6 23101).

7     (B) The tax imposed under Chapter 3 (commencing with Section  
8 23501).

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

11     (D) The tax on ~~S~~ “S” corporations imposed under Section  
12 23802.

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

16     (b) For purposes of Article 5 (commencing with Section 18661)  
17 of Chapter 2, Article 3 (commencing with Section 19031) of  
18 Chapter 4, Article 6 (commencing with Section 19101) of Chapter  
19 4, and Chapter 7 (commencing with Section 19501) of Part 10.2,  
20 and for purposes of Sections 18601, 19001, and 19005, the term  
21 “tax” also includes all of the following:

22     (1) The tax on limited partnerships, imposed under Section  
23 17935, the tax on limited liability companies, imposed under  
24 Section 17941, and the tax on registered limited liability  
25 partnerships and foreign limited liability partnerships imposed  
26 under Section 17948.

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

29     (3) The tax on built-in gains of ~~S~~ “S” corporations, imposed  
30 under Section 23809.

31     (4) The tax on excess passive investment income of ~~S~~ “S”  
32 corporations, imposed under Section 23811.

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

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

36     (2) Credits that, when the credit exceeds the “tax,” allow the  
37 excess to be carried over to offset the “tax” in succeeding taxable  
38 years, except for those credits that are allowed to reduce the “tax”  
39 below the tentative minimum tax, as defined by Section 23455.

- 1 The order of credits within this paragraph shall be determined by  
2 the Franchise Tax Board.
- 3 (3) The minimum tax credit allowed by Section 23453.
- 4 (4) Credits that are allowed to reduce the “tax” below the  
5 tentative minimum tax, as defined by Section 23455.
- 6 (5) Credits for taxes withheld under Section 18662.
- 7 (d) Notwithstanding any other provision of this part, each of  
8 the following applies:
- 9 (1) A credit may not reduce the “tax” below the tentative  
10 minimum tax (as defined by paragraph (1) of subdivision (a) of  
11 Section 23455), except the following credits:
- 12 (A) The credit allowed by former Section 23601 (relating to  
13 solar energy).
- 14 (B) The credit allowed by former Section 23601.4 (relating to  
15 solar energy).
- 16 (C) The credit allowed by former Section 23601.5 (relating to  
17 solar energy).
- 18 (D) The credit allowed by Section 23609 (relating to research  
19 expenditures).
- 20 (E) The credit allowed by former Section 23609.5 (relating to  
21 clinical testing expenses).
- 22 (F) The credit allowed by Section 23610.5 (relating to  
23 low-income housing).
- 24 (G) The credit allowed by former Section 23612 (relating to  
25 sales and use tax credit).
- 26 (H) The credit allowed by Section 23612.2 (relating to enterprise  
27 zone sales or use tax credit).
- 28 (I) The credit allowed by former Section 23612.6 (relating to  
29 Los Angeles Revitalization Zone sales tax credit).
- 30 (J) The credit allowed by former Section 23622 (relating to  
31 enterprise zone hiring credit).
- 32 (K) The credit allowed by Section 23622.7 (relating to enterprise  
33 zone hiring credit).
- 34 (L) The credit allowed by former Section 23623 (relating to  
35 program area hiring credit).
- 36 (M) The credit allowed by former Section 23623.5 (relating to  
37 Los Angeles Revitalization Zone hiring credit).
- 38 (N) The credit allowed by former Section 23625 (relating to  
39 Los Angeles Revitalization Zone hiring credit).

1 (O) The credit allowed by Section 23633 (relating to targeted  
2 tax area sales or use tax credit).

3 (P) The credit allowed by Section 23634 (relating to targeted  
4 tax area hiring credit).

5 (Q) The credit allowed by former Section 23649 (relating to  
6 qualified property).

7 (R) For taxable years beginning on or after January 1, 2011, the  
8 credit allowed by Section 23685 (relating to qualified motion  
9 pictures).

10 (S) For taxable years beginning on or after January 1, 2016, the  
11 credit allowed by Section 23695 (relating to qualified motion  
12 pictures).

13 (2) A credit against the tax may not reduce the minimum  
14 franchise tax imposed under Chapter 2 (commencing with Section  
15 23101).

16 (e) Any credit which is partially or totally denied under  
17 subdivision (d) is allowed to be carried over to reduce the “tax”  
18 in the following year, and succeeding years if necessary, if the  
19 provisions relating to that credit include a provision to allow a  
20 carryover of the unused portion of that credit.

21 (f) Unless otherwise provided, any remaining carryover from a  
22 credit that has been repealed or made inoperative is allowed to be  
23 carried over under the provisions of that section as it read  
24 immediately prior to being repealed or becoming inoperative.

25 (g) Unless otherwise provided, if two or more taxpayers share  
26 in costs that would be eligible for a tax credit allowed under this  
27 part, each taxpayer is eligible to receive the tax credit in proportion  
28 to his or her respective share of the costs paid or incurred.

29 (h) Unless otherwise provided, in the case of an ~~an~~ “S”  
30 corporation, any credit allowed by this part is computed at the ~~the~~  
31 “S” corporation level, and any limitation on the expenses  
32 qualifying for the credit or limitation upon the amount of the credit  
33 applies to the ~~the~~ “S” corporation and to each shareholder.

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

1 (2) The amount of any credit otherwise allowed under this part,  
 2 including any credit carryover from prior years, that may be applied  
 3 to reduce the taxpayer’s “tax,” as defined in subdivision (a), for  
 4 the taxable year is limited to an amount equal to the excess of the  
 5 taxpayer’s regular tax (as defined in Section 23455), determined  
 6 by including income attributable to the disregarded business entity  
 7 that generated the credit or credit carryover, over the taxpayer’s  
 8 regular tax (as defined in Section 23455), determined by excluding  
 9 the income attributable to that disregarded business entity. A credit  
 10 is not allowed if the taxpayer’s regular tax (as defined in Section  
 11 23455), determined by including the income attributable to the  
 12 disregarded business entity is less than the taxpayer’s regular tax  
 13 (as defined in Section 23455), determined by excluding the income  
 14 attributable to the disregarded business entity.

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

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

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

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

34 ~~SEC. 6. Section 23685 of the Revenue and Taxation Code is~~  
 35 ~~amended to read:~~

36 ~~23685. (a) (1) For taxable years beginning on or after January~~  
 37 ~~1, 2011, there shall be allowed to a qualified taxpayer a credit~~  
 38 ~~against the “tax,” as defined in Section 23036, in an amount equal~~  
 39 ~~to the applicable percentage, as specified in paragraph (4), of the~~

1 ~~qualified expenditures for the production of a qualified motion~~  
2 ~~picture in California.~~

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

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

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

15 ~~(A) Twenty percent of the qualified expenditures attributable~~  
16 ~~to the production of a qualified motion picture in California.~~

17 ~~(B) Twenty-five percent of the qualified expenditures~~  
18 ~~attributable to the production of a qualified motion picture in~~  
19 ~~California where the qualified motion picture is a television series~~  
20 ~~that relocated to California or an independent film.~~

21 ~~(b) For purposes of this section:~~

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

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

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

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

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

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

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

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

18 ~~(i) A feature with a minimum production budget of one million~~  
19 ~~dollars (\$1,000,000) and a maximum production budget of~~  
20 ~~seventy-five million dollars (\$75,000,000).~~

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 television series produced in California with a~~  
24 ~~minimum production budget of one million dollars (\$1,000,000)~~  
25 ~~licensed for original distribution on basic cable.~~

26 ~~(iv) An independent film.~~

27 ~~(v) A television series that relocated to California.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26     ~~(2) The election provided in paragraph (1):~~

27     ~~(A) May be based on any method selected by the qualified~~  
28 ~~taxpayer that originally receives the credit.~~

29     ~~(B) Shall be irrevocable for the taxable year the credit is allowed,~~  
30 ~~once made.~~

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

35     ~~(D) Shall be reported to the Franchise Tax Board, in the form~~  
36 ~~and manner specified by the Franchise Tax Board, along with all~~  
37 ~~required information regarding the assignment of the credit,~~  
38 ~~including the corporation number, the federal employer~~  
39 ~~identification number, or other taxpayer identification number of~~  
40 ~~the assignee, and the amount of the credit assigned.~~

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

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

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

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

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

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

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

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

36 ~~(10) Subdivision (i) of Section 23036 shall not apply to any~~  
37 ~~credit sold pursuant to this subdivision.~~

38 ~~(11) For purposes of this subdivision:~~

- 1     ~~(A) An affiliated corporation or corporations that are assigned~~  
2     ~~a credit pursuant to paragraph (1) shall be treated as a qualified~~  
3     ~~taxpayer pursuant to paragraph (1) of subdivision (a).~~
- 4     ~~(B) The unrelated party or parties that purchase a credit pursuant~~  
5     ~~to paragraph (3) shall be treated as a qualified taxpayer pursuant~~  
6     ~~to paragraph (1) of subdivision (a).~~
- 7     ~~(d) No credit shall be allowed pursuant to this section unless~~  
8     ~~the qualified taxpayer provides the following to the California~~  
9     ~~Film Commission:~~
  - 10    ~~(1) Identification of each qualified individual.~~
  - 11    ~~(2) The specific start and end dates of production.~~
  - 12    ~~(3) The total wages paid.~~
  - 13    ~~(4) The amount of qualified wages paid to each qualified~~  
14    ~~individual.~~
  - 15    ~~(5) The copyright registration number, as reflected on the~~  
16    ~~certificate of registration issued under the authority of Section 410~~  
17    ~~of Title 17 of the United States Code, relating to registration of~~  
18    ~~claim and issuance of certificate. The registration number shall be~~  
19    ~~provided on the return claiming the credit.~~
  - 20    ~~(6) The total amounts paid or incurred to purchase or lease~~  
21    ~~tangible personal property used in the production of a qualified~~  
22    ~~motion picture.~~
  - 23    ~~(7) Information to substantiate its qualified expenditures.~~
  - 24    ~~(8) Information required by the California Film Commission~~  
25    ~~under regulations promulgated pursuant to subdivision (g)~~  
26    ~~necessary to verify the amount of credit claimed.~~
- 27    ~~(e) The California Film Commission may prescribe rules and~~  
28    ~~regulations to carry out the purposes of this section including any~~  
29    ~~rules and regulations necessary to establish procedures, processes,~~  
30    ~~requirements, and rules identified in or required to implement this~~  
31    ~~section. The regulations shall include provisions to set aside a~~  
32    ~~percentage of annual credit allocations for independent films.~~
- 33    ~~(f) If the qualified taxpayer fails to provide the copyright~~  
34    ~~registration number as required in paragraph (5) of subdivision~~  
35    ~~(d), the credit shall be disallowed and assessed and collected under~~  
36    ~~Section 19051 until the procedures are satisfied.~~
- 37    ~~(g) For purposes of this section, the California Film Commission~~  
38    ~~shall do the following:~~

- 1     ~~(1) On or after July 1, 2009, and before July 1, 2017, in no fewer~~  
2 ~~than two allocations per fiscal year, allocate tax credits to~~  
3 ~~applicants.~~
- 4     ~~(A) Establish a procedure for applicants to file with the~~  
5 ~~California Film Commission a written application, on a form jointly~~  
6 ~~prescribed by the California Film Commission and the Franchise~~  
7 ~~Tax Board for the allocation of the tax credit. The application shall~~  
8 ~~include, but not be limited to, the following information:~~
- 9         ~~(i) The budget for the motion picture production.~~  
10        ~~(ii) The number of production days.~~  
11        ~~(iii) A financing plan for the production.~~  
12        ~~(iv) The diversity of the workforce employed by the applicant,~~  
13 ~~including, but not limited to, the ethnic and racial makeup of the~~  
14 ~~individuals employed by the applicant during the production of~~  
15 ~~the qualified motion picture, to the extent possible.~~
- 16        ~~(v) All members of a combined reporting group, if known at~~  
17 ~~the time of the application.~~
- 18        ~~(vi) Financial information, if available, including, but not limited~~  
19 ~~to, the most recently produced balance sheets, annual statements~~  
20 ~~of profits and losses, audited or unaudited financial statements,~~  
21 ~~summary budget projections or results, or the functional equivalent~~  
22 ~~of these documents of a partnership or owner of a single member~~  
23 ~~limited liability company that is disregarded pursuant to Section~~  
24 ~~23038. The information provided pursuant to this clause shall be~~  
25 ~~confidential and shall not be subject to public disclosure.~~
- 26        ~~(vii) The names of all partners in a partnership not publicly~~  
27 ~~traded or the names of all members of a limited liability company~~  
28 ~~classified as a partnership not publicly traded for California income~~  
29 ~~tax purposes that have a financial interest in the applicant's~~  
30 ~~qualified motion picture. The information provided pursuant to~~  
31 ~~this clause shall be confidential and shall not be subject to public~~  
32 ~~disclosure.~~
- 33        ~~(viii) Detailed narratives, for use only by the Legislative~~  
34 ~~Analyst's Office in conducting a study of the effectiveness of this~~  
35 ~~credit, that describe the extent to which the credit is expected to~~  
36 ~~influence or affect filming and other business location decisions,~~  
37 ~~hiring decisions, salary decisions, and any other financial matters~~  
38 ~~of the applicant.~~
- 39        ~~(ix) Any other information deemed relevant by the California~~  
40 ~~Film Commission or the Franchise Tax Board.~~

- 1     ~~(B) Establish criteria, consistent with the requirements of this~~  
2     ~~section, for allocating tax credits.~~
- 3     ~~(C) Determine and designate applicants who meet the~~  
4     ~~requirements of this section.~~
- 5     ~~(D) Process and approve, or reject, all applications on a~~  
6     ~~first-come-first-served basis.~~
- 7     ~~(E) Subject to the annual cap established as provided in~~  
8     ~~subdivision (i), allocate an aggregate amount of credits under this~~  
9     ~~section and Section 17053.85, and allocate any carryover of~~  
10    ~~unallocated credits from prior years.~~
- 11    ~~(2) Certify tax credits allocated to qualified taxpayers.~~
- 12    ~~(A) Establish a verification procedure for the amount of qualified~~  
13    ~~expenditures paid or incurred by the applicant, including, but not~~  
14    ~~limited to, updates to the information in subparagraph (A) of~~  
15    ~~paragraph (1) of subdivision (g).~~
- 16    ~~(B) Establish audit requirements that must be satisfied before~~  
17    ~~a credit certificate may be issued by the California Film~~  
18    ~~Commission.~~
- 19    ~~(C) (i) Establish a procedure for a qualified taxpayer to report~~  
20    ~~to the California Film Commission, prior to the issuance of a credit~~  
21    ~~certificate, the following information:~~
- 22    ~~(I) If readily available, a list of the states, provinces, or other~~  
23    ~~jurisdictions in which any member of the applicant's combined~~  
24    ~~reporting group in the same business unit as the qualified taxpayer~~  
25    ~~that, in the preceding calendar year, has produced a qualified~~  
26    ~~motion picture intended for release in the United States market.~~  
27    ~~For purposes of this clause, "qualified motion picture" shall not~~  
28    ~~include any episodes of a television series that were complete or~~  
29    ~~in production prior to July 1, 2009.~~
- 30    ~~(II) Whether a qualified motion picture described in subclause~~  
31    ~~(I) was awarded any financial incentive by the state, province, or~~  
32    ~~other jurisdiction that was predicated on the performance of~~  
33    ~~primary principal photography or postproduction in that location.~~
- 34    ~~(ii) The California Film Commission may provide that the report~~  
35    ~~required by this subparagraph be filed in a single report provided~~  
36    ~~on a calendar year basis for those qualified taxpayers that receive~~  
37    ~~multiple credit certificates in a calendar year.~~
- 38    ~~(D) Issue a credit certificate to a qualified taxpayer upon~~  
39    ~~completion of the qualified motion picture reflecting the credit~~  
40    ~~amount allocated after qualified expenditures have been verified~~

1 under this section. The amount of credit shown in the credit  
2 certificate shall not exceed the amount of credit allocated to that  
3 qualified taxpayer pursuant to this section.

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

6 (A) Whether the qualified motion picture that was the subject  
7 of the application was completed.

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

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

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

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

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

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

33 (i) A table which includes all of the following information: a  
34 list of qualified taxpayers and the tax credit amounts allocated to  
35 each qualified taxpayer by the California Film Commission, the  
36 number of production days in California the qualified taxpayer  
37 represented in its application would occur, the number of California  
38 jobs that the qualified taxpayer represented in its application would  
39 be directly created by the production, and the total amount of  
40 qualified expenditures expected to be spent by the production.

1 ~~(ii) A narrative staff summary describing the production of the~~  
2 ~~qualified taxpayer as well as background information regarding~~  
3 ~~the qualified taxpayer contained in the qualified taxpayer's~~  
4 ~~application for the credit.~~

5 ~~(B) Nothing in this subdivision shall be construed to make the~~  
6 ~~information submitted by an applicant for a tax credit under this~~  
7 ~~section a public record.~~

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

11 ~~(A) One hundred million dollars (\$100,000,000) in credits for~~  
12 ~~the 2009-10 fiscal year and each fiscal year thereafter, through~~  
13 ~~and including the 2016-17 fiscal year.~~

14 ~~(B) The unused allocation credit amount, if any, for the~~  
15 ~~preceding fiscal year.~~

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

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

24 ~~(3) Notwithstanding the foregoing, the California Film~~  
25 ~~Commission shall set aside up to ten million dollars (\$10,000,000)~~  
26 ~~of tax credits each fiscal year for independent films allocated in~~  
27 ~~accordance with rules and regulations developed pursuant to~~  
28 ~~subdivision (e).~~

29 ~~(4) Any act that reduces the amount that may be allocated~~  
30 ~~pursuant to paragraph (1) constitutes a change in state taxes for~~  
31 ~~the purpose of increasing revenues within the meaning of Section~~  
32 ~~3 of Article XIII A of the California Constitution and may be passed~~  
33 ~~by not less than two-thirds of all Members elected to each of the~~  
34 ~~two houses of the Legislature.~~

35 ~~(j) The California Film Commission shall have the authority to~~  
36 ~~allocate tax credits in accordance with this section and in~~  
37 ~~accordance with any regulations prescribed pursuant to subdivision~~  
38 ~~(e) upon adoption.~~

1     ~~SEC. 7.~~

2     *SEC. 5.* Section 23695 is added to the Revenue and Taxation  
3 Code, to read:

4     23695. (a) (1) For taxable years beginning on or after January  
5 1, 2016, there shall be allowed to a qualified taxpayer a credit  
6 against the “tax,” as defined in Section 23036, in an amount equal  
7 to the applicable percentage, as specified in paragraph (4), of the  
8 qualified expenditures for the production of a qualified motion  
9 picture in California. A credit shall not be allowed under this  
10 section for any qualified expenditures for the production of a  
11 motion picture in California if a credit has been claimed for those  
12 same expenditures under Section 23685.

13     (2) The credit shall be allowed for the taxable year in which the  
14 California Film Commission issues the credit certificate pursuant  
15 to subdivision (g) for the qualified motion picture, but in no  
16 instance prior to July 1, 2016, and shall be for the applicable  
17 percentage of all qualified expenditures paid or incurred by the  
18 qualified taxpayer in all taxable years for that qualified motion  
19 picture.

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

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

26     (A) Twenty percent of the qualified expenditures attributable  
27 to the production of a qualified motion picture in California,  
28 including, but not limited to, a feature, up to one hundred million  
29 dollars (\$100,000,000) in qualified expenditures, or a television  
30 series that relocated to California that is in its second or subsequent  
31 years of receiving a tax credit allocation pursuant to this section  
32 or Section 23685.

33     (B) Twenty-five percent of the qualified expenditures  
34 attributable to the production of a qualified motion picture in  
35 California where the qualified motion picture is a television series  
36 that relocated to California in its first year of receiving a tax credit  
37 allocation pursuant to this section.

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

1 (D) (i) The California Film Commission shall increase the  
2 applicable percentage by 5 percent, not to exceed a maximum of  
3 25 percent, if the qualified motion picture paid or incurred outside  
4 the Los Angeles zone the qualified expenditures relating to original  
5 photography outside the Los Angeles zone.

6 (ii) For purposes of this subparagraph:

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

11 (II) “Los Angeles zone” means the area within a circle 30 miles  
12 in radius from Beverly Boulevard and La ~~Cienega~~ *Cienega*  
13 Boulevard, Los Angeles, California, and includes Agua Dulce,  
14 Castaic, including Lake Castaic, Leo Carillo State Beach, Ontario  
15 International Airport, Piru, and Pomona, including the Los Angeles  
16 County ~~Fair grounds~~ *Fairgrounds*. The Metro Goldwyn Mayer,  
17 Inc. Conejo Ranch property is within the Los Angeles zone.

18 (III) “Original photography” includes principal photography  
19 and reshooting original footage.

20 (IV) “Qualified expenditures relating to original photography  
21 outside the Los Angeles zone” means amounts paid or incurred  
22 during the applicable period for tangible personal property  
23 purchased or leased and used or consumed outside the Los Angeles  
24 zone and relating to original photography outside the Los Angeles  
25 zone and qualified wages paid for services performed outside the  
26 Los Angeles zone and relating to original photography outside the  
27 Los Angeles zone.

28 (E) Twenty-five percent of the qualified expenditures relating  
29 to music scoring and music track recording by musicians  
30 attributable to the production of a qualified motion picture in  
31 California.

32 (F) Twenty-five percent of the qualified expenditures relating  
33 to qualified visual effects.

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 (20) 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) that is produced by a  
25 company that is not publicly traded and publicly traded companies  
26 do not own, directly or indirectly, more than 25 percent of the  
27 producing company.

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

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

32 (9) “Pilot for a new television series” means the initial episode  
33 produced for a proposed television series.

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

1 (B) “Postproduction” does not include the manufacture or  
2 shipping of release prints or their equivalent.

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

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

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

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

19 (15) “Qualified expenditures” means amounts paid or incurred  
20 for tangible personal property purchased or leased, and used, within  
21 this state in the production of a qualified motion picture and  
22 payments, including qualified wages, for services performed within  
23 this state in the production of a qualified motion picture.

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

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

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

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

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

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

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

1 (iii) A new ~~one-hour~~ television series of episodes longer than  
2 40 minutes each of running time, exclusive of commercials, that  
3 is produced in California, with a minimum production budget of  
4 one million dollars (\$1,000,000) per episode.

5 (iv) An independent film.

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

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

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

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

17 (ii) Production of the qualified motion picture is completed  
18 within 30 months from the date on which the qualified taxpayer’s  
19 application is approved by the California Film Commission. For  
20 purposes of this section, a qualified motion picture is “completed”  
21 when the process of postproduction has been finished.

22 (iii) The copyright for the motion picture is registered with the  
23 United States Copyright Office pursuant to Title 17 of the United  
24 States Code.

25 (iv) Principal photography of the qualified motion picture  
26 commences after the date on which the application is approved by  
27 the California Film Commission, but no later than 180 days after  
28 the date of that approval unless death, disability, or disfigurement  
29 of the director or of a principal cast member, an act of God,  
30 including, but not limited to, fire, flood, earthquake, storm,  
31 hurricane, or other natural disaster, terrorist activities, or  
32 government sanction has directly prevented a production’s ability  
33 to begin principal photography within the prescribed 180-day  
34 commencement period.

35 (C) For the purposes of subparagraph (A), in computing the  
36 total wages paid or incurred for the production of a qualified  
37 motion picture, all amounts paid or incurred by all persons or  
38 entities that share in the costs of the qualified motion picture shall  
39 be aggregated.

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

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

17 (B) (i) In the case of any pass-thru entity, the determination of  
18 whether a taxpayer is a qualified taxpayer under this section shall  
19 be made at the entity level and any credit under this section is not  
20 allowed to the pass-thru entity, but shall be passed through to the  
21 partners or shareholders in accordance with applicable provisions  
22 of Part 10 (commencing with Section 17001) or Part 11  
23 (commencing with Section 23001). For purposes of this paragraph,  
24 “pass-thru entity” means any entity taxed as a partnership or “S”  
25 corporation.

26 (ii) In the case of an “S” corporation, the credit allowed under  
27 this section shall not be used by an “S” corporation as a credit  
28 against a tax imposed under Chapter 4.5 (commencing with Section  
29 23800) of Part 11 of Division 2.

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

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

35 (i) Any wages subject to withholding under Division 6  
36 (commencing with Section 13000) of the Unemployment Insurance  
37 Code that were paid or incurred by any taxpayer involved in the  
38 production of a qualified motion picture with respect to a qualified  
39 individual for services performed on the qualified motion picture  
40 production within this state.

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

5 (iii) Any payments made to a qualified entity for services  
6 performed in this state by qualified individuals within the meaning  
7 of paragraph (16).

8 (iv) Remuneration paid to an independent contractor who is a  
9 qualified individual for services performed within this state by that  
10 qualified individual.

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

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

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

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

20 (iv) Expenses, including wages, paid per person per qualified  
21 motion picture for writers, directors, music directors, music  
22 composers, music supervisors, producers, and performers, other  
23 than background actors with no scripted lines.

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

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

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

34 (24) “Television series that relocated to California” means a  
35 television series, without regard to episode length or initial media  
36 exhibition, ~~that filmed all of its prior season or with a minimum~~  
37 *production budget of one million dollars (\$1,000,000) per episode,*  
38 *that filmed no fewer than its most recent two seasons outside of*  
39 *California and for which the taxpayer certifies that the credit*

1 provided pursuant to this section is the primary reason for  
2 relocating to California.

3 (25) “Visual effects” means the creation, alteration, or  
4 enhancement of images that cannot be captured on a set or location  
5 during live action photography and therefore is accomplished in  
6 postproduction. It includes, but is not limited to, matte paintings,  
7 animation, set extensions, computer-generated objects, characters  
8 and environments, compositing (combining two or more elements  
9 in a final image), and wire removals. “Visual effects” does not  
10 include fully animated projects, whether created by traditional or  
11 digital means.

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

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

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

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

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

34 (D) Shall be reported to the Franchise Tax Board, in the form  
35 and manner specified by the Franchise Tax Board, along with all  
36 required information regarding the assignment of the credit,  
37 including the corporation number, the federal employer  
38 identification number, or other taxpayer identification number of  
39 the assignee, and the amount of the credit assigned.

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

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

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

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

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

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

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

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

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

38 (11) For purposes of this subdivision:

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

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

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

10 (1) Identification of each qualified individual.

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

12 (3) The total wages paid.

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

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

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

23 (7) Information to substantiate its qualified expenditures.

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

27 (e) (1) The California Film Commission may prescribe rules  
28 and regulations to carry out the purposes of this section including  
29 any rules and regulations necessary to establish procedures,  
30 processes, requirements, application fee structure, and rules  
31 identified in or required to implement this section, including credit  
32 and logo requirements. The regulations shall include provisions  
33 to set aside a percentage of annual credit allocations for  
34 independent films and television series relocating to California,  
35 pursuant to subdivision (i).

36 (2) Implementation of this section is deemed an emergency and  
37 necessary for the immediate preservation of the public peace,  
38 health, and safety, or general welfare and, therefore, the California  
39 Film Commission is hereby authorized to adopt emergency  
40 regulations necessary to implement this section during the 2014–15

1 fiscal year in accordance with the rulemaking provisions of the  
2 Administrative Procedures Act (Chapter 3.5 (commencing with  
3 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
4 Code).

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

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

11 (1) On or after January 1, 2015, and before July 1, 2021, ~~in no~~  
12 ~~fewer than two allocation procedures~~ *one or more allocation*  
13 *periods* per fiscal year, allocate tax credits to applicants.

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

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

20 (ii) The number of production days.

21 (iii) A financing plan for the production.

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

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

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

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

1 this clause shall be confidential and shall not be subject to public  
2 disclosure.

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

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

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

13 (C) Determine and designate applicants who meet the  
14 requirements of this section.

15 (D) (i) Except as provided in ~~subparagraph (2) clauses (ii) and~~  
16 ~~(iii)~~, process and approve, or reject, all applications on a  
17 first-come-first-served basis.

18 (ii) Any new ~~one-hour~~ television series, as described in clause  
19 (iii) of subparagraph (A) of paragraph (17) of subdivision (b), and  
20 any television series that relocated to California, as described in  
21 clause (v) of subparagraph (A) of paragraph (17) of subdivision  
22 (b), ~~and any new one-hour television series based on a pilot for a~~  
23 ~~new television series, described in paragraph (9) of subdivision~~  
24 ~~(b)~~, that has been approved and issued a credit allocation by the  
25 California Film Commission either under this section or Section  
26 23685 shall be placed at the top of the queue for an open allocation  
27 period once in each subsequent year in the life of that television  
28 series whenever credits are allocated within a fiscal year.

29 (iii) *Any new television series based on a pilot for a new*  
30 *television series described in paragraph (9) of subdivision (b),*  
31 *where that pilot has been previously approved and issued a credit*  
32 *allocation by the California Film Commission under this section*  
33 *or Section 23685, shall be placed at the top of the queue for an*  
34 *open allocation period once in the initial and in each subsequent*  
35 *year in the life of that television series whenever credits are*  
36 *allocated within a fiscal year.*

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

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

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

6 (B) Establish audit requirements that must be satisfied before  
7 a credit certificate may be issued by the California Film  
8 Commission.

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

12 (I) If readily available, a list of the states, provinces, or other  
13 jurisdictions in which any member of the applicant's combined  
14 reporting group in the same business unit as the qualified taxpayer  
15 that, in the preceding calendar year, has produced a qualified  
16 motion picture intended for release in the United States market.  
17 For purposes of this clause, "qualified motion picture" shall not  
18 include any episodes of a television series that were complete or  
19 in production prior to July 1, 2016.

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

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

28 (D) Issue a credit certificate to a qualified taxpayer upon  
29 completion of the qualified motion picture reflecting the credit  
30 amount allocated after qualified expenditures have been verified  
31 under this section. The amount of credit shown in the credit  
32 certificate shall not exceed the amount of credit allocated to that  
33 qualified taxpayer pursuant to this section.

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

36 (A) Whether the qualified motion picture that was the subject  
37 of the application was completed.

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

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

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

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

13 (h) (1) The California Film Commission shall annually provide  
14 the Legislative Analyst's Office, the Franchise Tax Board, and the  
15 board with a list of qualified taxpayers and the tax credit amounts  
16 allocated to each qualified taxpayer by the California Film  
17 Commission. The list shall include the names and taxpayer  
18 identification numbers, including taxpayer identification numbers  
19 of each partner or shareholder, as applicable, of the qualified  
20 taxpayer.

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

24 (i) A table which includes all of the following information: a  
25 list of qualified taxpayers and the tax credit amounts allocated to  
26 each qualified taxpayer by the California Film Commission, the  
27 number of production days in California the qualified taxpayer  
28 represented in its application would occur, the number of California  
29 jobs that the qualified taxpayer represented in its application would  
30 be directly created by the production, and the total amount of  
31 qualified expenditures expected to be spent by the production.

32 (ii) A narrative staff summary describing the production of the  
33 qualified taxpayer as well as background information regarding  
34 the qualified taxpayer contained in the qualified taxpayer's  
35 application for the credit.

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

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

4 (A) \_\_\_\_\_dollars (\$\_\_\_\_\_) in credits for the 2016–17 fiscal year  
5 and each fiscal year thereafter, through and including the 2020–21  
6 fiscal year.

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

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

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

16 (B) Notwithstanding the foregoing, the California Film  
17 Commission shall set aside up to thirty million dollars  
18 (\$30,000,000) of tax credit each fiscal year for television series  
19 that relocated to California in its first year of receiving a tax credit  
20 allocation pursuant to this section allocated in accordance with  
21 rules and regulations developed pursuant to subdivision (e).

22 (3) Any act that reduces the amount that may be allocated  
23 pursuant to paragraph (1) constitutes a change in state taxes for  
24 the purpose of increasing revenues within the meaning of Section  
25 3 of Article XIII A of the California Constitution and may be  
26 passed by not less than two-thirds of all Members elected to each  
27 of the two houses of the Legislature.

28 (j) The California Film Commission shall have the authority to  
29 allocate tax credits in accordance with this section and in  
30 accordance with any regulations prescribed pursuant to subdivision  
31 (e) upon adoption.

32 ~~SEC. 8.~~

33 *SEC. 6.* The provisions of this act are severable. If any  
34 provision of this act or its application is held invalid, that invalidity  
35 shall not affect other provisions or applications that can be given  
36 effect without the invalid provision or application.

- 1     ~~SEC. 9.~~
- 2     *SEC. 7.* This act provides for a tax levy within the meaning of
- 3     Article IV of the Constitution and shall go into immediate effect.

O