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AMENDED IN ASSEMBLY MARCH 19, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1839

Introduced by Assembly Members Gatto and Bocanegra

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

(Principal coauthors: Senators Lieu and Padilla)

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

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

February 18, 2014

An act to amend Section 23036 of, to add Sections 38.9, 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 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 also require the Legislative Analyst’s Office to prepare reports related to the effectiveness and administration of the qualified motion picture credit under the Sales and Use Tax Law, the Personal Income Tax Law, and the Corporation Tax Law.*

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 38.9 is added to the Revenue and Taxation
- 2 Code, to read:
- 3 38.9. (a) On or before July 1, 2019, the Legislative Analyst’s
- 4 Office shall provide to the Assembly Committee on Revenue and
- 5 Taxation, the Senate Committee on Governance and Finance, and
- 6 the public a report evaluating the economic effects and
- 7 administration of the tax credits allowed pursuant to Sections
- 8 6902.5, as amended by the act adding this section, 17053.95, and
- 9 23695. In researching the reports, the Legislative Analyst’s Office
- 10 may do all of the following:
- 11 (1) Request and receive all information provided to the
- 12 California Film Commission pursuant to subdivision (g) of Sections
- 13 17053.95 and 23695.
- 14 (2) Request and receive all information provided to the
- 15 Franchise Tax Board relating to the sale or assignment of credits
- 16 pursuant to subdivision (c) of Sections 17053.95 and 23695.

1 (3) Request and receive all information provided to the board
 2 pursuant to subdivisions (c) and (g) of Section 6902.5, as amended
 3 by the act adding this section.

4 (b) The California Film Commission, the board, the Franchise
 5 Tax Board, the Employment Development Department, and all
 6 other relevant state agencies shall provide additional information,
 7 as specified by the Legislative Analyst’s Office, as needed to
 8 research the reports required by this section.

9 (c) (1) The information received by the Legislative Analyst’s
 10 Office pursuant to this section shall be considered confidential
 11 taxpayer information subject to Sections 7056, 7056.5, and 19542
 12 of this code and Section 1094 of the Unemployment Insurance
 13 Code, and shall be subject to the appropriate confidentiality
 14 requirements of the participating state agency.

15 (2) The Legislative Analyst’s Office may publish statistics in
 16 conjunction with the reports required by this section that are
 17 derived from information provided to the Legislative Analyst’s
 18 Office pursuant to this section, if the published statistics are
 19 classified to prevent the identification of particular taxpayers,
 20 reports, and tax returns and the publication of the percentage of
 21 dividends paid by a corporation that is deductible by the recipient
 22 under Part 11 (commencing with Section 23001) of Division 2.

23 ~~SECTION 1.~~

24 ~~SEC. 2.~~ Section 6902.5 of the Revenue and Taxation Code, as
 25 added by Section 1 of Chapter 10 of the Third Extraordinary
 26 Session of the Statutes of 2009, is repealed.

27 ~~SEC. 2.~~

28 ~~SEC. 3.~~ Section 6902.5 of the Revenue and Taxation Code, as
 29 added by Section 1 of Chapter 17 of the Third Extraordinary
 30 Session of the Statutes of 2009, is amended to read:

31 6902.5. (a) For the purposes of this section:

32 (1) “Qualified taxpayer” means a person who is a qualified
 33 taxpayer within the meaning of paragraph (17) of subdivision (b)
 34 of Section 17053.85, 17053.95, 23685, or 23695.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~SEC. 3.~~

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

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

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 17053.85.

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 Boulevard, Los
13 Angeles, California, and includes Agua Dulce, Castaic, including
14 Lake Castaic, Leo Carillo State Beach, Ontario International
15 Airport, Piru, and Pomona, including the Los Angeles County
16 Fairgrounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch
17 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 television series of episodes longer than 40 minutes
- 2 each of running time, exclusive of commercials, that is produced
- 3 in California, with a minimum production budget of one million
- 4 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) 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 (19) “Qualified visual effects” means visual effects where at
27 least 75 percent or a minimum of ten million dollars (\$10,000,000)
28 of the qualified expenditures for the visual effects is paid or
29 incurred in California.

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

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

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

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

4 (iv) Remuneration paid to an independent contractor who is a
5 qualified individual for services performed within this state by that
6 qualified individual.

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

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

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

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

16 (iv) Expenses, including wages, paid per person per qualified
17 motion picture for writers, directors, music directors, music
18 composers, music supervisors, producers, and performers, other
19 than background actors with no scripted lines.

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

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

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

30 (24) “Television series that relocated to California” means a
31 television series, without regard to episode length or initial media
32 exhibition, with a minimum production budget of one million
33 dollars (\$1,000,000) per episode, that filmed no fewer than its most
34 recent two seasons outside of California and for which the taxpayer
35 certifies that the credit provided pursuant to this section is the
36 primary reason for relocating to California.

37 (25) “Visual effects” means the creation, alteration, or
38 enhancement of images that cannot be captured on a set or location
39 during live action photography and therefore is accomplished in
40 postproduction. It includes, but is not limited to, matte paintings,

1 animation, set extensions, computer-generated objects, characters
2 and environments, compositing (combining two or more elements
3 in a final image), and wire removals. “Visual effects” does not
4 include fully animated projects, whether created by traditional or
5 digital means.

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

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

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

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

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

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

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

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

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

3 (10) For purposes of this subdivision, the unrelated party or
4 parties that purchase a credit pursuant to this subdivision shall be
5 treated as a qualified taxpayer pursuant to paragraph (1) of
6 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 Procedure 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 one
12 or more allocation periods per fiscal year, allocate tax credits to
13 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 clauses (ii) and (iii), process and
16 approve, or reject, all applications on a first-come-first-served
17 basis.

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

27 (iii) Any new television series based on a pilot for a new
28 television series described in paragraph (9) of subdivision (b),
29 where that pilot has been previously approved and issued a credit
30 allocation by the California Film Commission under this section
31 or Section 17053.85, shall be placed at the top of the queue for an
32 open allocation period once in the initial and in each subsequent
33 year in the life of that television series whenever credits are
34 allocated within a fiscal year.

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

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

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

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

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

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

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

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

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

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

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

37 (B) If completed, in which state or foreign jurisdiction was the
38 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.

39 (3) *The California Film Commission shall provide each city
40 and county in California with an instructional guide that includes,*

1 *but is not limited to, a review of best practices for facilitating*
2 *motion picture production in local jurisdictions, resources on*
3 *hosting and encouraging motion picture production, and the*
4 *California Film Commissions' Model Film Ordinance. The*
5 *California Film Commission shall maintain on its Internet Web*
6 *site a list of initiatives by locality that encourage motion picture*
7 *production in regions across the state. The list shall be distributed*
8 *to each approved applicant for the program to highlight local*
9 *jurisdictions that offer incentives to facilitate film production.*

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

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

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

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

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

25 (B) Notwithstanding the foregoing, the California Film
26 Commission shall set aside up to thirty million dollars
27 (\$30,000,000) of tax credit each fiscal year for television series
28 that relocated to California in its first year of receiving a tax credit
29 allocation pursuant to this section allocated in accordance with
30 rules and regulations developed pursuant to subdivision (e).

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

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

1 ~~SEC. 4.~~

2 *SEC. 5.* 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” corporations imposed under Section 23802.

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

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

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

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

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

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

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

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

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

- 1 (3) The minimum tax credit allowed by Section 23453.
- 2 (4) Credits that are allowed to reduce the “tax” below the
- 3 tentative minimum tax, as defined by Section 23455.
- 4 (5) Credits for taxes withheld under Section 18662.
- 5 (d) Notwithstanding any other provision of this part, each of
- 6 the following applies:
- 7 (1) A credit may not reduce the “tax” below the tentative
- 8 minimum tax (as defined by paragraph (1) of subdivision (a) of
- 9 Section 23455), except the following credits:
- 10 (A) The credit allowed by former Section 23601 (relating to
- 11 solar energy).
- 12 (B) The credit allowed by former Section 23601.4 (relating to
- 13 solar energy).
- 14 (C) The credit allowed by former Section 23601.5 (relating to
- 15 solar energy).
- 16 (D) The credit allowed by Section 23609 (relating to research
- 17 expenditures).
- 18 (E) The credit allowed by former Section 23609.5 (relating to
- 19 clinical testing expenses).
- 20 (F) The credit allowed by Section 23610.5 (relating to
- 21 low-income housing).
- 22 (G) The credit allowed by former Section 23612 (relating to
- 23 sales and use tax credit).
- 24 (H) The credit allowed by Section 23612.2 (relating to enterprise
- 25 zone sales or use tax credit).
- 26 (I) The credit allowed by former Section 23612.6 (relating to
- 27 Los Angeles Revitalization Zone sales tax credit).
- 28 (J) The credit allowed by former Section 23622 (relating to
- 29 enterprise zone hiring credit).
- 30 (K) The credit allowed by Section 23622.7 (relating to enterprise
- 31 zone hiring credit).
- 32 (L) The credit allowed by former Section 23623 (relating to
- 33 program area hiring credit).
- 34 (M) The credit allowed by former Section 23623.5 (relating to
- 35 Los Angeles Revitalization Zone hiring credit).
- 36 (N) The credit allowed by former Section 23625 (relating to
- 37 Los Angeles Revitalization Zone hiring credit).
- 38 (O) The credit allowed by Section 23633 (relating to targeted
- 39 tax area sales or use tax credit).

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

3 (Q) The credit allowed by former Section 23649 (relating to
4 qualified property).

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

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

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

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

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

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

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

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

38 (2) The amount of any credit otherwise allowed under this part,
39 including any credit carryover from prior years, that may be applied
40 to reduce the taxpayer’s “tax,” as defined in subdivision (a), for

1 the taxable year is limited to an amount equal to the excess of the
2 taxpayer's regular tax (as defined in Section 23455), determined
3 by including income attributable to the disregarded business entity
4 that generated the credit or credit carryover, over the taxpayer's
5 regular tax (as defined in Section 23455), determined by excluding
6 the income attributable to that disregarded business entity. A credit
7 is not allowed if the taxpayer's regular tax (as defined in Section
8 23455), determined by including the income attributable to the
9 disregarded business entity is less than the taxpayer's regular tax
10 (as defined in Section 23455), determined by excluding the income
11 attributable to the disregarded business entity.

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

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

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

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

31 ~~SEC. 5.~~

32 *SEC. 6.* Section 23695 is added to the Revenue and Taxation
33 Code, to read:

34 23695. (a) (1) For taxable years beginning on or after January
35 1, 2016, there shall be allowed to a qualified taxpayer a credit
36 against the "tax," as defined in Section 23036, in an amount equal
37 to the applicable percentage, as specified in paragraph (4), of the
38 qualified expenditures for the production of a qualified motion
39 picture in California. A credit shall not be allowed under this
40 section for any qualified expenditures for the production of a

1 motion picture in California if a credit has been claimed for those
2 same expenditures under Section 23685.

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, but in no
6 instance prior to July 1, 2016, and shall be for the applicable
7 percentage of all qualified expenditures paid or incurred by the
8 qualified taxpayer in all taxable years for that qualified motion
9 picture.

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

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

16 (A) Twenty percent of the qualified expenditures attributable
17 to the production of a qualified motion picture in California,
18 including, but not limited to, a feature, up to one hundred million
19 dollars (\$100,000,000) in qualified expenditures, or a television
20 series that relocated to California that is in its second or subsequent
21 years of receiving a tax credit allocation pursuant to this section
22 or Section 23685.

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

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

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

36 (ii) For purposes of this subparagraph:

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

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

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

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

18 (E) Twenty-five percent of the qualified expenditures relating
19 to music scoring and music track recording by musicians
20 attributable to the production of a qualified motion picture in
21 California.

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

24 (b) For purposes of this section:

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

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

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

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

38 (5) (A) “Employee fringe benefits” means the amount allowable
39 as a deduction under this part to the qualified taxpayer involved
40 in the production of the qualified motion picture, exclusive of any

1 amounts contributed by employees, for any year during the
2 production period with respect to any of the following:

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

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

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

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

12 (6) "Independent film" means a motion picture with a minimum
13 budget of one million dollars (\$1,000,000) that is produced by a
14 company that is not publicly traded and publicly traded companies
15 do not own, directly or indirectly, more than 25 percent of the
16 producing company.

17 (7) "Licensing" means any grant of rights to distribute the
18 qualified motion picture, in whole or in part.

19 (8) "New use" means any use of a motion picture in a medium
20 other than the medium for which it was initially created.

21 (9) "Pilot for a new television series" means the initial episode
22 produced for a proposed television series.

23 (10) (A) "Postproduction" means the final activities in a
24 qualified motion picture's production, including editing, foley
25 recording, automatic dialogue replacement, sound editing, scoring,
26 music track recording by musicians and music editing, beginning
27 and end credits, negative cutting, negative processing and
28 duplication, the addition of sound and visual effects, sound mixing,
29 film-to-tape transfers, encoding, and color correction.

30 (B) "Postproduction" does not include the manufacture or
31 shipping of release prints or their equivalent.

32 (11) "Preproduction" means the process of preparation for actual
33 physical production which begins after a qualified motion picture
34 has received a firm agreement of financial commitment, or is
35 greenlit, with, for example, the establishment of a dedicated
36 production office, the hiring of key crew members, and includes,
37 but is not limited to, activities that include location scouting and
38 execution of contracts with vendors of equipment and stage space.

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

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

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

10 (15) “Qualified expenditures” means amounts paid or incurred
11 for tangible personal property purchased or leased, and used, within
12 this state in the production of a qualified motion picture and
13 payments, including qualified wages, for services performed within
14 this state in the production of a qualified motion picture.

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

18 (B) “Qualified individual” shall not include either of the
19 following:

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

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

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

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

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

32 (iii) A new television series of episodes longer than 40 minutes
33 each of running time, exclusive of commercials, that is produced
34 in California, with a minimum production budget of one million
35 dollars (\$1,000,000) per episode.

36 (iv) An independent film.

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

38 (vi) A pilot for a new television series that is longer than 40
39 minutes of running time, exclusive of commercials, that is produced

1 in California, and with a minimum production budget of one
2 million dollars (\$1,000,000).

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

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

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

14 (iii) The copyright for the motion picture is registered with the
15 United States Copyright Office pursuant to Title 17 of the United
16 States Code.

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

27 (C) For the purposes of subparagraph (A), in computing the
28 total wages paid or incurred for the production of a qualified
29 motion picture, all amounts paid or incurred by all persons or
30 entities that share in the costs of the qualified motion picture shall
31 be aggregated.

32 (D) “Qualified motion picture” shall not include commercial
33 advertising, music videos, a motion picture produced for private
34 noncommercial use, such as weddings, graduations, or as part of
35 an educational course and made by students, a news program,
36 current events or public events program, talk show, game show,
37 sporting event or activity, awards show, telethon or other
38 production that solicits funds, reality television program, clip-based
39 programming if more than 50 percent of the content is comprised
40 of licensed footage, documentaries, variety programs, daytime

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

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

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

17 (ii) In the case of an “S” corporation, the credit allowed under
18 this section shall not be used by an “S” corporation as a credit
19 against a tax imposed under Chapter 4.5 (commencing with Section
20 23800) of Part 11 of Division 2.

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

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

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

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

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

1 (iv) Remuneration paid to an independent contractor who is a
2 qualified individual for services performed within this state by that
3 qualified individual.

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

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

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

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

13 (iv) Expenses, including wages, paid per person per qualified
14 motion picture for writers, directors, music directors, music
15 composers, music supervisors, producers, and performers, other
16 than background actors with no scripted lines.

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

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

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

27 (24) “Television series that relocated to California” means a
28 television series, without regard to episode length or initial media
29 exhibition, with a minimum production budget of one million
30 dollars (\$1,000,000) per episode, that filmed no fewer than its most
31 recent two seasons outside of California and for which the taxpayer
32 certifies that the credit provided pursuant to this section is the
33 primary reason for relocating to California.

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

1 include fully animated projects, whether created by traditional or
2 digital means.

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

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

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

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

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

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

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

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

1 credit sold, and the amount of consideration received by the
2 qualified taxpayer for the sale of the credit.

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

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

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

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

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

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

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

28 (11) For purposes of this subdivision:

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

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

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

38 (1) Identification of each qualified individual.

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

40 (3) The total wages paid.

- 1 (4) The amount of qualified wages paid to each qualified
2 individual.
- 3 (5) The copyright registration number, as reflected on the
4 certificate of registration issued under the authority of Section 410
5 of Title 17 of the United States Code, relating to registration of
6 claim and issuance of certificate. The registration number shall be
7 provided on the return claiming the credit.
- 8 (6) The total amounts paid or incurred to purchase or lease
9 tangible personal property used in the production of a qualified
10 motion picture.
- 11 (7) Information to substantiate its qualified expenditures.
- 12 (8) Information required by the California Film Commission
13 under regulations promulgated pursuant to subdivision (g)
14 necessary to verify the amount of credit claimed.
- 15 (e) (1) The California Film Commission may prescribe rules
16 and regulations to carry out the purposes of this section including
17 any rules and regulations necessary to establish procedures,
18 processes, requirements, application fee structure, and rules
19 identified in or required to implement this section, including credit
20 and logo requirements. The regulations shall include provisions
21 to set aside a percentage of annual credit allocations for
22 independent films and television series relocating to California,
23 pursuant to subdivision (i).
- 24 (2) Implementation of this section is deemed an emergency and
25 necessary for the immediate preservation of the public peace,
26 health, and safety, or general welfare and, therefore, the California
27 Film Commission is hereby authorized to adopt emergency
28 regulations necessary to implement this section during the 2014–15
29 fiscal year in accordance with the rulemaking provisions of the
30 Administrative Procedures Act (Chapter 3.5 (commencing with
31 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
32 Code).
- 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 January 1, 2015, and before July 1, 2021, in one
2 or more allocation periods 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) (i) Except as provided in clauses (ii) and (iii), process and
- 6 approve, or reject, all applications on a first-come-first-served
- 7 basis.
- 8 (ii) Any new television series, as described in clause (iii) of
- 9 subparagraph (A) of paragraph (17) of subdivision (b), and any
- 10 television series that relocated to California, as described in clause
- 11 (v) of subparagraph (A) of paragraph (17) of subdivision (b), that
- 12 has been approved and issued a credit allocation by the California
- 13 Film Commission either under this section or Section 23685 shall
- 14 be placed at the top of the queue for an open allocation period once
- 15 in each subsequent year in the life of that television series whenever
- 16 credits are allocated within a fiscal year.
- 17 (iii) Any new television series based on a pilot for a new
- 18 television series described in paragraph (9) of subdivision (b),
- 19 where that pilot has been previously approved and issued a credit
- 20 allocation by the California Film Commission under this section
- 21 or Section 23685, shall be placed at the top of the queue for an
- 22 open allocation period once in the initial and in each subsequent
- 23 year in the life of that television series whenever credits are
- 24 allocated within a fiscal year.
- 25 (E) Subject to the annual cap established as provided in
- 26 subdivision (i), allocate an aggregate amount of credits under this
- 27 section and Section 17053.95, and allocate any carryover of
- 28 unallocated credits from prior years.
- 29 (2) Certify tax credits allocated to qualified taxpayers.
- 30 (A) Establish a verification procedure for the amount of qualified
- 31 expenditures paid or incurred by the applicant, including, but not
- 32 limited to, updates to the information in subparagraph (A) of
- 33 paragraph (1) of subdivision (g).
- 34 (B) Establish audit requirements that must be satisfied before
- 35 a credit certificate may be issued by the California Film
- 36 Commission.
- 37 (C) (i) Establish a procedure for a qualified taxpayer to report
- 38 to the California Film Commission, prior to the issuance of a credit
- 39 certificate, the following information:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (3) *The California Film Commission shall provide each city
28 and county in California with an instructional guide that includes,
29 but is not limited to, a review of best practices for facilitating
30 motion picture production in local jurisdictions, resources on
31 hosting and encouraging motion picture production, and the
32 California Film Commissions' Model Film Ordinance. The
33 California Film Commission shall maintain on its Internet Web
34 site a list of initiatives by locality that encourage motion picture
35 production in regions across the state. The list shall be distributed
36 to each approved applicant for the program to highlight local
37 jurisdictions that offer incentives to facilitate film production.*

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

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

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

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

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

13 (B) Notwithstanding the foregoing, the California Film
14 Commission shall set aside up to thirty million dollars
15 (\$30,000,000) of tax credit each fiscal year for television series
16 that relocated to California in its first year of receiving a tax credit
17 allocation pursuant to this section allocated in accordance with
18 rules and regulations developed pursuant to subdivision (e).

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

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

29 ~~SEC. 6.~~

30 *SEC. 7.* The provisions of this act are severable. If any
31 provision of this act or its application is held invalid, that invalidity
32 shall not affect other provisions or applications that can be given
33 effect without the invalid provision or application.

34 ~~SEC. 7.~~

35 *SEC. 8.* This act provides for a tax levy within the meaning of
36 Article IV of the Constitution and shall go into immediate effect.

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