

AMENDED IN SENATE JUNE 4, 2012

SENATE BILL

No. 1167

Introduced by Senator Calderon

February 22, 2012

An act to amend Sections 17053.85 and 23685 of, *and to add Section 38.7 to*, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1167, as amended, Calderon. Income taxes: credits: film: extension.

The Personal Income Tax Law and the Corporation Tax Law authorize 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 a specified percentage of the qualified expenditures, as defined, attributable to the production of a qualified motion picture in California, or, if the qualified motion picture has relocated to California or is an independent film, as provided. Existing law ~~requires~~ *allows specified qualified taxpayers to elect to assign the credit, requires specified information from qualified taxpayers that apply for a tax credit allocation, and 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, 2015, 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 2014–15 fiscal year. Existing law additionally allows, in lieu of the credits under the Personal Income Tax Law and the Corporation Tax Law for qualified motion pictures, a credit against qualified state sales and use taxes, as provided.*

This bill, under the Personal Income Tax Law and the Corporation Tax Law, would ~~extend~~ impose additional duties on the California Film Commission's Commission related to the administration of the credits and would extend the requirement to allocate the tax credits ~~five~~ 5 additional years, until July 1, 2020. This bill would also extend the limit on the aggregate amount of credits that may be allocated through the 2019–20 fiscal year. This bill would also require assigning qualified taxpayers to provide the Franchise Tax Board with specified information, would revise the information included in an application for a tax credit allocation, and 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.

The bill would authorize various state agencies to disclose specified taxpayer information for purposes of the Legislative Analyst's Office report, and would impose specified criminal penalties on the disclosure of that information. By expanding the crime of knowingly and wrongfully accessing, using, or disclosing specified information, this bill would impose a state-mandated local program.

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

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

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

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

- 1 SECTION 1. Section 38.7 is added to the Revenue and Taxation
- 2 Code, to read:
- 3 38.7. (a) On or before January 1, 2015, and on or before
- 4 January 1, 2017, the Legislative Analyst's Office shall provide to
- 5 the Assembly Committee on Revenue and Taxation, the Senate
- 6 Committee on Governance and Finance, and the public a report
- 7 evaluating the economic affects and administration of the tax
- 8 credits allowed pursuant to Sections 6902.5, 17053.85, and 23685.

1 *In researching the reports, the Legislative Analyst's Office may*
2 *do all of the following:*

3 *(1) Request and receive all information provided to the*
4 *California Film Commission pursuant to subdivision (g) of Sections*
5 *17053.85 and 23685.*

6 *(2) Request and receive all information provided to the*
7 *Franchise Tax Board relating to the sale or assignment of credits*
8 *pursuant to subdivision (c) of Sections 17053.85 and 23685.*

9 *(3) Request and receive all information provided to the board*
10 *pursuant to subdivisions (c) and (g) of Section 6902.5.*

11 *(b) The California Film Commission, the board, the Franchise*
12 *Tax Board, the Employment Development Department, and all*
13 *other relevant state agencies shall provide additional information,*
14 *as specified by the Legislative Analyst's Office, as needed to*
15 *research the reports required by this section.*

16 *(c) (1) The information received by the Legislative Analyst's*
17 *Office pursuant to this section shall be considered confidential*
18 *taxpayer information subject to Sections 7056, 7056.5, and 19542*
19 *of this code and Section 1094 of the Unemployment Code, and*
20 *shall be subject to the appropriate confidentiality requirements of*
21 *the participating state agency.*

22 *(2) The Legislative Analyst's Office may publish statistics in*
23 *conjunction with the reports required by this section that are*
24 *derived from information provided to the Legislative Analyst's*
25 *Office pursuant to this section if the published statistics are*
26 *classified to prevent the identification of particular taxpayers,*
27 *reports, and tax returns and the publication of the percentage of*
28 *dividends paid by a corporation that is deductible by the recipient*
29 *under Part 11 (commencing with Section 23001) of Division 2.*

30 **SECTION 1.**

31 **SEC. 2.** Section 17053.85 of the Revenue and Taxation Code
32 is amended to read:

33 17053.85. (a) (1) For taxable years beginning on or after
34 January 1, 2011, there shall be allowed to a qualified taxpayer a
35 credit against the "net tax," as defined in Section 17039, in an
36 amount equal to the applicable percentage, as specified in
37 paragraph (4), of the qualified expenditures for the production of
38 a qualified motion picture in California.

39 (2) The credit shall be allowed for the taxable year in which the
40 California Film Commission issues the credit certificate pursuant

1 to subdivision (g) for the qualified motion picture, and shall be for
2 the applicable percentage of all qualified expenditures paid or
3 incurred by the qualified taxpayer in all taxable years for that
4 qualified motion picture.

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

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

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

13 (B) Twenty-five percent of the qualified expenditures
14 attributable to the production of a qualified motion picture in
15 California where the qualified motion picture is a television series
16 that relocated to California or an independent film.

17 (b) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

16 (9) (A) "Postproduction" means the final activities in a qualified
17 motion picture's production, including editing, foley recording,
18 automatic dialogue replacement, sound editing, scoring and music
19 editing, beginning and end credits, negative cutting, negative
20 processing and duplication, the addition of sound and visual effects,
21 soundmixing, film-to-tape transfers, encoding, and color correction.

22 (B) "Postproduction" does not include the manufacture or
23 shipping of release prints.

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

31 (11) "Principal photography" means the phase of production
32 during which the motion picture is actually shot, as distinguished
33 from preproduction and postproduction.

34 (12) "Production period" means the period beginning with
35 preproduction and ending upon completion of postproduction.

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

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

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

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

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

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

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

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

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

22 (iv) An independent film.

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

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

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

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

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

38 (iv) Principal photography of the qualified motion picture
39 commences after the date on which the application is approved by

1 the California Film Commission, but no later than 180 days after
2 the date of that approval.

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

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

29 (B) In the case of any passthrough entity, the determination of
30 whether a taxpayer is a qualified taxpayer under this section shall
31 be made at the entity level and any credit under this section is not
32 allowed to the passthrough entity, but shall be passed through to
33 the partners or shareholders in accordance with applicable
34 provisions of Part 10 (commencing with Section 17001) or Part
35 11 (commencing with Section 23001). For purposes of this
36 paragraph, “passthrough entity” means any entity taxed as a
37 partnership or “S” corporation.

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

39 (i) Any wages subject to withholding under Division 6
40 (commencing with Section 13000) of the Unemployment Insurance

1 Code that were paid or incurred by any taxpayer involved in the
2 production of a qualified motion picture with respect to a qualified
3 individual for services performed on the qualified motion picture
4 production within this state.

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

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

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

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

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

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

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

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

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

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

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

38 (22) “Television series that relocated to California” means a
39 television series, without regard to episode length or initial media
40 exhibition, that filmed all of its prior season or seasons outside of

1 California and for which the taxpayer certifies that the credit
2 provided pursuant to this section is the primary reason for
3 relocating to California.

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

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

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

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

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

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

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

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

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

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

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

8 (1) Identification of each qualified individual.

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

10 (3) The total wages paid.

11 (4) The amount of qualified wages paid to each qualified
12 individual.

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

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

21 (7) Information to substantiate its qualified expenditures.

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

25 (e) The California Film Commission may prescribe rules and
26 regulations to carry out the purposes of this section including any
27 rules and regulations necessary to establish procedures, processes,
28 requirements, and rules identified in or required to implement this
29 section. The regulations shall include provisions to set aside a
30 percentage of annual credit allocations for independent films.

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

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

37 (1) On or after July 1, 2009, and before July 1, 2020, allocate
38 tax credits to applicants.

39 (A) Establish a procedure for applicants to file with the
40 California Film Commission a written application, on a form jointly

1 prescribed by the California Film Commission and the Franchise
2 Tax Board for the allocation of the tax credit. The application shall
3 include, but not be limited to, the following information:

- 4 (i) The budget for the motion picture production.
5 (ii) The number of production days.
6 (iii) A financing plan for the production.
7 (iv) The diversity of the workforce employed by the applicant,
8 including, but not limited to, the ethnic and racial makeup of the
9 individuals employed by the applicant during the production of
10 the qualified motion picture, to the extent possible.
11 ~~(v) All members of a combined reporting group and any~~
12 ~~members to which the credit is assigned, including, if readily~~
13 ~~available, the states, provinces, or other jurisdictions in which any~~
14 ~~of those members finance motion picture productions group, if~~
15 ~~known at the time of the application.~~
16 (vi) Financial information, if available, including, but not limited
17 to, the most recently produced balance sheets, annual statements
18 of profits and losses, audited or unaudited financial statements,
19 summary budget projections or results, or the functional equivalent
20 of these documents of a partnership or owner of a single member
21 limited liability company that is disregarded pursuant to Section
22 23038. The information provided pursuant to this clause shall be
23 confidential and shall not be subject to public disclosure.
24 (vii) The names of all partners in a partnership not publicly
25 traded or the names of all members of a limited liability company
26 classified as a partnership not publicly traded for California income
27 tax purposes *that have a financial interest in the applicant's*
28 *qualified motion picture*. The information provided pursuant to
29 this clause shall be confidential and shall not be subject to public
30 disclosure.
31 (viii) Detailed narratives, for use only by the Legislative
32 Analyst's Office in conducting a study of the effectiveness of this
33 credit, that describe the extent to which the credit is expected to
34 influence or affect filming and other business location decisions,
35 hiring decisions, salary decisions, and any other financial matters
36 of the applicant.
37 (ix) Any other information deemed relevant by the California
38 Film Commission or the Franchise Tax Board.
39 (B) Establish criteria, consistent with the requirements of this
40 section, for allocating tax credits.

1 (C) Determine and designate applicants who meet the
2 requirements of this section.

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

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 23685, 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, 2009.*

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 ~~(C)~~

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

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

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

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

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

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

~~(3)~~

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

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

~~(A) Financial information, including, but not limited to, statements of profits and losses of a partnership or of an owner of a single member limited liability company that is disregarded pursuant to Section 23038.~~

~~(B) The names of all members of the qualified taxpayer's combined reporting group and any member to which the credit is assigned.~~

~~(C) The names of all partners in a partnership or the names of all members of a limited liability company classified as a partnership for California income tax purposes that is not publicly traded.~~

~~(D) The sales price of a credit certificate provided by the Franchise Tax Board. The Franchise Tax Board, upon request and subject to confidentiality requirements, shall provide aggregate information on the identity of the qualified taxpayer, the amount of the credit, and the credit recipient.~~

(h) The California Film Commission shall annually provide the Legislative Analyst's Office, the Franchise Tax Board, and the

1 board ~~annually~~ with a list of qualified taxpayers and the tax credit
2 amounts allocated to each qualified taxpayer by the California
3 Film Commission. The list shall include the names and taxpayer
4 identification numbers, including taxpayer identification numbers
5 of each partner or shareholder, as applicable, of the qualified
6 taxpayer.

7 (i) (1) The aggregate amount of credits that may be allocated
8 in any fiscal year pursuant to this section and Section 23686 shall
9 be an amount equal to the sum of all of the following:

10 (A) One hundred million dollars (\$100,000,000) in credits for
11 the 2009–10 fiscal year and each fiscal year thereafter, through
12 and including the 2019–20 fiscal year.

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

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

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

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

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

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

38 ~~SEC. 2.~~

39 *SEC. 3.* Section 23685 of the Revenue and Taxation Code is
40 amended to read:

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

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

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

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

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

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

(b) For purposes of this section:

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

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

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

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

(5) (A) “Employee fringe benefits” means the amount allowable as a deduction under this part to the qualified taxpayer involved

1 in the production of the qualified motion picture, exclusive of any
2 amounts contributed by employees, for any year during the
3 production period with respect to any of the following:

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

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

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

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

13 (6) "Independent film" means a motion picture with a minimum
14 budget of one million dollars (\$1,000,000) and a maximum budget
15 of ten million dollars (\$10,000,000) that is produced by a company
16 that is not publicly traded and publicly traded companies do not
17 own, directly or indirectly, more than 25 percent of the producing
18 company.

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

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

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

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

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

38 (11) "Principal photography" means the phase of production
39 during which the motion picture is actually shot, as distinguished
40 from preproduction and postproduction.

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

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

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

10 (B) “Qualified individual” shall not include either of the
11 following:

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

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

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

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

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

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

28 (iv) An independent film.

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

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

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

36 (ii) Production of the qualified motion picture is completed
37 within 30 months from the date on which the qualified taxpayer’s
38 application is approved by the California Film Commission. For
39 purposes of this section, a qualified motion picture is “completed”
40 when the process of 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 passthrough entity, the determination
35 of whether a taxpayer is a qualified taxpayer under this section
36 shall be made at the entity level and any credit under this section
37 is not allowed to the passthrough entity, but shall be passed through
38 to the partners or shareholders in accordance with applicable
39 provisions of Part 10 (commencing with Section 17001) or Part
40 11 (commencing with Section 23001). For purposes of this

1 paragraph, “passthrough entity” means any entity taxed as a
2 partnership or “S” 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 (c) (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 a qualified taxpayer and a qualified taxpayer’s affiliated
34 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:

39 (1) On or after July 1, 2009, and before July 1, 2020, allocate
40 tax credits to applicants.

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

- (i) The budget for the motion picture production.
- (ii) The number of production days.
- (iii) A financing plan for the production.
- (iv) The diversity of the workforce employed by the applicant, including, but not limited to, the ethnic and racial makeup of the individuals employed by the applicant during the production of the qualified motion picture, to the extent possible.
- (v) ~~All members of a combined reporting group and any members to which the credit is assigned, including, if readily available, the states, provinces, or other jurisdictions in which any of those members finance motion picture productions group, if known at the time of the application.~~
- (vi) Financial information, if available, including, but not limited to, the most recently produced balance sheets, annual statements of profits and losses, audited or unaudited financial statements, summary budget projections or results, or the functional equivalent of these documents of a partnership or owner of a single member limited liability company that is disregarded pursuant to Section 23038. The information provided pursuant to this clause shall be confidential and shall not be subject to public disclosure.
- (vii) The names of all partners in a partnership not publicly traded or the names of all members of a limited liability company classified as a partnership not publicly traded for California income tax purposes *that have a financial interest in the applicant's qualified motion picture*. The information provided pursuant to this clause shall be confidential and shall not be subject to public disclosure.
- (viii) Detailed narratives, for use only by the Legislative Analyst's Office in conducting a study of the effectiveness of this credit, that describe the extent to which the credit is expected to influence or affect filming and other business location decisions, hiring decisions, salary decisions, and any other financial matters of the applicant.
- (ix) Any other information deemed relevant by the California 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 ~~(E)~~

39 (D) Issue a credit certificate to a qualified taxpayer upon
40 completion of the qualified motion picture reflecting the credit

amount allocated after qualified expenditures have been verified under this section. The amount of credit shown in the credit certificate shall not exceed the amount of credit allocated to that qualified taxpayer pursuant to this section.

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

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

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

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

~~(3)~~

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

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

~~(A) Financial information, including, but not limited to, statements of profits and losses of a partnership or of an owner of a single member limited liability company that is disregarded pursuant to Section 23038.~~

~~(B) The names of all members of the qualified taxpayer's combined reporting group and any member to which the credit is assigned.~~

~~(C) The names of all partners in a partnership or the names of all members of a limited liability company classified as a partnership for California income tax purposes that is not publicly traded.~~

~~(D) The sales price of a credit certificate provided by the Franchise Tax Board. The Franchise Tax Board, upon request and subject to confidentiality requirements, shall provide aggregate information on the identity of the qualified taxpayer, the amount of the credit, and the credit recipient.~~

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

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

(A) One hundred million dollars (\$100,000,000) in credits for the 2009–10 fiscal year and each fiscal year thereafter, through and including the 2019–20 fiscal year.

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

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

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

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

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

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

1 *SEC. 4. No reimbursement is required by this act pursuant to*
2 *Section 6 of Article XIII B of the California Constitution because*
3 *the only costs that may be incurred by a local agency or school*
4 *district will be incurred because this act creates a new crime or*
5 *infraction, eliminates a crime or infraction, or changes the penalty*
6 *for a crime or infraction, within the meaning of Section 17556 of*
7 *the Government Code, or changes the definition of a crime within*
8 *the meaning of Section 6 of Article XIII B of the California*
9 *Constitution.*

10 ~~SEC. 3.~~

11 *SEC. 5. This act provides for a tax levy within the meaning of*
12 *Article IV of the Constitution and shall go into immediate effect.*