

2017 Regular Session

HOUSE BILL NO. 646

BY REPRESENTATIVES LEGER, GLOVER, AND WHITE

1 AN ACT

2 To amend and reenact R.S. 47:6023(A)(introductory paragraph), (1)(b), (B),  
3 (C)(1)(introductory paragraph) and (b) as amended by Section 2 of Act No. 125 of  
4 the 2015 Regular Session of the Legislature and (3)(introductory paragraph) as  
5 amended by Section 2 of Act No. 125 of the 2015 Regular Session of the Legislature,  
6 (D)(1)(introductory paragraph), (2)(c), (d), and (e), and (4), (E), and (I), to enact R.S.  
7 47:6023(C)(1)(c) and (d), (4), and (5), and to repeal R.S. 47:6023(A)(2) and R.S.  
8 47:6023(C)(1)(introductory paragraph) and (3)(introductory paragraph) both as  
9 amended by Section 5 of Act No. 125 of the 2015 Regular Session of the Legislature,  
10 relative to tax credits; to provide with respect to the sound recording investor tax  
11 credit; to provide for an additional tax credit; to provide for the amount of the fee  
12 associated with certain reports; to provide for definitions; to provide for  
13 administration of the tax credit; to provide with respect to certain tax certification  
14 letters; to provide for certain requirements and limitations; to provide with respect  
15 to review of the tax credit program; to authorize the promulgation of rules and  
16 regulations; to provide for the termination of the tax credit program; and to provide  
17 for related matters.

18 Be it enacted by the Legislature of Louisiana:

19 Section 1. R.S. 47:6023(A)(introductory paragraph), (1)(b), (B), (C)(1)(introductory  
20 paragraph) and (b) and (3)(introductory paragraph), (D)(1)(introductory paragraph), (2)(c),  
21 (d), and (e), and (4), (E), and (I) are hereby amended and reenacted and R.S.  
22 47:6023(C)(1)(c) and (d), (4), and (5), are hereby enacted to read as follows:

23 §6023. Sound recording investor tax credit

24 A. Purpose. The primary objective of this Section is to encourage  
25 development in Louisiana of a strong capital ~~and infrastructure~~ base for sound

1 recording productions in order to achieve a more independent, self-supporting music  
2 and sound recording industry. This objective is divided into immediate and long-term  
3 objectives as follows:

4 (1) Immediate objectives are to:

5 \* \* \*

6 (b) Develop a tax and capital infrastructure which encourages private  
7 investment. This tax infrastructure is to provide for state participation in the form of  
8 tax credits to encourage investment in state-certified sound recording productions  
9 ~~and infrastructure.~~

10 \* \* \*

11 B. Definitions. For the purposes of this Section:

12 (1) "Base investment" shall mean the actual investment made and expended  
13 in the state by a state-certified production as production-related costs and QMC  
14 payroll expenditures for Qualified Music Companies approved by the office and the  
15 secretary on or after July 1, 2017 ~~or as capital costs of a state-certified sound~~  
16 ~~recording infrastructure project.~~ Expenditures comprising the base investment shall  
17 not include the expenditure verification report fee paid by the sound recording  
18 production company for purposes of verification of the company's cost report for  
19 production ~~or project~~ expenditures.

20 (2) "Expended in the state" or an "expenditure in the state" means an  
21 expenditure to acquire property from a source within the state which is subject to  
22 state sales or use tax, or an expenditure as compensation for services performed  
23 within the state which is subject to state income tax.

24 (3) "New jobs" means full-time employment in Louisiana of an average of  
25 thirty hours or more per week, filled by Louisiana residents at the project site  
26 designated in the contract, who were not previously on the QMC's payroll in  
27 Louisiana, nor previously on the payroll of such QMC's parent entity, subsidiary, or  
28 affiliate in Louisiana, or previously on the payroll of any business whose physical  
29 location and employees are substantially the same as those of the QMC in Louisiana,  
30 as approved by the Secretary.

1                   (4) "Qualified Music Company" or "QMC" means an entity authorized to do  
 2                   business in Louisiana, engaged directly or indirectly in the production, distribution  
 3                   and promotion of music, certified by the secretary as meeting the eligibility  
 4                   requirements of this Section, and executing a contract providing the terms and  
 5                   conditions for its participation.

6                   (5) "QMC payroll" means wages reported in box 1 on a W-2 form.

7                   (6) "Sound recording" means a recording of music, poetry, or spoken-word  
 8                   performance made in Louisiana, in whole or in part. The term "sound recording"  
 9                   shall not include the audio portions of dialogue or words spoken and recorded as part  
 10                   of television news coverage or athletic events.

11                   ~~(4)~~ (7) "Sound recording production company" shall mean a company  
 12                   engaged in the business of producing sound recordings as defined in this Section.  
 13                   Sound recording production company shall not mean or include any person or  
 14                   company, or any company owned, affiliated, or controlled, in whole or in part, by  
 15                   any company or person, which is in default on a loan made by the state or a loan  
 16                   guaranteed by the state, nor which has ever declared bankruptcy under which an  
 17                   obligation of the company or person to pay or repay public funds or monies was  
 18                   discharged as a part of such bankruptcy.

19                   ~~(5)~~ (8) "State-certified production" means a sound recording production, or  
 20                   a series of productions occurring over the course of a twelve-month period, and base  
 21                   investment related to such production or productions that are approved by the  
 22                   Louisiana Department of Economic Development within one hundred eighty days  
 23                   of the receipt by the Department of Economic Development of a complete  
 24                   application for initial certification of a production. If the production is not approved  
 25                   within one hundred eighty days, the Department of Economic Development shall  
 26                   provide a written report to the Senate Committee on Revenue and Fiscal Affairs and  
 27                   the House Committee on Ways and Means which states the reason that the  
 28                   production has not been approved.

29                   ~~(6) "State-certified sound recording infrastructure project" means a sound~~  
 30                   ~~recording capital infrastructure project and base investment related to such project~~

1           ~~that are approved by the Louisiana Department of Economic Development within~~  
 2           ~~one hundred eighty days of the receipt by the Department of Economic Development~~  
 3           ~~of a complete application for initial certification of an infrastructure project. If the~~  
 4           ~~infrastructure project is not approved within one hundred eighty days, the~~  
 5           ~~Department of Economic Development shall provide a written report to the Senate~~  
 6           ~~Committee on Revenue and Fiscal Affairs and the House Committee on Ways and~~  
 7           ~~Means which states the reason that the infrastructure project has not been approved.~~

8                     C. Investor tax credit; state-certified productions ~~and infrastructure projects.~~

9                     (1) ~~Until January 1, 2020, there~~ There is hereby authorized a credit against  
 10           the state income tax for investments made in state-certified productions ~~and state-~~  
 11           ~~certified sound recording infrastructure projects.~~ The tax credit shall be earned by  
 12           investors at the time expenditures are certified by the Louisiana Department of  
 13           Economic Development according to the total base investment certified for the sound  
 14           recording production company per calendar year; however, no credit shall be allowed  
 15           under this Section for any expenditures for which a credit was granted under R.S.  
 16           ~~47:6007,6022, or 6034.~~

17   \*       \*       \*

18                     (b) For state-certified productions certified on and after July 1, 2015, ~~and~~  
 19           ~~state-certified infrastructure projects~~ which have been applied on or after July 1,  
 20           ~~2015, and before July 1, 2017,~~ each investor shall be allowed a tax credit of eighteen  
 21           percent of the base investment made by that investor in excess of fifteen thousand  
 22           dollars or, if a resident of this state, in excess of five thousand dollars.

23                     (c) Project-based production credit. For applications for state-certified  
 24           productions received on or after July 1, 2017, each investor shall be allowed a tax  
 25           credit of eighteen percent of the base investment made by that investor in excess of  
 26           twenty-five thousand dollars. However, if the investor who is applying for the tax  
 27           credit is a Louisiana resident, the eighteen percent tax credit shall be allowed on base  
 28           investments which exceed ten thousand dollars.

29                     (d) Company-based QMC payroll credit. For applications for Qualified  
 30           Music Companies received on or after July 1, 2017, to the extent that base

1 investment is expended on payroll for Louisiana residents in connection with a  
2 QMC, tax credits shall be earned at the following rates:

3 (i) Tier 1. A payroll credit of ten percent shall be earned for each new job  
4 whose QMC payroll is equal to or greater than thirty-five thousand dollars per year,  
5 up to sixty-six thousand dollars per year.

6 (ii) Tier 2. A payroll credit of fifteen percent shall be earned for each new  
7 job whose QMC payroll is equal to or greater than sixty-six thousand dollars per  
8 year, but no greater than two hundred thousand dollars per year.

9 \* \* \*

10 (3) Except as otherwise provided in this Paragraph, the aggregate amount of  
11 credits certified for all investors pursuant to this Section during any calendar year  
12 shall not exceed two million one hundred sixty thousand dollars. However, fifty  
13 percent of the aggregate amount of credits certified each year shall be reserved for  
14 QMCs. No more than one hundred thousand dollars in tax credits may be granted  
15 per project, per calendar year.

16 \* \* \*

17 (4)(a) Company-based QMC payroll credit. A business shall be eligible for  
18 participation in the program if the business meets all of the following criteria:

19 (i) The business is engaged directly or indirectly in the production,  
20 distribution, and promotion of music.

21 (ii) The business creates a minimum of three new jobs meeting or exceeding  
22 the Tier 1 minimum wage requirements, in accordance with the provisions of  
23 Subparagraph (C)(1)(d) of this Section.

24 (iii) The business is approved by the secretary of the Department of  
25 Economic Development.

26 (iv) The business is a music publisher, sound recording studio, booking  
27 agent, or artist management. The secretary, in his discretion may approve other  
28 businesses which are related to the music and sound recording industry which  
29 permanently locate or expand existing operations in Louisiana.



1           ~~thousand dollars for verification of a cost report reflecting production or project~~  
2           ~~expenditures of between five thousand dollars and fifty thousand dollars, and a~~  
3           ~~maximum fee of fifteen thousand dollars for verification of a cost report reflecting~~  
4           ~~production or project expenditures in excess of fifty thousand dollars.~~ shall be as  
5           follows:

6                   (aa) One thousand five hundred dollars for verification of a cost report  
7                   reflecting expenditures of at least ten thousand dollars but less than twenty-five  
8                   thousand dollars.

9                   (bb) Three thousand dollars for verification of a cost report reflecting  
10                  expenditures of at least twenty-five thousand dollars but less than fifty thousand  
11                  dollars.

12                  (cc) Five thousand dollars for verification of a cost report reflecting  
13                  expenditures of at least fifty thousand dollars, but less than one hundred thousand  
14                  dollars.

15                  (dd) Seven thousand five hundred dollars for verification of a cost report  
16                  reflecting expenditures of more than one hundred thousand dollars.

17                   (iii) ~~At the time of application, the applicant shall submit a deposit of~~ in an  
18                   ~~amount equal to fifty percent of the expenditure verification report fee of two~~  
19                   ~~thousand five hundred dollars for productions or projects with qualified expenditures~~  
20                   ~~projected to be between five thousand dollars and fifty thousand dollars, and a~~  
21                   ~~deposit of five thousand dollars for those projected to be in excess of fifty thousand~~  
22                   ~~dollars~~ required pursuant to the provisions of Item (ii) of this Subparagraph.

23                   (d) The Louisiana Department of Economic Development shall submit its  
24                   initial certification of a project as a state-certified production ~~or a state-certified~~  
25                   ~~sound recording infrastructure project~~ to investors and to the secretary of the  
26                   Department of Revenue. The initial certification shall include a unique identifying  
27                   number for each state-certified production ~~or state-certified project.~~

28                   (e) ~~Upon project completion, the applicant shall make a request to the~~  
29                   ~~Louisiana Department of Economic Development to proceed to final certification by~~  
30                   Qualified Music Companies may submit one request for final certification of tax





1 administer the provisions of this Section. Upon receipt of the tax credit certification  
2 letter and any necessary additional information, the secretary of the Department of  
3 Revenue shall make payment to the investor in the amount to which he is entitled  
4 from the current collections of the taxes collected pursuant to Chapter 1 of Subtitle  
5 II of this Title, as amended.

6 \* \* \*

7 I. ~~Commencing no later than January 31, 2016, the House Committee on~~  
8 ~~Ways and Means and the Senate Committee on Revenue and Fiscal Affairs shall~~  
9 ~~review the credit authorized pursuant to the provisions of this Section to determine~~  
10 ~~if the economic benefit provided by such credit outweigh the loss of revenue realized~~  
11 ~~by the state as a result of awarding such credit. The House and Senate committees~~  
12 ~~shall make a specific recommendation no later than March 1, 2017, to either continue~~  
13 ~~the credit or to terminate the credit. No credits shall be granted pursuant to the~~  
14 ~~provisions of this Section for applications received on or after July 1, 2021.~~

15 Section 2. R.S. 47:6023(A)(2) and R.S. 47:6023(C)(1)(introductory paragraph) and  
16 (3)(introductory paragraph) both as amended by Section 5 of Act No. 125 of the 2015  
17 Regular Session of the Legislature are hereby repealed in their entirety.

18 Section 3. Notwithstanding Section 8 of Act No. 125 of the 2015 Regular Session,  
19 as amended by Act No. 29 of the 2016 First Extraordinary Session, R.S. 47:6023(C)(1) and  
20 (3)(introductory paragraph) as enacted by Section 5 of that Act shall not become effective  
21 and R.S. 47:6023(C)(1) and (3)(introductory paragraph) as amended and reenacted by  
22 Section 2 of that Act shall remain effective.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_