

SENATE BILL NO. 254 (Substitute of Senate Bill No. 235 by Senator Morrell)

BY SENATORS MORRELL AND GARY SMITH AND REPRESENTATIVES BAGNERIS, BOUIE, GARY CARTER, COUSSAN, COX, GAINES, GAROFALO, GLOVER, JIMMY HARRIS, HILFERTY, HORTON, HUNTER, JACKSON, JAMES, JENKINS, JONES, TERRY LANDRY, LEGER, MARCELLE, MORENO, PIERRE, REYNOLDS, SMITH, STAGNI, STOKES AND THIBAUT

1 AN ACT

2 To amend and reenact R.S. 47:6007(B)(1), (8), (11) as amended by Acts 2015, No. 129,
3 (14), (16) as amended by Acts 2015, No. 141, (17) as amended by Acts 2015, No.
4 129, (21), (24), the introductory paragraph of R.S. 47:6007(C)(1), R.S.
5 47:6007(C)(1)(a) and (b), the introductory paragraphs of R.S. 47:6007(C)(1)(c) and
6 (4), R.S. 47:6007(C)(4)(f) as amended by Acts 2015, No. 129 and 134, R.S.
7 47:6007(D)(1)(a) and (2)(c)(i) as amended by Acts 2015, No. 141, (d), (D)(2)(e)(i)
8 as amended by Acts 2015, No. 144, (9)(b)(i), and (I), to enact R.S. 47:6007(B)(28),
9 (29), (30), (31), (32), (33), (34), and (C)(3)(d), (C)(4)(g), (D)(1)(d)(v) and
10 (2)(a)(i)(gg) and (hh), (2)(a)(ii), and (e)(iv), and (J), and to repeal R.S.
11 47:6007(B)(4), (11) as amended by Acts 2015, Nos. 134 and 144, (16) as amended
12 by Acts 2015, No. 134 and 412, (17)(c), (d), and (e) all as amended by Acts 2015,
13 Nos. 134, 141, 142, 143, 144, and 412, (23), (C)(1)(d), (C)(4)(f) as amended by Acts
14 2015, No. 144, (D)(2)(c)(i) as amended by Acts 2015, No. 412, (D)(2)(e)(i) as
15 amended by Acts 2015, Nos. 129, 141, and 412, relative to the motion picture
16 production tax credit; to provide for definitions applicable to the credit; to provide
17 for base investment credit enhancements; to provide for a maximum overall credit
18 rate; to provide for conditions required to earn the credit; to provide for payroll

1 credits for qualified entertainment companies; to provide for a sunset date for third-
 2 party credit transfers; to provide for permanent credit caps, structured pay outs, and
 3 project size limitations; to remove duplicate provisions; to provide for a sunset date;
 4 to provide for an effective date; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 47:6007(B)(1), (8), (11) as amended by Acts 2015, No. 129, (14),
 7 (16) as amended by Acts 2015, No. 141, (17) as amended by Acts 2015, No. 129, (21), (24),
 8 the introductory paragraph of R.S. 47:6007(C)(1), R.S. 47:6007(C)(1)(a) and (b), the
 9 introductory paragraphs of R.S. 47:6007(C)(1)(c) and (4), R.S. 47:6007(C)(4)(f) as amended
 10 by Acts 2015, No. 129 and 134, R.S. 47:6007(D)(1)(a) and (2)(c)(i) as amended by Acts
 11 2015, No. 141, (d), (D)(2)(e)(i) as amended by Acts 2015, No. 144, (9)(b)(i), and (I) are
 12 hereby amended and reenacted and R.S. 47:6007(B)(28), (29), (30), (31), (32), (33), (34),
 13 and (C)(3)(d), (C)(4)(g), (D)(1)(d)(v) and (2)(a)(i)(gg) and (hh), (2)(a)(ii), and (e)(iv) and
 14 (J) are hereby enacted to read as follows:

15 §6007. Motion picture production tax credit

16 * * *

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

18 (1) "Above the Line ~~services~~ **salaries**" or "ATL ~~services~~ **salaries**" means **all**
 19 **salary, wages, fees, and fringe benefits paid for** services such as those of a
 20 producer, executive producer, ~~line producer~~, coproducer, ~~assistant producer~~, actor,
 21 director, ~~casting director~~, screenwriter, **lead cast, supporting cast, day players**, and
 22 other services of job positions performed by personnel of the production that are
 23 associated with the creative or financial control of a production and customarily
 24 considered as above the line services in the film and television industry.

25 * * *

26 (8) "Louisiana promotional graphic" means a graphical brand or logo for
 27 promotion of the state which has been approved by the office ~~for a production~~,
 28 ~~consisting of either of the following:~~

29 (a) ~~A five-second long static or animated graphic that promotes Louisiana in~~
 30 ~~the end credits before the below-the-line crew crawl for the life of the production,~~

1 and which includes a link to Louisiana on the production's website and online
 2 promotions.

3 (b) ~~An embedded five-second long static or animated graphic that promotes~~
 4 Louisiana during each broadcast worldwide for the life of the production, and which
 5 includes a link to Louisiana on the production's website and online promotions.

6 * * *

7 (11) "Motion picture" means a nationally or internationally distributed
 8 feature-length film, short film, video, television pilot, television series, television
 9 movie of the week, animated feature film, animated short film, animated television
 10 series, commercial, or documentary made in Louisiana, in whole or in part, for
 11 theatrical or television viewing, or for viewing on any digital online platform as may
 12 be further defined by the office through the promulgation of rules. The term "motion
 13 picture" shall not include the production of television coverage of news and athletic
 14 events or music festivals.

15 * * *

16 (14) "Payroll" means all salary, wages, and ~~other compensation of any kind~~
 17 ~~whatsoever, including but not limited to services, benefits, per diem, housing, box~~
 18 ~~rentals and any other type of benefit~~ **fringe benefits** paid, provided, or rendered to
 19 an individual for services relating to a state-certified production and, except for
 20 fringe benefits not includible in gross income, for which taxes are withheld and
 21 remitted to the Department of Revenue in accordance with R.S. 47:164(D)(2) and
 22 taxable in this state as verified by the office through the use of information which
 23 may be provided to them upon request by the office from the Louisiana Workforce
 24 Commission, or the Department of Revenue. Any information so furnished shall be
 25 considered and held confidential and privileged by the ~~Depart~~ **Department** of
 26 Economic Development. ~~However, "payroll" shall exclude any portion of an~~
 27 ~~individual salary in excess of three million dollars.~~

28 * * *

29 (16) "Production expenditure verification report" means a report issued by
 30 a qualified accountant who is unrelated to the motion picture production company

1 and that is a report of the qualified accountant's verification of the motion picture
2 production's cost report of production expenditures. The production expenditure
3 verification report shall contain an opinion from the qualified accountant stating that
4 there are no related party transactions or that material transactions of related party
5 relationships are properly reported and accounted for as required by Paragraph
6 (D)(9) of this Section, adequately disclosed, and explained in the report and that the
7 production's cost report of production expenditures presents fairly, in all material
8 aspects, the production expenditures expended in Louisiana pursuant to the
9 provisions of this Section. The production expenditure verification report shall:

10 (a) Be performed in accordance with the accounting standards generally
11 accepted in the United States.

12 (b) Be addressed to the party which has engaged the qualified accountant,
13 with a copy addressed to the motion picture production company or motion picture
14 investor tax credit applicant.

15 (c) Contain the qualified accountant's name, address, and telephone number.

16 (d) Contain a certification that the qualified accountant is unrelated to the
17 motion picture production company.

18 (e) Be dated as of the date of completion of the qualified accountant's field
19 work.

20 (f) Contain a statement of acknowledgment by the qualified accountant that
21 the state is relying on the qualified production expenditure verification report in the
22 issuance of the tax credits under the provisions of this Section.

23 (17)(a) "Production expenditures" means preproduction, production, and
24 postproduction expenditures in this state directly relating to a state-certified
25 production, including without limitation the following: set construction and
26 operation; wardrobes, makeup, accessories, and related services; costs associated
27 with photography and sound synchronization, lighting, and related services and
28 materials; editing and related services; rental of facilities and equipment; leasing of
29 vehicles; costs of food and lodging; digital or tape editing, film processing, transfer
30 of film to tape or digital format, sound mixing, special and visual effects; and

1 payroll. For all state-certified productions approved on or after July 1, 2015, this
2 term shall include marketing and promotion expenses of the state-certified
3 production incurred in this state.

4 (b) For all state-certified productions approved on or after January 1, 2004,
5 this term shall not include expenditures for marketing and distribution, except as
6 otherwise provided by Subparagraph (a) of this Paragraph, non-production
7 related overhead, amounts reimbursed by the state or any other governmental entity,
8 costs related to the transfer of tax credits, amounts that are paid to persons or entities
9 as a result of their participation in profits from the exploitation of the production, the
10 application fee, state, or local taxes, or any expenditures occurring outside of
11 Louisiana. ~~For all state-certified productions approved on or after January 1, 2016,~~
12 ~~marketing expenditures shall be considered "production expenditures".~~ This term
13 shall not include expenditures for related party transactions denied or limited
14 by the office pursuant to Paragraph (D)(9) of this Section, the production
15 expenditure verification report fee, expenditures for Above the Line (ATL)
16 salaries for the production that exceed forty percent of total production
17 expenditures in the state for the production, or expenditures for airfare. This
18 term shall not include expenditures for bond fees, insurance premiums, finance
19 fees, loan interest fees, or payments of a similar nature, paid to investors in the
20 production unless such expenditures are made to a Louisiana resident licensed
21 insurance producer that has its principal place of business in this state as
22 required by R.S. 22:1543, a Louisiana financial institution as defined in R.S.
23 6:2(8), or a Louisiana Business and Industrial Development Company as
24 defined in and provided for in Chapter 39-B of Title 51 of the Louisiana Revised
25 Statutes of 1950, R.S. 51:2386 et seq., that is regulated by the office of financial
26 institutions and which have one or more offices in the state, in which case, the
27 expenditures may be allocated only on a pro rata basis, allocating the fees based
28 on the relative percentage of production activity occurring in and out of state.

29 (c) For all applications received on or after July 1, 2017, this term shall
30 not include expenditures for catering and craft services unless such

1 expenditures are made to a source within the state.

2 * * *

3 (21) "Resident" or "resident of Louisiana" means a natural person who is a
 4 ~~legal resident and who has been domiciled in the state and has maintained a~~
 5 ~~permanent place of abode in this state for no less than twelve consecutive months~~
 6 required to file a Louisiana resident individual income tax return.

7 * * *

8 (24) "Source within the state" means a physical facility in Louisiana,
 9 operating with posted business hours and employing at least one full-time equivalent
 10 employee. Procurement company means any vendor that purchases, leases or
 11 otherwise obtains goods or services from sources outside of the state for the
 12 ultimate use, benefit or enjoyment of a state-certified production company,
 13 unless the vendor:(a) is actively engaged in the business of obtaining goods or
 14 services by being a consumer of, or acquiring ownership of, or a leasehold in,
 15 goods and services, prior to the goods or services being sold, leased or licensed
 16 to motion picture production companies or providers of services thereto; (b) is
 17 organized and maintains its principal place of business in Louisiana; (c)
 18 maintains at least one commercially zoned immovable property physical
 19 location in Louisiana that is either owned or leased, pursuant to an arms-length
 20 written lease of not less than twelve months duration, by the vendor; (d)
 21 maintains at such physical location a showroom and some inventory; (e) is
 22 registered to charge and remit, and charges and remits, Louisiana sales tax; (f)
 23 is required to file and files Louisiana income tax returns; (g) employs a
 24 minimum of three full-time Louisiana residents for a minimum of twelve
 25 months prior to providing its services to a Louisiana production company; (h)
 26 has commercially standard daytime business hours; and (i) is not a publisher
 27 or otherwise engaged in the sale or licensure of literary property. For the
 28 avoidance of doubt, any vendor that meets the requirements of (a) through (i)
 29 of this Paragraph shall constitute a "source within the state".

30 * * *

1 (28) "Fringe benefit" means an additional benefit which supplements an
2 employee's salary and may include meal per diems, housing per diems, pension
3 or retirement contributions, health insurance premium payments, box rental
4 that includes an inventory list, and car allowances.

5 (29) "Independent film production" means a state-certified production,
6 with a production budget no greater than ten million dollars, produced outside
7 of the major film studio system, as approved by the office.

8 (30) "Legacy credit" is a certified credit that is evidenced by a final
9 certification letter issued before July 1, 2017, that has not expired, that has not
10 been claimed as a credit against state income tax on a tax return filed before
11 July 1, 2017, and that has not been transferred to the Department of Revenue
12 pursuant to the provisions of Subitem (C)(4)(f)(i)(aa) of this Section before
13 July 1, 2017.

14 (31) "Louisiana screenplay production" means a state-certified
15 production meeting the Louisiana screenplay base investment enhancement
16 eligibility criteria set forth in Subitem (C)(1)(a)(i)(bb) of this Section.

17 (32) "New jobs" means full-time employment in this state working an
18 average of thirty hours or more per week, filled by residents of the state, at the
19 project site designated in the contract, who were not previously on the QEC's
20 payroll in Louisiana, nor previously on the payroll of the QEC's parent entity,
21 subsidiary, or affiliate in Louisiana, or previously on the payroll of any business
22 whose physical location and employees are substantially the same as those of the
23 QEC in Louisiana, as approved by the secretary.

24 (33) "Qualified Entertainment Company (QEC)" means an entity
25 authorized to do business in the state of Louisiana, engaged in the development
26 or distribution of audio, visual, or both audio-visual entertainment products for
27 public consumption, directly or indirectly, certified by the secretary as meeting
28 the eligibility requirements of this Section, and executing a contract providing
29 the terms and conditions for its participation.

30 (34) "QEC Payroll" means W-2, box 1 wages.

* * *

C. Production tax credit; specific productions and projects.

(1) There is hereby authorized a tax credit against state income tax for Louisiana taxpayers for expenditures related to state-certified productions **and qualified entertainment companies**. The tax credit shall be earned by a motion picture production company at the time expenditures are certified by the office and the secretary for a motion picture production company in a state-certified production. However, credits cannot be applied against a tax or transferred until the expenditures are certified by the office and the secretary. For state-certified productions, expenditures shall be certified no more than once per production, after project completion. However, if at the time of application for initial certification, the office is notified that post-production activities will take place in Louisiana, a supplemental request for certification of expenditures directly related to such post-production activity may be submitted for consideration by the office. The cost of any verification or audit of such expenditures shall be borne by the motion picture production company. The tax credit shall be calculated as a percentage of the total base investment dollars certified per project, **or as otherwise provided in this Paragraph.**

~~(a) For state-certified productions approved by the office and the secretary on or after January 1, 2004, but before January 1, 2006:~~ **Project-Based Production tax credit. For applications for state-certified productions on or after July 1, 2017:**

~~(i) If the total base investment is greater than three hundred thousand dollars and less than or equal to eight million dollars, each taxpayer shall be allowed a tax credit of ten percent of the actual investment made by that taxpayer.~~ **Base investment credit. If the total base investment is greater than three hundred thousand dollars, or if a production is a Louisiana screenplay production, each investor shall be allowed a tax credit of twenty-five percent of the base investment made by the investor. Investors may receive an increased base investment credit rate by satisfying any of the following criteria:**

1 (aa) Out-of-zone filming. A five percent increase in the base investment
2 rate may be allowed for state-certified productions with their production office
3 and sixty percent of principal photography based and occurring outside of the
4 New Orleans Metro Statistical Area, as delineated by the federal Office of
5 Management and Budget, but not including St. John the Baptist Parish.

6 (bb) Louisiana screenplay. A ten percent increase in the base investment
7 rate may be allowed for state-certified production expenditures equal to or
8 greater than fifty thousand dollars but no greater than five million dollars,
9 based upon a screenplay created by a Louisiana resident as evidenced by
10 documents such as certificate of authorship, a Writers Guild of America
11 registration certificate, the records of the United States Copyright Office, or a
12 reasonable legal opinion issued to the office.

13 ~~(ii) If the total base investment is greater than eight million dollars, each~~
14 ~~taxpayer shall be allowed a tax credit of fifteen percent of the actual investment~~
15 ~~made by that taxpayer.~~ Additional payroll and visual effects credits.

16 (aa) Louisiana payroll. To the extent that base investment is expended
17 on payroll for Louisiana residents employed in connection with a state-certified
18 production, each investor shall be allowed an additional tax credit of fifteen
19 percent of such payroll.

20 (bb) Visual effects. To the extent that base investment is expended on
21 visual effects expenditure, each investor shall be allowed an additional tax credit
22 of five percent of such expenditures if at least fifty percent of the visual effects
23 budget is expended for services performed in Louisiana by an approved QEC,
24 or a minimum of one million dollars in qualified visual effects expenditures are
25 made in Louisiana.

26 (cc) The maximum tax credit that a production can earn pursuant to this
27 Paragraph for the base investment credit, including base investment increases
28 for out-of-zone filming and Louisiana screenplay, and the additional payroll and
29 visual effects credits is forty percent of base investment.

30 (iii) The initial certification shall be effective for qualifying expenditures

1 made within a period ~~of~~ twelve months prior to ~~and twelve~~ the date of application,
 2 and twenty-four months after the date of initial certification-, except that:

3 (aa) State-certified productions for scripted episodic content, with
 4 estimated expenditures of at least ten million dollars in qualifying in state
 5 expenditures per calendar year, for up to five years, shall be issued an initial
 6 certification effective for qualifying expenditures made until sixty months after
 7 the date of initial certification, under terms and conditions approved by the
 8 office and the secretary, as set forth in the initial certification.

9 (iv) As a condition of receiving tax credits pursuant to this Section,
 10 state-certified productions shall be required to acknowledge the financial
 11 assistance of the state of Louisiana, either through the inclusion of a Louisiana
 12 promotional graphic, or an alternative marketing option, including a donation
 13 to a Louisiana nonprofit film grant program as approved by the office.

14 (v) As a condition of receiving tax credits pursuant to this Section,
 15 state-certified productions shall be required to participate in a career-based
 16 learning and training program approved by the office. The secretary and the
 17 office shall determine through the promulgation of rules, approved programs
 18 as well as the minimum criteria that an applicant must meet in order to qualify
 19 according to this Section.

20 ~~(b) For state-certified productions approved by the office and the secretary~~
 21 ~~on or after January 1, 2006, but before July 1, 2009:~~ Company-based QEC payroll
 22 tax credit for Qualified Entertainment Companies approved by the office and
 23 the secretary on or after July 1, 2017. To the extent that base investment is
 24 expended on payroll for Louisiana residents in connection with a QEC, tax
 25 credits shall be earned at the following rates:

26 ~~(i) If the total base investment is greater than three hundred thousand dollars,~~
 27 ~~each investor shall be allowed a tax credit of twenty-five percent of the base~~
 28 ~~investment made by that investor.~~ Tier 1. A payroll credit of fifteen percent shall
 29 be earned for each new job whose QEC payroll is equal to or greater than
 30 forty-five thousand dollars per year, up to sixty-six thousand dollars per year.

1 second year thereafter, the percent of the face value of the tax credits allowed for
 2 transferring credits to the office shall increase two percent until the percentage
 3 reaches eighty percent.

4 (ii) (aa) For projects ~~which receive initial certification~~ **that apply** on and
 5 after July 1, 2009, **and before July 1, 2017**, the motion picture production company
 6 that earned the motion picture production tax credits pursuant to such certification
 7 or the company's irrevocable designee, as provided for in Item ~~(iv)~~**(iii)** of this
 8 Subparagraph, may transfer the credits to the Department of Revenue for eighty-five
 9 percent of the face value of the credits in accordance with the procedures and
 10 requirements of Item ~~(iii)~~**(ii)** of this Subparagraph.

11 **(bb) For projects that apply on and after July 1, 2017, the motion picture**
 12 **production company that earned the motion picture production tax credits**
 13 **pursuant to such certification or the company's irrevocable designee, as**
 14 **provided for in Item (iii) of this Subparagraph, may transfer the credits to the**
 15 **Department of Revenue for ninety percent of the face value of the credits in**
 16 **accordance with the procedures and requirements of Item (ii) of this**
 17 **Subparagraph.**

18 **(cc) Beginning July 1, 2017, legacy credits that are recorded in the**
 19 **Louisiana Tax Credit Registry before January 1, 2018, may be transferred to**
 20 **the Department of Revenue for eighty-five percent of face value. The**
 21 **Department of Revenue shall make payment for the legacy credits in the**
 22 **amount to which the transferor is entitled from the current collections of the**
 23 **taxes collected pursuant to Chapter 1 of Subtitle II, of this Title. The**
 24 **Department of Revenue may require the transferor to submit such additional**
 25 **information as may be necessary to administer the provisions of this Section.**

26 ~~(iii)~~**(ii)** The Department of Revenue may require the transferor to submit such
 27 additional information as may be necessary to administer the provisions of this
 28 Section. The secretary of the Department of Revenue shall make payment to the
 29 motion picture production company or its irrevocable designee in the amount to
 30 which he is entitled from the current collections of the taxes collected pursuant to

1 Chapter 1 of Subtitle II, of this Title provided such tax credits are transferred to the
2 Department of Revenue within one calendar year of certification.

3 ~~(iv)~~**(iii)** A bank or other lender may be named as an irrevocable designee in
4 the initial tax credit certification or other document submitted thereafter by a motion
5 picture production company to the office. As an irrevocable designee, a bank or other
6 lender may elect to have the tax credits issued directly to it from the office, and in
7 addition to the rights of a transferee may also elect to transfer the credits to the
8 Department of Revenue in accordance with the provisions of Items ~~(ii)~~**(i)** and ~~(iii)~~**(ii)**
9 of this Subparagraph.

10 ~~(v)~~The office shall not accept the transfer of motion picture investor tax
11 credits from July 1, 2015 through June 30, 2016.

12 **(g) For projects that apply on and after July 1, 2017, except as provided**
13 **for in Subparagraph (f) of this Paragraph, motion picture tax credits not**
14 **previously claimed by any taxpayer against its income tax may not be**
15 **transferred or sold to another taxpayer.**

16 * * *

17 D. Certification and administration.

18 **(1)(a)(i) Company-based QEC payroll tax credit. It is the intent of the**
19 **Louisiana Legislature that the tax credits provided in this Section should be**
20 **used primarily as an inducement for qualified entertainment businesses to**
21 **permanently locate new or expand existing operations in Louisiana. A business**
22 **may be eligible for participation in the program if it meets all of the following**
23 **criteria:**

24 **(aa) Is engaged in the development or distribution of audio, visual, or**
25 **both audio-visual entertainment product for public consumption, directly or**
26 **indirectly, as approved by the secretary.**

27 **(bb) Creates a minimum of five new jobs meeting or exceeding the Tier**
28 **1 minimum wage requirements, in accordance with the provisions of Item(C)**
29 **(1)(b)(i) of this Section.**

30 **(cc) Is approved by the secretary.**

1 submitted electronically, to include such information as may be required by the
 2 department to determine if the applicant is qualified.

3 * * *

4 (c)(i) In order to protect the integrity of the motion picture investor tax credit
 5 program by ensuring that tax credits are certified only for eligible expenditures and
 6 to provide for uniformity in expenditure verification reporting, the department shall
 7 directly engage and assign an independent certified public accountant, hereinafter
 8 referred to as "CPA", to prepare, for the department, the required production
 9 expenditure verification report on a tax credit applicant's cost report of expenditures
 10 or claims. The applicant shall be responsible for and assessed any production
 11 expenditure verification report fee ~~which~~ **that** may be required by law, including any
 12 up-front deposit of the fee. For purposes of the report, the applicant shall make all
 13 records related to the tax credit application available to the CPA.

14 * * *

15 (d)(i) The Project-based production tax credit. After application review
 16 and consideration of all discretionary factors, the office and the secretary shall
 17 submit their initial certification or written denial of a project as a state-certified
 18 production to investors and to the secretary of the Department of Revenue indicating
 19 the total base investment which shall be expended in the state on the state-certified
 20 production within sixty days of their receipt of all required information. The initial
 21 certification shall include a unique identifying number for each state-certified
 22 production **and shall provide for a preliminary allocation of tax credits by year.**

23 (ii) Company-based QEC payroll tax credit. After application review and
 24 consideration of all discretionary factors, the office and the secretary may
 25 execute a contract with an applicant for a period of up to five years, providing
 26 the terms and conditions for its participation. A five-year renewal contract may
 27 be authorized if the applicant has complied with all the terms of the contract
 28 and has not performed any act, nor failed to perform any act, which would have
 29 made the applicant liable for suspension, and has complied with the provisions
 30 of this Section. The contract shall set forth an estimate of jobs and payroll per

1 calendar year, which will be tentatively allocated to the QEC for annual cap
 2 computation purposes.

3 * * *

4 (e)(i)(aa) ~~No~~ For projects with initial certification letters issued on or
 5 after July 1, 2015, no later than six months after the expiration of the initial
 6 certification period for the applicable state-certified production, a state-certified
 7 motion picture production company applicant shall make a request to the office to
 8 proceed to final certification by submitting to the office a cost report of production
 9 expenditures to be formatted in accordance with instructions of the office. The
 10 applicant shall make all records related to the cost report available for inspection by
 11 the office and the qualified accountant selected by the office to prepare the
 12 production expenditure verification report, after which time all such claims to tax
 13 credits shall be deemed waived. After review and investigation of the cost report, the
 14 accountant shall submit to the office and the secretary a production expenditure
 15 verification report. The office and the secretary shall review the production
 16 expenditure verification report and may require additional information needed to
 17 make a determination as to final certification of all tax credits for that production.
 18 Within one hundred twenty days of the receipt of the production expenditure
 19 verification report and all required supporting information, the office and the
 20 secretary shall issue a tax credit certification letter indicating the amount of tax
 21 credits certified for the state-certified production to the applicant for all qualifying
 22 expenditures verified by the office. Any expenditures for which tax credits were
 23 neither denied nor certified due to insufficient information or other issues, the office
 24 and secretary shall diligently work to resolve the outstanding issues in a timely
 25 manner, and the office and secretary may subsequently issue a supplemental tax
 26 credit certification at the time of such resolution.

27 (bb) For projects with initial certification letters issued before July 1,
 28 2015, upon project completion or at any time after project costs are deemed
 29 final by the motion picture production company or applicant, the applicant
 30 shall make a request to the office to proceed to final certification by submitting

1 to the office a cost report of production expenditures to be formatted in
 2 accordance with instructions of the office promulgated in compliance with the
 3 Administrative Procedure Act. The applicant shall make all records related to
 4 the cost report available for inspection by the office and the qualified
 5 accountant selected by the office to prepare the production expenditure
 6 verification report. After review and investigation of the cost report, and after
 7 two levels of review within a CPA firm or a second review through a
 8 cooperative endeavor with another CPA, the accountant shall submit to the
 9 office, the secretary, and the motion picture production company or motion
 10 picture investor tax credit applicant a production expenditure verification
 11 report and the affidavit required by Subparagraph (g) of this Paragraph. The
 12 office and the secretary shall review the production expenditure verification
 13 report and may require additional information needed to make a determination.
 14 Within one hundred twenty days of the receipt of the production expenditure
 15 verification report and all required supporting information, the office and the
 16 secretary shall issue a tax credit certification letter indicating the amount of tax
 17 credits certified for the state-certified production to the investors for all
 18 qualifying expenditures verified by the office. Any expenditures for which tax
 19 credits were neither denied nor certified due to insufficient information or other
 20 issues, the office and secretary shall diligently work to resolve the outstanding
 21 issues in a timely manner, and the office and secretary may subsequently issue
 22 a supplemental tax credit certification at the time of such resolution.

23 * * *

24 (iv) State-certified productions for scripted episodic content and
 25 approved QEC's may submit more than one request for final certification of tax
 26 credits, but no more frequently than once per calendar year, in accordance with
 27 the terms of the initial certification letter or QEC contract and instructions by
 28 the office.

29 * * *

30 (9) * * *

1 (b) Tax credits certified for goods and services provided by related parties to
2 a state-certified production shall be further limited as follows:

3 (i) Qualifying production expenditures for Above the Line, or "ATL",
4 ~~services~~ salaries provided by related parties shall be limited to twelve percent of
5 total Louisiana production expenditures.

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 allowed pursuant to this**
14 **Section for applications received on or after July 1, 2025.**

15 **J. Credit caps, structured pay outs, and project size limitations**

16 **(1) Department of Economic Development program issuance cap.**

17 **(a) The department shall by rule establish the method of provisionally**
18 **allocating available tax credits in initial certification letters, and the method for**
19 **granting tax credits in final tax credit certification letters, including but not**
20 **limited to a first-come, first-served system, reservation of tax credits for a**
21 **specific time period, or other method which the department, in its discretion,**
22 **may find beneficial to the program.**

23 **(b) For applications for state-certified productions and qualified**
24 **entertainment companies submitted on or after July 1, 2017, the total amount**
25 **of all tax credits granted in a final certification letter by the department in any**
26 **fiscal year shall not exceed one hundred fifty million dollars. Twenty percent of**
27 **the annual program cap shall be reserved as follows: five percent for qualified**
28 **entertainment companies, five percent for Louisiana screenplay productions,**
29 **and ten percent for independent film productions. If the total amount of credits**
30 **applied for in any particular year exceeds the aggregate amount of tax credits**

1 allowed for that year, the excess shall be treated as having been applied for on
2 the first day of the subsequent year.

3 (c)(i) If the total amount of credits granted to QEC's in any fiscal year
4 is less than the QEC cap, any residual amount of unused credits shall carry
5 forward for use in subsequent years and may be granted in addition to the QEC
6 cap for each year.

7 (ii) If the total amount of credits granted in any fiscal year to screenplay
8 productions or independent film productions is less than their respective caps,
9 any residual amount may be available for issuance by the department during
10 that fiscal year as established by rule.

11 (d) The department shall make reasonable efforts to post a listing of
12 estimated amounts available under the cap on its website.

13 (2) Department of Revenue taxpayer claim cap.

14 (a) Beginning July 1, 2017, claims against state income tax allowed on
15 returns for tax credits or transfers of such tax credits, including legacy credits,
16 to the Department of Revenue as provided for in Paragraph (C)(4) of this
17 Section shall be limited to an aggregate total of one hundred eighty million
18 dollars each fiscal year. If less than one hundred eighty million dollars of such
19 tax credits and transfers are allowed in a fiscal year, the remaining amount,
20 plus any amounts remaining from previous fiscal years, shall be added to the
21 one hundred eighty million dollar limit of subsequent fiscal years until that
22 amount of tax credits or tax credit transfers to the Department of Revenue are
23 claimed and allowed.

24 (b)(i) Claims for tax credits or transfers of tax credits to the Department
25 of Revenue shall be allowed on a first-come, first-served basis. Any taxpayer
26 whose claim for such tax credits or transfer to the Department of Revenue is
27 disallowed because the fiscal year cap has been reached may use the tax credits
28 against state income tax due in an original return filed in the next fiscal year or
29 may transfer tax credits to the Department of Revenue the next fiscal year, and
30 his claim or transfer shall have priority over other claims filed or transfers

1 applied for after the date of his original claim or application for transfer.

2 (ii) If a claim against state income tax for a tax credit is disallowed
3 because the fiscal year cap has been reached, the Department of Revenue may
4 provide for an abatement of interest pursuant to R.S. 47:1601 and a waiver of
5 delinquent payment penalties pursuant to R.S. 47:1603.

6 (iii) Any transferor whose transfer of legacy credits to the Department
7 of Revenue exceeds ten million dollars in one fiscal year shall be paid a
8 maximum of ten million dollars that year and may transfer the remaining
9 legacy credits, up to a maximum of ten million dollars for each subsequent fiscal
10 year, to the Department of Revenue and his transfer shall have priority over
11 other transfers applied for after the date of his original application for transfer.

12 (c) For all completed applications for transfer submitted to the
13 Department of Revenue on or after July 1, 2017, the face value of the credits
14 transferred to the Department of Revenue shall be subtracted from the
15 remaining available Department of Revenue taxpayer claim cap.

16 (d) The Department of Revenue shall make reasonable efforts to post a
17 listing of estimated amounts available under the cap on its website.

18 (3) Department of Economic Development individual project issuance
19 cap.

20 (a) Project-based production tax credit. For applications for
21 state-certified productions on or after July 1, 2017, the maximum amount of
22 credits that may be granted for a single state-certified production shall not
23 exceed twenty million dollars, except for state-certified productions for scripted
24 episodic content that may be granted up to twenty-five million dollars per
25 season.

26 (b) Company-based QEC payroll tax credit. For applications for
27 qualified entertainment company contracts on or after July 1, 2017, the
28 maximum amount of credits that may be granted for a single company shall not
29 exceed one million dollars per year.

30 (4) Department of Economic Development individual payroll cap.

1 (a) Project-based production tax credit. For applications for
 2 state-certified productions on or after July 1, 2017, the maximum amount of
 3 qualifying payroll expenditures made for the services rendered by an individual,
 4 whether directly to an individual, or indirectly through a loan out company,
 5 shall be three million dollars per person and no tax credits shall be earned for
 6 payroll expenditures in excess of three million dollars per person.

7 (b) Company-based QEC payroll tax credit. For applications for
 8 qualified entertainment company contracts on or after July 1, 2017, the
 9 maximum amount of qualifying QEC payroll expenditures shall be two hundred
 10 thousand dollars per person, for each employee as reported on a Form W-2, and
 11 no tax credits shall be earned for payroll expenditures in excess of two hundred
 12 thousand dollars per person.

13 (5) Department of Economic Development structured pay outs.

14 (a) The department may, at its discretion, require credits for any size
 15 production or approved QEC to be structured over the course of two or more
 16 years, as provided for in the initial certification letter or QEC contract.

17 (b) The department shall by rule establish the circumstances under
 18 which a structured pay-out of credits may be required, including but not limited
 19 to the availability of tax credits in any given year or the best interests of the
 20 state.

21 Section 2. R.S. 47:6007(B)(4), (11) as amended by Acts 2015, Nos. 134 and 144,
 22 (16) as amended by Acts 2015, No. 134 and 412, (17)(c), (d), and (e) all as amended by Acts
 23 2015, Nos. 134, 141, 142, 143, 144, and 412, (23), (C)(1)(d), (C)(4)(f) as amended by Acts
 24 2015, No. 144, (D)(2)(c)(i) as amended by Acts 2015, No. 412, (D)(2)(e)(i) as amended by
 25 Acts 2015, Nos. 129, 141, and 412 are hereby repealed.

26 Section 3. The Louisiana State Law Institute is hereby directed to alphabetize the
 27 definitions contained in R.S. 47:6007(B).

28 Section 4. This Act shall become effective upon signature by the governor or, if not
 29 signed by the governor, upon expiration of the time for bills to become law without signature
 30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____