

SENATE COMMITTEE AMENDMENTS  
2017 Regular Session

Amendments proposed by Senate Committee on Revenue and Fiscal Affairs to Engrossed  
House Bill No. 640 by Representative Stokes

1 AMENDMENT NO. 1

2 On page 1, line 2, after "reenact" delete the remainder of the line, and delete lines 3 and 4,  
3 and insert:

4 "R.S. 47:6007(B)(1), (8), (11) as amended by Acts 2015, No. 129, (14), (16) as  
5 amended by Acts 2015, No. 141, (17) as amended by Acts 2015, No. 129, (21), (24),  
6 the introductory paragraph of R.S. 47:6007(C)(1), R.S. 47:6007(C)(1)(a) and (b), the  
7 introductory paragraphs of R.S. 47:6007(C)(1)(c) and (4), R.S. 47:6007(C)(4)(f) as  
8 amended by Acts 2015, No. 129 and 134, R.S. 47:6007(D)(1)(a) and (2)(c)(i) as  
9 amended by Acts 2015, No. 141, (d), (D)(2)(e)(i) as amended by Acts 2015, No. 144,  
10 (9)(b)(i), and (I), to enact R.S. 47:6007(B)(28), (29), (30), (31), (32), (33), (34), and  
11 (C)(3)(d), (C)(4)(g), (D)(1)(d)(v) and (2)(a)(i)(gg) and (hh), (2)(a)(ii), and (e)(iv),  
12 and (J), and to repeal R.S. 47:6007(B)(4), (11) as amended by Acts 2015, Nos. 134  
13 and 144, (16) as amended by Acts 2015, No. 134 and 412, (17)(c), (d), and (e) all as  
14 amended by Acts 2015, Nos. 134, 141, 142, 143, 144, and 412, (23), (C)(1)(d),  
15 (C)(4)(f) as amended by Acts 2015, No. 144, (D)(2)(c)(i) as amended by Acts 2015,  
16 No. 412, (D)(2)(e)(i) as amended by Acts 2015, Nos. 129, 141, and 412, relative to  
17 the motion picture production tax credit; to provide for definitions applicable to the  
18 credit; to provide for base investment credit enhancements; to provide for a  
19 maximum overall credit rate; to provide for conditions required to earn the credit; to  
20 provide for payroll credits for qualified entertainment companies; to provide for a  
21 sunset date for third-party credit transfers; to provide for permanent credit caps,  
22 structured pay outs, and project size limitations; to remove duplicate provisions; to  
23 provide for a sunset date; to provide for an effective date; and to provide for related  
24 matters."

25 AMENDMENT NO. 2

26 On page 1, delete lines 6 through 21, and on page 2, delete lines 1 through 5, and insert:

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

36 §6007. Motion picture production tax credit

37 \* \* \*

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

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

46 \* \* \*

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

1 (a) ~~A five-second long static or animated graphic that promotes Louisiana in~~  
2 ~~the end credits before the below-the-line crew crawl for the life of the production,~~  
3 ~~and which includes a link to Louisiana on the production's website and online~~  
4 ~~promotions.~~

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

8 \* \* \*

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

17 \* \* \*

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

30 \* \* \*

31 (16) "Production expenditure verification report" means a report issued by  
32 a qualified accountant who is unrelated to the motion picture production company  
33 and that is a report of the qualified accountant's verification of the motion picture  
34 production's cost report of production expenditures. The production expenditure  
35 verification report shall contain an opinion from the qualified accountant stating that  
36 there are no related party transactions or that material transactions of related party  
37 relationships are properly reported and accounted for as required by Paragraph  
38 (D)(9) of this Section, adequately disclosed, and explained in the report and that the  
39 production's cost report of production expenditures presents fairly, in all material  
40 aspects, the production expenditures expended in Louisiana pursuant to the  
41 provisions of this Section. The production expenditure verification report shall:

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

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

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

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

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

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

55 (17)(a) "Production expenditures" means preproduction, production, and  
56 postproduction expenditures in this state directly relating to a state-certified  
57 production, including without limitation the following: set construction and  
58 operation; wardrobes, makeup, accessories, and related services; costs associated  
59 with photography and sound synchronization, lighting, and related services and  
60 materials; editing and related services; rental of facilities and equipment; leasing of  
61 vehicles; costs of food and lodging; digital or tape editing, film processing, transfer

1 of film to tape or digital format, sound mixing, special and visual effects; and  
2 payroll. For all state-certified productions approved on or after July 1, 2015, this  
3 term shall include marketing and promotion expenses of the state-certified  
4 production incurred in this state.

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

32 (d) For all applications received on or after July 1, 2017, this term shall not  
33 include procurement company purchases, unless such expenditures are made in  
34 Louisiana, or for products or inventory regularly held or maintained by a  
35 procurement company in Louisiana. Procurement companies shall provide a report  
36 to the production company identifying the source of all goods purchased, and tax  
37 credits may be awarded only on a pro rata basis, allocating for in state and out of  
38 state purchases.

39 \* \* \*

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

44 \* \* \*

45 (24) "Source within the state" means a physical facility in Louisiana,  
46 operating with posted business hours and employing at least one full-time equivalent  
47 employee. Except as otherwise provided in Subparagraph (B)(17)(d) of this Section,  
48 procurement companies shall not be considered a source within the state.

49 \* \* \*

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

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

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

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

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

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

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

18   \*       \*       \*

19           C. Production tax credit; specific productions and projects.

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

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

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

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

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

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

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

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

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

14 (iii) The initial certification shall be effective for qualifying expenditures  
15 made within a period of twelve months prior to and twelve the date of application,  
16 and twenty-four months after the date of initial certification-, except that:

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

23 (iv) As a condition of receiving tax credits pursuant to this Section,  
24 state-certified productions shall be required to acknowledge the financial assistance  
25 of the state of Louisiana, either through the inclusion of a Louisiana promotional  
26 graphic, or an alternative marketing option, including a donation to a Louisiana  
27 non-profit film grant program, as approved by the office.

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

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

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

45 (ii) To the extent that base investment is expended on payroll for Louisiana  
46 residents employed in connection with a state-certified production, each investor  
47 shall be allowed an additional tax credit of ten percent of such payroll. However, if  
48 the payroll to any one person exceeds one million dollars, this additional credit shall  
49 exclude any salary for that person that exceeds one million dollars. Tier 2. A payroll  
50 credit of twenty percent shall be earned for each new job whose QEC payroll is equal  
51 to or greater than sixty-six thousand dollars per year, but no greater than two hundred  
52 thousand dollars per year.

53 (iii) The initial certification shall be effective for qualifying expenditures  
54 made within a period twelve months prior to and twelve months after the date of  
55 initial certification.

56 (c) For state-certified productions approved by the office and the secretary  
57 applications for state-certified productions approved on or after July 1, 2009, and  
58 before July 1, 2017:

59 \* \* \*

60 (3) Application of the credit.

61 \* \* \*

1 (d) In order to prevent disguised sales of the credits, allocations of credits  
2 through partnership and membership agreements shall not be recognized unless they  
3 have "substantial economic effect" as that term is defined by 26 U.S.C.A. §704 and  
4 the federal regulations thereunder.

5 (4) Transferability of the credit. Except as provided for in ~~Item (f)(iii)~~  
6 Subparagraph (g) of this Paragraph, motion picture tax credits not previously claimed  
7 by any taxpayer against its income tax may be transferred or sold to another  
8 Louisiana taxpayer or to the ~~office~~ Department of Revenue, subject to the following  
9 conditions:

10 \* \* \*

11 ~~(f)(i) Beginning on and after January 1, 2007, the investor who earned the~~  
12 ~~motion picture investor tax credits may transfer the credits to the office for seventy-~~  
13 ~~two percent of the face value of the credits. Beginning January 1, 2009, and every~~  
14 ~~second year thereafter, the percent of the face value of the tax credits allowed for~~  
15 ~~transferring credits to the office shall increase two percent until the percentage~~  
16 ~~reaches eighty percent.~~

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

24 ~~(bb) For projects that apply on and after July 1, 2017, the motion picture~~  
25 ~~production company that earned the motion picture production tax credits pursuant~~  
26 ~~to such certification or the company's irrevocable designee, as provided for in Item~~  
27 ~~(iii) of this Subparagraph, may transfer the credits to the Department of Revenue for~~  
28 ~~ninety percent of the face value of the credits in accordance with the procedures and~~  
29 ~~requirements of Item (ii) of this Subparagraph.~~

30 ~~(cc) Beginning July 1, 2017, legacy credits that are recorded in the Louisiana~~  
31 ~~Tax Credit Registry before January 1, 2018, may be transferred to the Department~~  
32 ~~of Revenue for eighty-five percent of face value. The Department of Revenue shall~~  
33 ~~make payment for the legacy credits in the amount to which the transferor is entitled~~  
34 ~~from the current collections of the taxes collected pursuant to Chapter 1 of Subtitle~~  
35 ~~II, of this Title. The Department of Revenue may require the transferor to submit~~  
36 ~~such additional information as may be necessary to administer the provisions of this~~  
37 ~~Section.~~

38 ~~(iii)(ii) The Department of Revenue may require the transferor to submit such~~  
39 ~~additional information as may be necessary to administer the provisions of this~~  
40 ~~Section. The secretary of the Department of Revenue shall make payment to the~~  
41 ~~motion picture production company or its irrevocable designee in the amount to~~  
42 ~~which he is entitled from the current collections of the taxes collected pursuant to~~  
43 ~~Chapter 1 of Subtitle II, of this Title provided such tax credits are transferred to the~~  
44 ~~Department of Revenue within one calendar year of certification.~~

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

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

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

58 \* \* \*

59 D. Certification and administration.

60 (1)(a)(i) Company-based QEC payroll tax credit. It is the intent of the  
61 Louisiana Legislature that the tax credits provided in this Section should be used

1 primarily as an inducement for qualified entertainment businesses to permanently  
2 locate new or expand existing operations in Louisiana. A business may be eligible  
3 for participation in the program if it meets all of the following criteria:

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

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

10 (cc) Is approved by the secretary.

11 (l) The following business types are ineligible:

12 (aaa) Telecommunication.

13 (bbb) Any other businesses as determined by rule promulgated by the  
14 Department of Economic Development.

15 (ii) The secretary of the Department of Economic Development and the office  
16 shall determine through the promulgation of rules the minimum criteria that a project  
17 must meet in order to qualify according to this Section. ~~The secretary, the office, and~~  
18 ~~the division of administration shall determine through the promulgation of rules the~~  
19 ~~minimum criteria that a project must meet in order to qualify according to this~~  
20 ~~Section.~~

21 \* \* \*

22 (d) When determining which productions may qualify, the office and the  
23 secretary of the Department of Economic Development shall take the following  
24 factors into consideration:

25 \* \* \*

26 (v) Filming location, project size, project type, and availability of tax credits  
27 in any given year.

28 (2)(a) Application. An applicant for the motion picture investor credit shall  
29 submit an application for initial certification to the office and the secretary of the  
30 Department of Economic Development that includes the following information:

31 (i) For state-certified productions the application shall include:

32 \* \* \*

33 (gg) The format of the project, for example whether it is a feature film or  
34 television series, and whether it seeks qualification as a QEC, independent film  
35 project, or Louisiana screenplay project.

36 (hh) A statement of which of the base credit rate enhancements or additional  
37 credits for payroll or visual effects, if any, will apply to the project and an estimate  
38 of expenditures in each applicable category.

39 (ii) Company-based QEC payroll tax credit. Applications shall be submitted  
40 to the office on a form prescribed by the department, or if available submitted  
41 electronically, to include such information as may be required by the department to  
42 determine if the applicant is qualified.

43 \* \* \*

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

54 \* \* \*

55 (d)(i) ~~The Project-Based Production tax credit.~~ After application review and  
56 consideration of all discretionary factors, the office and the secretary shall submit  
57 their initial certification or written denial of a project as a state-certified production  
58 to investors and to the secretary of the Department of Revenue indicating the total  
59 base investment which shall be expended in the state on the state-certified production  
60 within sixty days of their receipt of all required information. The initial certification

1 shall include a unique identifying number for each state-certified production and  
2 shall provide for a preliminary allocation of tax credits by year.

3 (ii) Company-based QEC payroll tax credit. After application review and  
4 consideration of all discretionary factors, the office and the secretary may execute  
5 a contract with an applicant for a period of up to five years, providing the terms and  
6 conditions for its participation. A five-year renewal contract may be authorized if the  
7 applicant has complied with all the terms of the contract and has not performed any  
8 act, nor failed to perform any act, which would have made the applicant liable for  
9 suspension, and has complied with the provisions of this Section. The contract shall  
10 set forth an estimate of jobs and payroll per calendar year, which will be tentatively  
11 allocated to the QEC for annual cap computation purposes.

12 \* \* \*

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

36 (bb) For projects with initial certification letters issued before July 1, 2015,  
37 upon project completion or at any time after project costs are deemed final by the  
38 motion picture production company or applicant, the applicant shall make a request  
39 to the office to proceed to final certification by submitting to the office a cost report  
40 of production expenditures to be formatted in accordance with instructions of the  
41 office promulgated in compliance with the Administrative Procedure Act. The  
42 applicant shall make all records related to the cost report available for inspection by  
43 the office and the qualified accountant selected by the office to prepare the  
44 production expenditure verification report. After review and investigation of the cost  
45 report, and after two levels of review within a CPA firm or a second review through  
46 a cooperative endeavor with another CPA, the accountant shall submit to the office,  
47 the secretary, and the motion picture production company or motion picture investor  
48 tax credit applicant a production expenditure verification report and the affidavit  
49 required by Subparagraph (g) of this Paragraph. The office and the secretary shall  
50 review the production expenditure verification report and may require additional  
51 information needed to make a determination. Within one hundred twenty days of the  
52 receipt of the production expenditure verification report and all required supporting  
53 information, the office and the secretary shall issue a tax credit certification letter  
54 indicating the amount of tax credits certified for the state-certified production to the  
55 investors for all qualifying expenditures verified by the office. Any expenditures for  
56 which tax credits were neither denied nor certified due to insufficient information or  
57 other issues, the office and secretary shall diligently work to resolve the outstanding  
58 issues in a timely manner, and the office and secretary may subsequently issue a  
59 supplemental tax credit certification at the time of such resolution.

60 \* \* \*



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

5 \* \* \*

6 (9) \* \* \*

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

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

12 \* \* \*

13 ~~I. Commencing no later than January 31, 2016, the House Committee on~~  
 14 ~~Ways and Means and the Senate Committee on Revenue and Fiscal Affairs shall~~  
 15 ~~review the credit authorized pursuant to the provisions of this Section to determine~~  
 16 ~~if the economic benefit provided by such credit outweigh the loss of revenue realized~~  
 17 ~~by the state as a result of awarding such credit. The House and Senate committees~~  
 18 ~~shall make a specific recommendation no later than March 1, 2017, to either continue~~  
 19 ~~the credit or to terminate the credit. No credits shall be allowed pursuant to this~~  
 20 ~~Section for applications received on or after July 1, 2025.~~

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

22 (1) Department of Economic Development program issuance cap.

23 (a) The department shall by rule establish the method of provisionally  
 24 allocating available tax credits in initial certification letters, and the method for  
 25 granting tax credits in final tax credit certification letters, including but not limited  
 26 to a first-come, first-served system, reservation of tax credits for a specific time  
 27 period, or other method which the department, in its discretion, may find beneficial  
 28 to the program.

29 (b) For applications for state-certified productions and qualified  
 30 entertainment companies submitted on or after July 1, 2017, the total amount of all  
 31 tax credits granted in a final certification letter by the department in any fiscal year  
 32 shall not exceed one hundred fifty million dollars. Twenty percent of the annual  
 33 program cap shall be reserved as follows: five percent for qualified entertainment  
 34 companies, five percent for Louisiana screenplay productions, and ten percent for  
 35 independent film productions. If the total amount of credits applied for in any  
 36 particular year exceeds the aggregate amount of tax credits allowed for that year, the  
 37 excess shall be treated as having been applied for on the first day of the subsequent  
 38 year.

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

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

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

48 (2) Department of Revenue taxpayer claim cap.

49 (a) Beginning July 1, 2017, claims against state income tax allowed on  
 50 returns for tax credits or transfers of such tax credits, including legacy credits, to the  
 51 Department of Revenue as provided for in Paragraph (C)(4) of this Section shall be  
 52 limited to an aggregate total of one hundred eighty million dollars each fiscal year.  
 53 If less than one hundred eighty million dollars of such tax credits and transfers are  
 54 allowed in a fiscal year, the remaining amount, plus any amounts remaining from  
 55 previous fiscal years, shall be added to the one hundred eighty million dollar limit  
 56 of subsequent fiscal years until that amount of tax credits or tax credit transfers to the  
 57 Department of Revenue are claimed and allowed.

58 (b)(i) Claims for tax credits or transfers of tax credits to the Department of  
 59 Revenue shall be allowed on a first-come, first-served basis. Any taxpayer whose  
 60 claim for such tax credits or transfer to the Department of Revenue is disallowed  
 61 because the fiscal year cap has been reached may use the tax credits against state

1 income tax due in an original return filed in the next fiscal year or may transfer tax  
 2 credits to the Department of Revenue the next fiscal year, and his claim or transfer  
 3 shall have priority over other claims filed or transfers applied for after the date of his  
 4 original claim or application for transfer.

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

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

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

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

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

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

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

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

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

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

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

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

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

51 Section 2. R.S. 47:6007(B)(4), (11) as amended by Acts 2015, Nos. 134 and 144,  
 52 (16) as amended by Acts 2015, No. 134 and 412, (17)(c), (d), and (e) all as amended by Acts  
 53 2015, Nos. 134, 141, 142, 143, 144, and 412, (23), (C)(1)(d), (C)(4)(f) as amended by Acts  
 54 2015, No. 144, (D)(2)(c)(i) as amended by Acts 2015, No. 412, (D)(2)(e)(i) as amended by  
 55 Acts 2015, Nos. 129, 141, and 412 are hereby repealed.

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

58 Section 4. This Act shall become effective upon signature by the governor or, if not  
 59 signed by the governor, upon expiration of the time for bills to become law without signature  
 60 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."