

<b>FOR OFFICE USE ONLY</b>	

---

## HOUSE FLOOR AMENDMENTS

Amendments proposed by Representative Montoucet to Original House Bill No. 696 by Representative Montoucet

---

1    AMENDMENT NO. 1

2    On page 1, line 2, after "To" delete the remainder of the line and delete lines 3 through 6 in  
3    their entirety and insert the following:

4            "amend and reenact R.S. 47:6007(B), (C)(1), (4)(b), (e), and (f), and (7), (D)(1)(a)  
5            and (b), (2)(a)(i)(cc), (c), and (d)(introductory paragraph) and (i), (E), and (F)(1), to  
6            enact R.S. 47:6007(G) and 6030(G), and to repeal R.S. 47:6007(D)(2)(a)(i)(ee),  
7            relative to state"

8    AMENDMENT NO. 2

9    On page 1, at the beginning of line 7, delete "and franchise" and after "credits;" insert "to  
10   provide with respect to the motion picture investor tax credit;"

11   AMENDMENT NO. 3

12   On page 1, line 7, after "reduction of" delete the remainder of the line and from the  
13   beginning of line 8, delete "franchise tax credits; to repeal certain income tax credits;" and  
14   insert in lieu thereof the following:

15            "such credit under certain circumstances; to provide for certain definitions; to  
16            provide for the certification of expenditures on state-certified productions; to provide  
17            with respect to the transfer of tax credits; to provide with respect to the processing  
18            fee for the transfer of tax credits; to provide with respect to the certification and  
19            administration of tax credits; to provide for certain audit requirements; to provide for  
20            the recapture and recovery of tax credits; to provide with respect to the wind or solar  
21            energy systems tax credit; to require the reduction of such credit under certain  
22            circumstances; to provide for certain limitations;"

23   AMENDMENT NO. 4

24   On page 1, line 11, after "Section 1." delete "R.S. 47:6039 is" and insert the following:

25            "R.S. 47:6007(B), (C)(1), (4)(b), (e), and (f), and (7), (1)(a) and (b), (D)(2)(a)(i)(cc),  
26            (c), and (d)(introductory paragraph) and (i), (E), and (F)(1) are"

27   AMENDMENT NO. 5

28   On page 1, line 11, after "reenacted" and before "to" insert "and R.S. 47:6007(G) and  
29   6030(G) are hereby enacted"

30  
31   AMENDMENT NO. 6

32   On page 1, delete lines 12 through 20 in their entirety and on page 2, delete lines 1 and 2 in  
33   their entirety and insert the following:

1       "§6007. Motion picture investor tax credit

2   \*       \*       \*

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

4                               (1) "Base investment" means cash or cash equivalent investment made and  
5                               used for production expenditures in the state for a state-certified production.

6                               (2) "Box rental" means private property owned by an employee or individual  
7                               contractor and leased to a state-certified production, for use in Louisiana on the state  
8                               -certified production, noted as additional income on a W2 or 1099 tax form.

9                               (3) "Expended in the state" means an expenditure to lease immovable  
10                               property located in the state; an expenditure as compensation for services performed  
11                               in the state; or an expenditure to purchase or lease tangible personal property within  
12                               the state where the transaction is subject to the state sales or lease tax provisions of  
13                               Title 47 of the Louisiana Revised Statutes of 1950. A transaction that is subject to  
14                               the state sales or lease tax provisions of Title 47 of the Louisiana Revised Statutes  
15                               of 1950 shall include transactions which are also subject to a statutory exclusion or  
16                               exemption.

17                               ~~(3)~~ (4) "Expenditure" means actual cash or cash equivalent exchanged for  
18                               goods or services.

19                               ~~(4)~~ (5) "Headquartered in Louisiana" means a corporation incorporated in  
20                               Louisiana or a partnership, limited liability company, or other business entity  
21                               domiciled and headquartered in Louisiana for the purpose of producing nationally  
22                               or internationally distributed motion pictures as defined in this Section.

23                               ~~(5)~~ (6) "Motion picture" means a nationally or internationally distributed  
24                               feature-length film, video, television pilot, television series, television movie of the  
25                               week, animated feature film, animated television series, or commercial made in  
26                               Louisiana, in whole or in part, for theatrical viewing, ~~or~~ television viewing, or any  
27                               digital online platform as approved by the office. The term "motion picture" shall  
28                               not include the production of television coverage of news and athletic events.

29                               ~~(6)~~ (7) "Motion picture production company" means a company engaged in  
30                               the business of producing nationally or internationally distributed motion pictures  
31                               as defined in this Section. Motion picture production company shall not mean or  
32                               include any company owned, affiliated, or controlled, in whole or in part, by any  
33                               company or person which is in default on a loan made by the state or a loan  
34                               guaranteed by the state, nor with any company or person who has ever declared  
35                               bankruptcy under which an obligation of the company or person to pay or repay  
36                               public funds or monies was discharged as a part of such bankruptcy.

37                               ~~(7)~~ (8) "Office" means the Governor's Office of Film and Television  
38                               Development until August 15, 2006; thereafter, the term "office" means the office  
39                               of entertainment industry development in the Department of Economic Development  
40                               provided for in R.S. 51:938.1.

41                               ~~(8)~~ (9) "Payroll" means all salary, wages, and other compensation, including  
42                               benefits paid to an employee for services relating to a state-certified production and  
43                               taxable in this state. ~~However,~~ For applications received prior to August 1, 2013,  
44                               "payroll" for purposes of the additional tax credit for Louisiana-resident payroll shall  
45                               exclude any portion of an individual salary in excess of one million dollars. For  
46                               applications received on or after August 1, 2013, payroll expenditures shall be  
47                               limited to three million dollars per person, per state-certified production for each  
48                               employee reported on a W2 form. Payments made to loan out companies or  
49

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 independent contractors reported on a Form 1099 shall also be subject to a limitation  
 2 of three million dollars per person, per state-certified production.

3 ~~(9)~~ (10) "Production expenditures" means preproduction, production, and  
 4 postproduction expenditures in this state directly relating to a state-certified  
 5 production, including without limitation the following: set construction and  
 6 operation; wardrobes, makeup, accessories, and related services; costs associated  
 7 with photography and sound synchronization, lighting, and related services and  
 8 materials; editing and related services; rental of facilities and equipment; leasing of  
 9 vehicles; costs of food and lodging; digital or tape editing, film processing, transfer  
 10 of film to tape or digital format, sound mixing, special and visual effects and box  
 11 rentals; and payroll. This term shall not include expenditures for marketing and  
 12 distribution, non-production related overhead, amounts reimbursed by the state or  
 13 any other governmental entity, costs related to the transfer of tax credits, amounts  
 14 that are paid to persons or entities as a result of their participation in profits from the  
 15 exploitation of the production, the application fee, or state or local taxes. Production  
 16 expenditures shall not include the cost of customization or custom development of  
 17 a tangible good specifically designed for use by a state-certified production in  
 18 Louisiana, unless the customization services are performed in Louisiana. For  
 19 applications received on or after August 1, 2013, production expenditures shall not  
 20 include expenditures for airfare, finance fees, bond fees, loan interest, or insurance  
 21 premiums.

22 ~~(10)~~ (11) "Related party transaction" means a transaction between parties  
 23 deemed to be related by common ownership or control, under generally accepted  
 24 auditing principles. Related party transaction expenditures may be subject to  
 25 limitations, as provided for by rules promulgated by the department, in accordance  
 26 with the provisions of the Administrative Procedure Act.

27  
 28 (12) "Resident" or "resident of Louisiana" means a natural person domiciled  
 29 in the state. A person who maintains a permanent place of abode within the state and  
 30 spends in the aggregate more than six months of each year within the state shall be  
 31 presumed to be domiciled in the state.

32 ~~(11)~~ (13) "Secretary" means the secretary of the Department of Economic  
 33 Development.

34 ~~(12)~~ (14) "Source within the state" means a physical facility in Louisiana,  
 35 operating with posted business hours and employing at least one full-time equivalent  
 36 employee.

37 ~~(13)~~ (15) "Special event" means an event that occurs irrespective of filming,  
 38 such as Mardi Gras, music festivals, concerts, or other similarly situated events.

39 (16) "Special event production expenditures" means only costs directly  
 40 related to filming the special event and only these shall qualify for tax credits. Costs  
 41 indirectly related to filming shall not qualify for tax credits, including but not limited  
 42 to artist compensation for festival or concert appearances and costs associated with  
 43 the usual activities of a reality show or documentary.

44 (17) "State" means the state of Louisiana.

45 ~~(14)~~ (18) "State-certified production" shall mean a production approved by  
 46 the office and the secretary which is produced by a motion picture production  
 47 company domiciled and headquartered in Louisiana and which has a viable multi-  
 48 market commercial distribution plan.

49 C. Investor tax credit; specific productions and projects.

1 (1) There is hereby authorized a tax credit against state income tax for  
2 Louisiana taxpayers for investment in state-certified productions. The tax credit  
3 shall be earned by investors at the time expenditures are made by a motion picture  
4 production company in a state-certified production. However, credits cannot be  
5 applied against a tax or transferred until the expenditures are certified by the office  
6 and the secretary. For state-certified productions, expenditures shall be certified no  
7 more than ~~twice during the duration of a state-certified production unless the motion~~  
8 ~~picture production company agrees to reimburse the office for the costs of any~~  
9 ~~additional certifications~~ once per calender year. The tax credit shall be calculated  
10 as a percentage of the total base investment dollars certified per project.

11 \* \* \*

12 (4) Transferability of the credit. Any motion picture tax credits not  
13 previously claimed by any taxpayer against its income tax may be transferred or sold  
14 to another Louisiana taxpayer or to the office, subject to the following conditions:

15 \* \* \*

16 (b) Transferors and transferees shall submit ~~to the office, and~~ to the  
17 Department of Revenue in writing, a notification of any transfer or sale of tax credits  
18 within thirty days after the transfer or sale of such tax credits. The notification shall  
19 include the transferor's tax credit balance prior to transfer, a copy of any tax credit  
20 certification letter(s) issued by the office and the secretary of the Department of  
21 Economic Development, and the transferor's remaining tax credit balance after  
22 transfer, name and all tax identification numbers for both transferor and transferee,  
23 the date of transfer, the amount transferred, a copy of the credit certificate, price paid  
24 by the transferee to the transferor, in the case when the transferor is a state-certified  
25 production, for the tax credits, and any other information required by ~~the office or~~  
26 ~~the Department of Revenue.~~ A transfer shall not become effective against third  
27 parties until all required transfer documents are submitted to the Department of  
28 Revenue as provided by rules promulgated by the department in accordance with the  
29 Administrative Procedure Act. For the purpose of reporting transfer prices, the term  
30 "transfer" shall include allocations pursuant to Paragraph (2) of this Subsection as  
31 provided by rule. The office may post on its website an average tax credit transfer  
32 value, as determined by the office and the secretary of the Department of Economic  
33 Development to reflect adequately the current average tax credit transfer value. The  
34 tax credit transfer value means the percentage as determined by the price paid by the  
35 transferee to the transferor divided by the dollar value of the tax credits that were  
36 transferred in return. The notification ~~submitted to the office~~ shall include a  
37 processing fee of ~~up to~~ two hundred dollars per transferee, and any pricing  
38 information submitted by a transferor or transferee shall be treated by the office and  
39 the Department of Revenue as proprietary to the entity reporting such information  
40 and therefore confidential. However, this shall not prevent the publication of  
41 summary data that includes no fewer than three transactions or prevent the  
42 Department of Revenue from issuing Tax Credit Opinion Letters.

43 \* \* \*

44 (e) To the extent that the transferor did not have rights to claim or use the  
45 credit at the time of the transfer, the Department of Revenue shall either disallow the  
46 credit claimed by the transferee or recapture the credit from the transferee through  
47 any collection method authorized by R.S. 47:1561. ~~The transferee's recourse is~~  
48 ~~against the transferor.~~

49 (f)(i) Beginning on and after January 1, 2007, the investor who earned the  
50 motion picture investor tax credits may transfer the credits to the ~~office~~ Department  
51 of Revenue for seventy-two percent of the face value of the credits. Beginning  
52 January 1, 2009, and every second year thereafter, the percent of the face value of  
53 the tax credits allowed for transferring credits to the ~~office~~ Department of Revenue

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 shall increase two percent until the percentage reaches eighty percent. Upon the  
 2 transfer, the ~~Department of Economic Development shall notify the Department of~~  
 3 ~~Revenue and shall provide it with a copy of the transfer documentation.~~ The  
 4 ~~Department of Revenue may require the transferor to submit such additional~~  
 5 ~~information as may be necessary to administer the provisions of this Section.~~ The  
 6 secretary of the Department of Revenue shall make payment to the investor in the  
 7 amount to which he is entitled from the current collections of the taxes collected  
 8 pursuant to Chapter 1 of Subtitle II, provided such credits are transferred to the office  
 9 within one calendar year of certification.

10 (ii) For projects which receive initial certification on and after July 1, 2009,  
 11 the investor who earned the motion picture investor tax credits pursuant to such  
 12 certification may transfer the credits to the office Department of Revenue for eighty-  
 13 five percent of the face value of the credits in accordance with the procedures and  
 14 requirements of Item (i) of this Subparagraph.

15 \* \* \*

16 (7)(a) The processing fee provided for in Subparagraph (4)(b) of this  
 17 Subsection ~~received by the office shall be deposited upon receipt in the state~~  
 18 ~~treasury. After compliance with the requirements of Article VII, Section 9(B) of the~~  
 19 ~~Constitution of Louisiana relative to the Bond Security and Redemption Fund and~~  
 20 ~~prior to any money being placed into the state general fund or any other fund, an~~  
 21 ~~amount equal to that deposited as required by this Paragraph shall be credited by the~~  
 22 ~~treasurer to a special fund hereby created in the state treasury to be known as the~~  
 23 ~~Louisiana Filmmakers Grant Fund. The money in the fund shall be appropriated by~~  
 24 ~~the legislature to be used solely for the support of Louisiana's independent~~  
 25 ~~filmmakers through the Louisiana Filmmakers Grant Program.~~

26 (b) ~~The money in the fund shall be invested by the treasurer in the same~~  
 27 ~~manner as money in the state general fund and interest earned on the investment of~~  
 28 ~~the money shall be credited to the fund after compliance with the requirements of~~  
 29 ~~Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond~~  
 30 ~~Security and Redemption Fund. All unexpended and unencumbered money in the~~  
 31 ~~fund at the end of the year shall remain in the fund.~~

32 (c) ~~The office shall administer the Louisiana Filmmakers Grant Program in~~  
 33 ~~accordance with rules adopted by the office in accordance with the Administrative~~  
 34 ~~Procedure Act. The office shall award grants to filmmakers domiciled in Louisiana~~  
 35 ~~who make a film in Louisiana, the total cost of which film shall not exceed three~~  
 36 ~~hundred thousand dollars. The maximum amount of any grant shall not exceed the~~  
 37 ~~lesser of fifty percent of the total cost of the film or one hundred thousand dollars~~  
 38 ~~shall be paid to the Department of Revenue.~~

39 D. Certification and administration.

40 (1)(a) The secretary of the Department of Economic Development and the  
 41 office shall determine through the promulgation of rules the minimum criteria that  
 42 a project must meet in order to qualify according to this Section. The secretary; and  
 43 ~~the office, and the division of administration~~ shall determine through the  
 44 promulgation of rules the minimum criteria that a project must meet in order to  
 45 qualify according to this Section.

46 (b) The secretary; and the office; ~~and the division of administration~~ shall  
 47 determine, through the promulgation of rules, an appeals process in the event that an  
 48 application for or the certification of motion picture production tax credit is denied.  
 49 The office shall promptly provide written notice of such denial to the Senate  
 50 Committee on Revenue and Fiscal Affairs and the House Committee on Ways and  
 51 Means.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45

\* \* \*  
  
\* \* \*  
  
\* \* \*  
  
\* \* \*

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

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

(cc) The script, ~~including~~ or a synopsis.

(c) The office and the secretary shall submit their initial certification of a project as a state-certified production to ~~investors~~ the applicant and to the secretary of the Department of Revenue indicating the total base investment which shall be expended in the state on the state-certified production. The initial certification shall include a unique identifying number for each state-certified production.

(d) Prior to any final certification of the state-certified production, the motion picture production company shall submit to the office and the secretary an audit of the production expenditures certified by an independent certified public accountant, approved by the office as determined by rule. The office and the secretary shall review the audit, the production expense details, and may require additional information needed to make a determination. Upon approval of the audit, the office and the secretary shall issue a final tax credit certification letter indicating the amount of tax credits certified for the state-certified production to the investors. The rules required by this Subparagraph shall, at a minimum, require that:

(i) The auditor shall be a certified public accountant licensed in the state of Louisiana and shall be an independent third party, not related to the producer. The auditor's opinion shall disclose all non-audit services provided for a state-certified production and independence shall be comprised, and an audit rejected, if either consulting services or tax credit assessments are performed, in addition to an audit of expenditures.

E. Recapture of credits. If the office finds that ~~monies for which an investor received tax credits according to this Section are not invested in and expended with respect to a state-certified production within twenty-four months of the date that such credits are earned~~ a taxpayer has obtained a tax credit in violation of the provisions of this Chapter, including but not limited to fraud or misrepresentation, then the investor's state income tax for such taxable period any tax liability of the taxpayer collected under Title 47 of the Louisiana Revised Statutes shall be increased by such amount necessary for the recapture of credit provided by this Section.

F. Recovery of credits by Department of Revenue. (1) Credits previously ~~granted to a taxpayer paid,~~ but later disallowed, may be recovered by the secretary of the Department of Revenue through any collection remedy authorized by R.S. 47:1561 and initiated within ~~three years from December thirty-first of the year in which the twenty-four-month investment period specified in Subsection E of this Section ends.~~ the latter of either of the following:

(a) Two years from December thirty-first of the year in which the tax credit or rebate was paid.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1           (b) Three years from December thirty-first of the year in which the taxes for  
2           the filing period were due.

3           G. Notwithstanding any provision of law to the contrary, any tax credit  
4           certified by the office and the secretary according to the provisions of this Section  
5           on or after July 1, 2013, through June 30, 2016, shall be reduced by ten percent,  
6           which shall become the face value of such credits. Beginning July 1, 2016, any tax  
7           credit, including tax credits certified by the office and the secretary on or after July  
8           1, 2013, and before June 30, 2016, shall be given their full value.

9   \*       \*       \*

10          §6030. Wind or solar energy systems tax credit

11   \*       \*       \*

12           G. Notwithstanding any provision of law to the contrary, beginning July 1,  
13           2013, any tax credit subject to the provisions of this Section which is presented to the  
14           Department of Revenue or claimed by a taxpayer as an offset against corporate tax  
15           liability on a taxpayer's tax return shall be reduced by fifteen percent."

16          AMENDMENT NO. 7

17          On page 2, line 3, after "Section 2." delete the remainder of the line and delete lines 4  
18          through 6 in their entirety and from the beginning of line 7, delete "through 1813 are" and  
19          insert "R.S. 47:6007(D)(2)(a)(i)(ee) is"

20          AMENDMENT NO. 8

21          On page 2, line 7, after change "their" to "its"

22          AMENDMENT NO. 9

23          On page 2, at the beginning of line 8, after "Section 3." delete the remainder of the line and  
24          delete lines 9 through 11 in their entirety and insert the following:

25                "(A) This Act shall become effective on July 1, 2013; if vetoed by the governor and  
26                subsequently approved by the legislature, this Act shall become effective on July 1, 2013,  
27                or on the day following such approval by the legislature, whichever is later.

28                (B) This Act shall take effect and become operative only if the proposed  
29                amendments of the Constitution of Louisiana contained in the Joint Resolutions which  
30                originated as House Bill Nos. 434, 435, and 436 of this 2013 Regular Session of the  
31                Legislature are concurred in by both houses of the legislature and House Bill Nos. 1, 437,  
32                456, 474, 571, 620, and 653 of this 2013 Regular Session of the Legislature are enacted into  
33                law."