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**HOUSE FLOOR AMENDMENTS**

2015 Regular Session

Amendments proposed by Representative Robideaux to Reengrossed Senate Bill No. 105  
by Senator Morrell

1 AMENDMENT NO. 1

2 On page 1, line 2, between "reenact" and "relative to" delete "R.S. 47:6007(F)," and insert  
3 "R.S. 47:6007(B), (C)(1)(introductory paragraph), (c), and (d) and (2), (D)(4)(ii)(aa), and  
4 (F) and to enact R.S. 47:6007(C)(1)(e),"

5 AMENDMENT NO. 2

6 On page 1, line 3, between "entities;" and "and to" insert the following:

7 "to provide for certain definitions; to provide for the certification of credits; to authorize  
8 credits for certain investors; to authorize a credit for certain state certified productions which  
9 employ certain residents; to authorize a credit for investments on certain music; to provide  
10 for an annual program cap on the tax credit; to provide for a cap on certain productions; to  
11 provide for the transfer of credits; to provide for use of the monies collected as a result of  
12 the application fee; to provide for tax credit requirements and limitations; to provide for an  
13 effective date;"

14 AMENDMENT NO. 3

15 On page 1, delete lines 6 in its entirety and insert the following:

16 "Section 1. R.S. 47:6007(B), (C)(1)(introductory paragraph), (c), and (d) and (2),  
17 (D)(4)(ii)(aa), and (F) are hereby amended and reenacted and R.S. 47:6007(C)(1)(e) is  
18 hereby enacted to read as follows:"

19 AMENDMENT NO. 4

20 On page 1, between lines 8 and 9, insert the following:

21 "B. Definitions. For the purposes of this Section:

22 **(1) "Above the line services" means services such as those of a producer,**  
23 **executive producer, line producer, co-producer, assistant producer, actor,**  
24 **director, casting director, screenwriter, and other services performed by**  
25 **personnel of the production that are associated with the creative or financial**  
26 **control of a production and customarily considered above the line services in**  
27 **the film and television industry.**

28 ~~(1)~~ **(2)** "Base investment" means cash or cash equivalent investment made  
29 and used for production expenditures in the state for a state-certified production.

30 ~~(2)~~ **(3)** "Expended in the state" means an expenditure to lease immovable  
31 property located in the state; an expenditure as compensation for services performed  
32 in the state; or an expenditure to purchase or lease tangible personal property within  
33 the state where the transaction is subject to the state sales or lease tax provisions of  
34 Title 47 of the Louisiana Revised Statutes of 1950. A transaction that is subject to

1 the state sales or lease tax provisions of Title 47 of the Louisiana Revised Statutes  
 2 of 1950 shall include transactions which are also subject to a statutory exclusion or  
 3 exemption.

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

6 ~~(4)~~ **(5)** "Headquartered in Louisiana" means a corporation incorporated in  
 7 Louisiana or a partnership, limited liability company, or other business entity  
 8 domiciled and headquartered in Louisiana for the purpose of producing nationally  
 9 or internationally distributed motion pictures as defined in this Section.

10 ~~(5)~~ **(6)** "Louisiana resident company" means a motion picture  
 11 production company licensed to conduct business in the state of Louisiana, with  
 12 its principal place of business in this state, which is owned one hundred percent  
 13 by a Louisiana resident or residents as defined in this Section. A Louisiana  
 14 resident company is required to file a Louisiana income tax return and maintain  
 15 a physical location in the state.

16 **(7)** "Louisiana screenplay" means a screenplay directly related to the  
 17 state- certified production, such as a screenplay created by a Louisiana resident,  
 18 copyright, or right of use held by a Louisiana resident with ongoing business  
 19 activities in the state, or other economic nexus with the state.

20 **(8)** "Marketing and promotion expenses" means expenditures included  
 21 in the production budget and made in this state for services performed in this  
 22 state directly relating to the development of advertising and marketing  
 23 campaigns for a state- certified production, such as the creation of film trailers  
 24 and posters, not exceeding the lesser of one million dollars or fifteen percent of  
 25 the total state-certified tax credits for the production. Marketing and  
 26 promotion expenses shall not include media buys except as established by rule  
 27 for a fixed fee or commission payment made to a Louisiana company for  
 28 services performed in the state in accordance with standard business practices.

29 **(9)** "Motion picture" means a nationally or internationally distributed  
 30 feature-length film, **short film**, video, television pilot, television series, television  
 31 movie of the week, animated feature film, **animated short film**, animated television  
 32 series, or commercial, **documentary**, made in Louisiana, in whole or in part, for  
 33 theatrical, ~~or television viewing~~, **or any online digital platform viewing approved**  
 34 **by the office and established by rule in accordance with the provisions of the**  
 35 **Administrative Procedure Act.** The term "motion picture" shall not include the  
 36 production of television coverage of news and athletic events.

37 ~~(6)~~ **(10)** "Motion picture production company" means a company engaged  
 38 in the business of producing nationally or internationally distributed motion pictures  
 39 as defined in this Section. Motion picture production company shall not mean or  
 40 include any company owned, affiliated, or controlled, in whole or in part, by any  
 41 company or person which is in default on a loan made by the state or a loan  
 42 guaranteed by the state, nor with any company or person who has ever declared  
 43 bankruptcy under which an obligation of the company or person to pay or repay  
 44 public funds or monies was discharged as a part of such bankruptcy.

45 ~~(7)~~ **(11)** "Office" means the Governor's Office of Film and Television  
 46 Development until August 15, 2006; thereafter, the term "office" means the office  
 47 of entertainment industry development in the Department of Economic Development  
 48 provided for in R.S. 51:938.1.

49 ~~(8)~~ **(12)** "Payroll" means all salary, wages, and other compensation,  
 50 including benefits paid to an employee for services relating to a state-certified

1 production and taxable in this state. ~~However, "payroll" for purposes of the~~  
 2 ~~additional tax credit for Louisiana-resident payroll shall exclude any portion of an~~  
 3 ~~individual salary in excess of one million dollars.~~ **However, payroll shall exclude**  
 4 **any portion of an individual salary in excess of one million dollars.**

5 **(13) "Principal place of business" means the state where the**  
 6 **administrative or management activities of a business are conducted. A**  
 7 **company claiming that its principal place of business is in Louisiana must be a**  
 8 **motion picture production company headquartered in this state and shall not**  
 9 **have any fixed locations outside of Louisiana in which administrative or**  
 10 **management activities are conducted, and the company shall be required to**  
 11 **maintain a physical location in the state. The company shall be licensed to**  
 12 **conduct business in this state and shall be required to file a Louisiana income**  
 13 **tax return.**

14 ~~(9)~~ **(14)** "Production audit report" means an audit report issued by a qualified  
 15 accountant who is unrelated to the motion picture production company and that is a  
 16 report of the qualified accountant's audit of the motion picture production's cost  
 17 report of production expenditures. The production audit report shall contain an  
 18 opinion from the qualified accountant stating that the production's cost report of  
 19 production expenditures presents fairly, in all material aspects, the production  
 20 expenditures expended in Louisiana pursuant to the provisions of this Section. The  
 21 production audit shall require:

22 (a) The production audit report to be performed in accordance with the  
 23 auditing standards generally accepted in the United States.

24 (b) The production audit report to be addressed to the party which has  
 25 engaged the qualified accountant.

26 (c) The production audit report to contain the qualified accountant's name,  
 27 address, and telephone number.

28 (d) The production audit report to contain a certification that the qualified  
 29 accountant is unrelated to the motion picture production company.

30 (e) The production audit report to be dated as of the date of completion of  
 31 the qualified accountant's field work.

32 (f) The production audit report to contain a statement of acknowledgment by  
 33 the qualified accountant that the state is relying on the qualified cost report in the  
 34 issuance of the tax credits under the provisions of this Section.

35 ~~(10)~~ **(15)** "Production expenditures" means preproduction, production, and  
 36 postproduction expenditures in this state directly relating to a state-certified  
 37 production, including without limitation the following: set construction and  
 38 operation; wardrobes, makeup, accessories, and related services; costs associated  
 39 with photography and sound synchronization, lighting, and related services and  
 40 materials; editing and related services; rental of facilities and equipment; leasing of  
 41 vehicles; costs of food and lodging; digital or tape editing, film processing, transfer  
 42 of film to tape or digital format, sound mixing, special and visual effects; and  
 43 payroll. **For all state-certified productions approved on or after January 1,**  
 44 **2004, this** ~~This term shall not include expenditures for marketing and distribution,~~  
 45 ~~non-production related overhead, amounts reimbursed by the state or any other~~  
 46 ~~governmental entity, costs related to the transfer of tax credits, amounts that are paid~~  
 47 ~~to persons or entities as a result of their participation in profits from the exploitation~~  
 48 ~~of the production, the application fee, or state or local taxes,~~ **or any expenditures**  
 49 **incurred outside of Louisiana. For all state certified productions approved on**  
 50 **or after July 1, 2015, this term shall include marketing and promotion expenses**  
 51 **of the state certified production incurred in this state.**

52 ~~(11)~~ **(16)** "Qualified accountant" means an independent certified public  
 53 accountant authorized to practice in this state who has sufficient knowledge of  
 54 accounting principles and practices generally recognized in the film and television  
 55 industry.



1 which has employed a director or directors who is a resident of this state and  
 2 can prove Louisiana residency for a minimum of two years, there shall be  
 3 allowed a tax credit of thirty percent of the total base investment made by that  
 4 investor. However, each applicant shall accept as a condition for earning this  
 5 tax credit, that no less than seventy-five percent of the total amount of the  
 6 applicant's expenditures for above the line services shall be expended on  
 7 residents of Louisiana and that seventy-five percent or more of the total number  
 8 of jobs in the production shall be jobs in which the applicant will employ  
 9 residents of Louisiana. Failure to comply with these requirements for which  
 10 certification of the tax credits is granted, shall void the certification and no tax  
 11 credits shall be certified by the office or the secretary or earned by the  
 12 applicant.

13 (iii) Beginning January 1, 2016, if the total base investment is greater  
 14 than three hundred thousand dollars and the state certified production is based  
 15 on a screenplay, the copyright of which or the right of use of the copyright of  
 16 which, is owned by a Louisiana resident company for a minimum of twelve  
 17 months prior to production or a Louisiana company with its principal place of  
 18 business in the state which employs a minimum of three full-time Louisiana  
 19 residents for a minimum of twelve months prior to production, each investor  
 20 shall be allowed a tax credit of fifteen percent of the base investment of the  
 21 production. The tax credit authorized in this Item shall be in addition to the tax  
 22 credit authorized in Item (i) of this Subparagraph. However, prior to the office  
 23 certifying any credits pursuant to the provisions of this Item, the secretary shall  
 24 promulgate rules and regulations pursuant to the Administrative Procedure  
 25 Act, subject to oversight by the House Ways and Means and the Senate Revenue  
 26 and Fiscal Affairs Committees, setting forth the criteria a Louisiana resident  
 27 company or Louisiana company with its principal place of business in this state  
 28 shall meet in order to qualify for the additional tax credit. The secretary shall  
 29 commence the process for the promulgation of the rules no later than October  
 30 1, 2015. If the office and the secretary determine that an expenditure is a  
 31 related party transaction, that expenditure shall not qualify for the additional  
 32 fifteen percent tax credit.

33 ~~(ii)~~ (iv) To the extent that base investment is expended on payroll for  
 34 Louisiana residents employed in connection with a state-certified production, each  
 35 investor shall be allowed an additional a tax credit of five ten percent of such payroll  
 36 expended for Louisiana residents. The tax credit authorized in this Item shall  
 37 be in addition to the tax credit authorized in Item (i) of this Subparagraph.  
 38 ~~However, if the payroll to any one person exceeds one million dollars, this additional~~  
 39 ~~credit shall exclude any salary for that person that exceeds one million dollars.~~

40 (v) To the extent that the base investment is expended on music, the  
 41 sound recording copyright of which, or musical copyright of which, is owned in  
 42 whole or in part at no less than twenty-five percent by a resident of Louisiana  
 43 or a Louisiana company headquartered in the state with a majority ownership  
 44 of residents of Louisiana, each investor shall be allowed a tax credit of fifteen  
 45 percent of the musical copyright's expenditures. The tax credit authorized in  
 46 this Item shall be in addition to the tax credit authorized in Item (i) of this  
 47 Subparagraph.

48 (d) For applications initially certified before July 1, 2015, and each fiscal  
 49 year beginning on or after July 1, 2015, the maximum amount of credits which  
 50 may be certified by the office and the secretary shall not exceed two hundred  
 51 million dollars. If the total amount of credits certified in any particular fiscal  
 52 year exceeds the aggregate amount of tax credits allowed for that year, the  
 53 excess shall be treated as having been applied for on the first day of the  
 54 subsequent year. For state-certified productions approved on or after July 1,

1 **2015, the maximum amount of credits that may be certified for any single state-**  
2 **certified production shall not exceed thirty million dollars.**

3 ~~(d)~~ **(e)** Motion picture investor tax credits associated with a state-certified  
4 production shall never exceed the total base investment in that production.

5 (2) The credit shall be allowed against the income tax for the taxable period  
6 in which the credit is ~~earned or for the taxable period in which initial certification~~  
7 ~~authorizes the credit to be taken~~ **certified**. If the tax credit allowed pursuant to this  
8 Section exceeds the amount of such taxes due for such tax period, then any unused  
9 credit may be carried forward as a credit against subsequent tax liability for a period  
10 not to exceed ten years.

11 \* \* \*

12 D. Certification and administration.

13 \* \* \*

14 (4)(i) Any taxpayer applying for the credit shall be required to reimburse the  
15 office for any audits required in relation to granting the credit.

16 (ii)(aa) The production application fee provided for in Subparagraph (2)(b)  
17 of this 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 general fund or any other fund, an amount  
21 equal to that deposited as required by this Item shall be credited by the treasurer to  
22 a special fund hereby created in the state treasury to be known as the Entertainment  
23 Promotion and Marketing Fund. The money in the fund shall be appropriated by the  
24 legislature to be used solely for promotion and marketing of Louisiana's  
25 entertainment industry **or for costs associated with the administration of the**  
26 **motion picture investor tax credit program by the office and the secretary.**

27 \* \* \*"

28 AMENDMENT NO. 5

29 On page 2, delete lines 5 through 9 in their entirety and insert the following:

30 "Section 2. This Act shall become effective on July 1, 2015; if vetoed by the  
31 governor and subsequently approved by the legislature, this Act shall become effective on  
32 July 1, 2015, or on the day following such approval by the legislature, whichever is later."