

AMENDED IN SENATE JANUARY 3, 2022

AMENDED IN SENATE MAY 20, 2021

AMENDED IN SENATE MAY 11, 2021

AMENDED IN SENATE APRIL 29, 2021

AMENDED IN SENATE MARCH 10, 2021

SENATE BILL

No. 485

Introduced by Senator Portantino

~~(Principal coauthor: Senator Stern)~~

(Principal coauthors: Senators Stern and Wilk)

(Principal coauthors: Assembly Members Burke and Carrillo)

(Coauthor: Senator Durazo)

(Coauthor: Assembly Member Villapudua)

February 17, 2021

An act to amend Sections 17053.98 and 23698 of, and to add Section 17053.99 to, of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 485, as amended, Portantino. Income taxes: tax credits: ~~certified studio construction project~~. *motion picture credit extension.*

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including a motion picture credit for taxable years beginning on or after January 1, 2020, to be allocated by the California Film Commission on or after July 1, 2020, and before July 1, 2025, in an amount equal to 20% or 25% of qualified expenditures for the production of a qualified motion picture in this state, with additional credit amounts allowed, including

for amounts equal to specified qualified expenditures and qualified wages relating to original photography outside the Los Angeles zone, as specified. *Existing law limits the aggregate amount of credits that may be allocated to specified amounts per fiscal year, and sets forth allocation percentages for various productions under the motion picture credit.*

~~This bill, for taxable years beginning on or after January 1, 2022, and before January 1, 2032, would allow a tax credit in an amount equal to 20% or 25% of qualified expenditures for the production of a qualified motion picture in this state at a certified studio construction project. The bill would provide that the credits be allocated by the California Film Commission in the same manner and time period as the existing motion picture credit. The bill would define a “certified studio construction project” for these purposes as a project that provides for the construction or renovation of one or more soundstages located in the state, as specified, and would require a developer seeking certification of a studio construction project to make various certifications to the commission, including that the project is a public work or pays the equivalent of prevailing wages, as provided, and uses a skilled and trained workforce, as defined. By requiring a developer to make specified certifications to the commission, which expands the scope of the crime of perjury, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

This bill would extend the period during which the commission allocates the above-described motion picture credits through July 1, 2030. The bill would also extend the application of the limit on the aggregate amount of credits that may be allocated through the 2029–30 fiscal year and would make conforming changes.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 17053.98 of the Revenue and Taxation*
2 *Code is amended to read:*

3 17053.98. (a) (1) For taxable years beginning on or after
4 January 1, 2020, there shall be allowed to a qualified taxpayer a
5 credit against the “net tax,” as defined in Section 17039, subject
6 to a computation and ranking by the California Film Commission
7 in subdivision (g) and the allocation amount categories described
8 in subdivision (i), in an amount equal to 20 percent or 25 percent,
9 whichever is the applicable credit percentage described in
10 paragraph (4), of the qualified expenditures for the production of
11 a qualified motion picture in California. A credit shall not be
12 allowed under this section for any qualified expenditures for the
13 production of a motion picture in California if a credit has been
14 claimed for those same expenditures under Section 17053.85 or
15 17053.95.

16 (2) Except as otherwise provided in this section, the credit shall
17 be allowed for the taxable year in which the California Film
18 Commission issues the credit certificate pursuant to subdivision
19 (g) for the qualified motion picture, but in no instance prior to July
20 1, 2020, and shall be for the applicable percentage of all qualified
21 expenditures paid or incurred by the qualified taxpayer in all
22 taxable years for that qualified motion picture.

23 (3) (A) The amount of the credit allowed to a qualified taxpayer
24 shall be limited to the amount specified in the credit certificate
25 issued to the qualified taxpayer by the California Film Commission
26 pursuant to subdivision (g).

27 (B) In determining the amount specified in the credit certificate
28 in subparagraph (A), the California Film Commission shall be
29 limited to the following amounts of qualified expenditures for each
30 qualified motion picture:

31 (i) In the case of a feature, up to one hundred million dollars
32 (\$100,000,000).

33 (ii) In the case of a miniseries described in clause (ii) of
34 subparagraph (A) of paragraph (18) of subdivision (b), up to one
35 hundred million dollars (\$100,000,000).

36 (iii) In the case of a television series described in clause (iii) or
37 clause (v) of subparagraph (A) of paragraph (18) of subdivision
38 (b), up to one hundred million dollars (\$100,000,000) per season.

1 (iv) In the case of an independent film, up to ten million dollars
2 (\$10,000,000).

3 (4) For purposes of paragraphs (1) and (2), the applicable credit
4 percentage shall be:

5 (A) Twenty percent of the qualified expenditures attributable
6 to the production of a qualified motion picture in California,
7 including, but not limited to, a feature or a television series that
8 relocated to California that is in its second or subsequent years of
9 receiving a tax credit allocation pursuant to this section, Section
10 17053.85, or Section 17053.95.

11 (B) Twenty-five percent of the qualified expenditures
12 attributable to the production of a qualified motion picture in
13 California where the qualified motion picture is a television series
14 that relocated to California in its first year of receiving a tax credit
15 allocation pursuant to this section.

16 (C) Twenty-five percent of the qualified expenditures
17 attributable to the production of a qualified motion picture that is
18 an independent film.

19 (D) Additional credits shall be allowed for the production of a
20 qualified motion picture whose applicable credit percentage is
21 determined pursuant to subparagraph (A), in an aggregate amount
22 not to exceed 5 percent of the qualified expenditures under that
23 subparagraph, as follows:

24 (i) (I) Five percent of qualified expenditures, excluding qualified
25 wages described in subparagraph (E), relating to original
26 photography outside the Los Angeles zone.

27 (II) For purposes of this clause and subparagraph (E):

28 (ia) “Applicable period” means the period that commences with
29 preproduction and ends when original photography concludes. The
30 applicable period includes the time necessary to strike a remote
31 location and return to the Los Angeles zone.

32 (ib) “Los Angeles zone” means the area within a circle 30 miles
33 in radius from Beverly Boulevard and La Cienega Boulevard, Los
34 Angeles, California, and includes Agua Dulce, Castaic, including
35 Castaic Lake, Leo Carrillo State Beach, Ontario International
36 Airport, Piru, and Pomona, including the Los Angeles County
37 Fairgrounds. The Metro-Goldwyn-Mayer, Inc. Conejo Ranch
38 property is within the Los Angeles zone.

39 (ic) “Original photography” includes principal photography and
40 reshooting original footage.

1 (id) “Qualified expenditures relating to original photography
2 outside the Los Angeles zone” means amounts paid or incurred
3 during the applicable period for tangible personal property
4 purchased or leased and used or consumed outside the Los Angeles
5 zone and relating to original photography outside the Los Angeles
6 zone and qualified wages paid for services performed outside the
7 Los Angeles zone and relating to original photography outside the
8 Los Angeles zone.

9 (ii) Five percent of the qualified expenditures relating to
10 qualified visual effects attributable to the production of a qualified
11 motion picture in California.

12 (E) (i) Notwithstanding subparagraph (D), an amount equal to
13 10 percent of qualified wages paid for services performed relating
14 to original photography outside of the Los Angeles zone to
15 qualified individuals who reside in California but outside the Los
16 Angeles zone shall be allowed as an additional credit for the
17 production of a qualified motion picture whose applicable credit
18 percentage is determined pursuant to subparagraph (A).

19 (ii) Notwithstanding subparagraph (D), an amount equal to 5
20 percent of qualified wages paid for services performed relating to
21 original photography outside of the Los Angeles zone to qualified
22 individuals who reside in California but outside the Los Angeles
23 zone shall be allowed as an additional credit for the production of
24 a qualified motion picture whose applicable credit percentage is
25 determined pursuant to subparagraph (B) or (C).

26 (b) For purposes of this section:

27 (1) “Ancillary product” means any article for sale to the public
28 that contains a portion of, or any element of, the qualified motion
29 picture.

30 (2) “Budget” means an estimate of all expenses paid or incurred
31 during the production period of a qualified motion picture. It shall
32 be the same budget used by the qualified taxpayer and production
33 company for all qualified motion picture purposes.

34 (3) “Clip use” means a use of any portion of a motion picture,
35 other than the qualified motion picture, used in the qualified motion
36 picture.

37 (4) “Credit certificate” means the certificate issued by the
38 California Film Commission pursuant to subparagraph (D) of
39 paragraph (3) of subdivision (g).

1 (5) (A) “Employee fringe benefits” means the amount allowable
2 as a deduction under this part to the qualified taxpayer involved
3 in the production of the qualified motion picture, exclusive of any
4 amounts contributed by employees, for any year during the
5 production period with respect to any of the following:

6 (i) Employer contributions under any pension, profit-sharing,
7 annuity, or similar plan.

8 (ii) Employer-provided coverage under any accident or health
9 plan for employees.

10 (iii) The employer’s cost of life or disability insurance provided
11 to employees.

12 (B) Any amount treated as wages under clause (i) of
13 subparagraph (A) of paragraph (21) shall not be taken into account
14 under this paragraph.

15 (6) “Independent film” means a motion picture with a minimum
16 budget of one million dollars (\$1,000,000) that is produced by a
17 company that is not publicly traded and publicly traded companies
18 do not own, directly or indirectly, more than 25 percent of the
19 producing company.

20 (7) “Jobs ratio” means the amount of qualified wages paid to
21 qualified individuals divided by the amount of tax credit, not
22 including any additional credit allowed pursuant to subparagraphs
23 (D) and (E) of paragraph (4) of subdivision (a), as computed by
24 the California Film Commission. For the purposes of the
25 calculation of the jobs ratio only, 70 percent of qualified
26 expenditures for visual effects paid to third-party vendors for work
27 performed in California shall be deemed to be qualified wages
28 paid to a qualified individual.

29 (8) “Licensing” means any grant of rights to distribute the
30 qualified motion picture, in whole or in part.

31 (9) “New use” means any use of a motion picture in a medium
32 other than the medium for which it was initially created.

33 (10) “Pilot for a new television series” means the initial episode
34 produced for a proposed television series.

35 (11) (A) “Postproduction” means the final activities in a
36 qualified motion picture’s production, including editing, foley
37 recording, automatic dialogue replacement, sound editing, scoring,
38 music track recording by musicians and music editing, beginning
39 and end credits, negative cutting, negative processing and

1 duplication, the addition of sound and visual effects, sound mixing,
2 film-to-tape transfers, encoding, and color correction.

3 (B) “Postproduction” does not include the manufacture or
4 shipping of release prints or their equivalent.

5 (12) “Preproduction” means the process of preparation for actual
6 physical production which begins after a qualified motion picture
7 has received a firm agreement of financial commitment, or is
8 greenlit, with, for example, the establishment of a dedicated
9 production office, the hiring of key crew members, and includes,
10 but is not limited to, activities that include location scouting and
11 execution of contracts with vendors of equipment and stage space.

12 (13) “Principal photography” means the phase of production
13 during which the motion picture is actually shot, as distinguished
14 from preproduction and postproduction.

15 (14) “Production period” means the period beginning with
16 preproduction and ending upon completion of postproduction.

17 (15) “Qualified entity” means a personal service corporation as
18 defined in Section 269A(b)(1) of the Internal Revenue Code, a
19 payroll services corporation, or any entity receiving qualified wages
20 with respect to services performed by a qualified individual.

21 (16) “Qualified expenditures” means amounts paid or incurred
22 for tangible personal property purchased or leased, and used, within
23 this state in the production of a qualified motion picture and
24 payments, including qualified wages, for services performed within
25 this state in the production of a qualified motion picture.

26 (17) (A) “Qualified individual” means any individual who
27 performs services during the production period in an activity related
28 to the production of a qualified motion picture.

29 (B) “Qualified individual” shall not include either of the
30 following:

31 (i) Any individual related to the qualified taxpayer as described
32 in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal
33 Revenue Code.

34 (ii) Any 5-percent owner, as defined in Section 416(i)(1)(B) of
35 the Internal Revenue Code, of the qualified taxpayer.

36 (18) (A) “Qualified motion picture” means a motion picture
37 that is produced for distribution to the general public, regardless
38 of medium, that is one of the following:

39 (i) A feature with a minimum production budget of one million
40 dollars (\$1,000,000).

- 1 (ii) A miniseries consisting of two or more episodes, each longer
2 than 40 minutes of running time, exclusive of commercials, that
3 is produced in California, with a minimum production budget of
4 one million dollars (\$1,000,000) per episode.
- 5 (iii) A new television series of episodes longer than 40 minutes
6 each of running time, exclusive of commercials, that is produced
7 in California, with a minimum production budget of one million
8 dollars (\$1,000,000) per episode.
- 9 (iv) An independent film.
- 10 (v) A television series that relocated to California.
- 11 (vi) A pilot for a new television series that is longer than 40
12 minutes of running time, exclusive of commercials, that is produced
13 in California, and with a minimum production budget of one
14 million dollars (\$1,000,000).
- 15 (B) To qualify as a “qualified motion picture,” all of the
16 following conditions shall be satisfied:
- 17 (i) At least 75 percent of the principal photography days occur
18 wholly in California or 75 percent of the production budget is
19 incurred for payment for services performed within the state and
20 the purchase or rental of property used within the state.
- 21 (ii) Production of the qualified motion picture is completed
22 within 30 months from the date on which the qualified taxpayer’s
23 application is approved by the California Film Commission. For
24 purposes of this section, a qualified motion picture is “completed”
25 when the process of postproduction has been finished.
- 26 (iii) The copyright for the motion picture is registered with the
27 United States Copyright Office pursuant to Title 17 of the United
28 States Code.
- 29 (iv) Principal photography of the qualified motion picture
30 commences after the date on which the application is approved by
31 the California Film Commission, but no later than 180 days after
32 the date of that approval if the qualified motion picture has a budget
33 with qualified expenditures of less than one hundred million dollars
34 (\$100,000,000), and no later than 240 days after the date of that
35 approval in the case of a qualified motion picture with a budget
36 of qualified expenditures with at least one hundred million dollars
37 (\$100,000,000), unless death, disability, or disfigurement of the
38 director or of a principal cast member; an act of God, including,
39 but not limited to, fire, flood, earthquake, storm, hurricane, or other
40 natural disaster; terrorist activities; or government sanction has

1 directly prevented a production’s ability to begin principal
2 photography within the prescribed 180- or 240-day commencement
3 period.

4 (C) For the purposes of subparagraph (A), in computing the
5 total wages paid or incurred for the production of a qualified
6 motion picture, all amounts paid or incurred by all persons or
7 entities that share in the costs of the qualified motion picture shall
8 be aggregated.

9 (D) “Qualified motion picture” shall not include commercial
10 advertising, music videos, a motion picture produced for private
11 noncommercial use, such as weddings, graduations, or as part of
12 an educational course and made by students, a news program,
13 current events or public events program, talk show, game show,
14 sporting event or activity, awards show, telethon or other
15 production that solicits funds, reality television program, clip-based
16 programming if more than 50 percent of the content is comprised
17 of licensed footage, documentaries, variety programs, daytime
18 dramas, strip shows, one-half hour (air time) episodic television
19 shows, or any production that falls within the recordkeeping
20 requirements of Section 2257 of Title 18 of the United States Code.

21 (19) (A) “Qualified taxpayer” means a taxpayer who has paid
22 or incurred qualified expenditures, participated in the Career
23 Readiness requirement in Section 17053.95, and has been issued
24 a credit certificate by the California Film Commission pursuant
25 to subdivision (g).

26 (B) In the case of any pass-thru entity, the determination of
27 whether a taxpayer is a qualified taxpayer under this section shall
28 be made at the entity level and any credit under this section is not
29 allowed to the pass-thru entity, but shall be passed through to the
30 partners or shareholders in accordance with applicable provisions
31 of Part 10 (commencing with Section 17001) or Part 11
32 (commencing with Section 23001). For purposes of this paragraph,
33 “pass-thru entity” means any entity taxed as a partnership or “S”
34 corporation.

35 (20) “Qualified visual effects” means visual effects where at
36 least 75 percent or a minimum of ten million dollars (\$10,000,000)
37 of the qualified expenditures for the visual effects is paid or
38 incurred in California.

39 (21) (A) “Qualified wages” means all of the following:

1 (i) Any wages subject to withholding under Division 6
2 (commencing with Section 13000) of the Unemployment Insurance
3 Code that were paid or incurred by any taxpayer involved in the
4 production of a qualified motion picture with respect to a qualified
5 individual for services performed on the qualified motion picture
6 production within this state.

7 (ii) The portion of any employee fringe benefits paid or incurred
8 by any taxpayer involved in the production of the qualified motion
9 picture that are properly allocable to qualified wage amounts
10 described in clauses (i), (iii), and (iv).

11 (iii) Any payments made to a qualified entity for services
12 performed in this state by qualified individuals within the meaning
13 of paragraph (17).

14 (iv) Remuneration paid to an independent contractor who is a
15 qualified individual for services performed within this state by that
16 qualified individual.

17 (B) “Qualified wages” shall not include any of the following:

18 (i) Expenses, including wages, related to new use, reuse, clip
19 use, licensing, secondary markets, or residual compensation, or
20 the creation of any ancillary product, including, but not limited to,
21 a soundtrack album, toy, game, trailer, or teaser.

22 (ii) Expenses, including wages, paid or incurred with respect to
23 acquisition, development, turnaround, or any rights thereto.

24 (iii) Expenses, including wages, related to financing, overhead,
25 marketing, promotion, or distribution of a qualified motion picture.

26 (iv) Expenses, including wages, paid per person per qualified
27 motion picture for writers, directors, music directors, music
28 composers, music supervisors, producers, and performers, other
29 than background actors with no scripted lines.

30 (22) “Residual compensation” means supplemental
31 compensation paid at the time that a motion picture is exhibited
32 through new use, reuse, clip use, or in secondary markets, as
33 distinguished from payments made during production.

34 (23) “Reuse” means any use of a qualified motion picture in the
35 same medium for which it was created, following the initial use
36 in that medium.

37 (24) “Secondary markets” means media in which a qualified
38 motion picture is exhibited following the initial media in which it
39 is exhibited.

1 (25) “Television series that relocated to California” means a
2 television series, without regard to episode length or initial media
3 exhibition, with a minimum production budget of one million
4 dollars (\$1,000,000) per episode, that filmed at least 75 percent of
5 principal photography days in its most recent season outside of
6 California or has filmed all seasons outside of California and for
7 which the taxpayer certifies that the credit provided pursuant to
8 this section is the primary reason for relocating to California.

9 (26) “Visual effects” means the creation, alteration, or
10 enhancement of images that cannot be captured on a set or location
11 during live action photography and therefore is accomplished in
12 postproduction. It includes, but is not limited to, matte paintings,
13 animation, set extensions, computer-generated objects, characters
14 and environments, compositing (combining two or more elements
15 in a final image), and wire removals. “Visual effects” does not
16 include fully animated projects, whether created by traditional or
17 digital means.

18 (c) (1) Notwithstanding any other law, a qualified taxpayer
19 may sell any credit allowed under this section that is attributable
20 to an independent film, as defined in paragraph (6) of subdivision
21 (b), to an unrelated party.

22 (2) The qualified taxpayer shall report to the Franchise Tax
23 Board prior to the sale of the credit, in the form and manner
24 specified by the Franchise Tax Board, all required information
25 regarding the purchase and sale of the credit, including the social
26 security or other taxpayer identification number of the unrelated
27 party to whom the credit has been sold, the face amount of the
28 credit sold, and the amount of consideration received by the
29 qualified taxpayer for the sale of the credit.

30 (3) In the case where the credit allowed under this section
31 exceeds the “net tax,” the excess credit may be carried over to
32 reduce the “net tax” in the following taxable year, and succeeding
33 eight taxable years, if necessary, until the credit has been exhausted.

34 (4) A credit shall not be sold pursuant to this subdivision to
35 more than one taxpayer, nor may the credit be resold by the
36 unrelated party to another taxpayer or other party.

37 (5) A party that has acquired tax credits under this subdivision
38 shall be subject to the requirements of this section.

1 (6) In no event may a qualified taxpayer assign or sell any tax
2 credit to the extent the tax credit allowed by this section is claimed
3 on any tax return of the qualified taxpayer.

4 (7) In the event that both the taxpayer originally allocated a
5 credit under this section by the California Film Commission and
6 a taxpayer to whom the credit has been sold both claim the same
7 amount of credit on their tax returns, the Franchise Tax Board may
8 disallow the credit of either taxpayer, so long as the statute of
9 limitations upon assessment remains open.

10 (8) Chapter 3.5 (commencing with Section 11340) of Part 1 of
11 Division 3 of Title 2 of the Government Code does not apply to
12 any standard, criterion, procedure, determination, rule, notice, or
13 guideline established or issued by the Franchise Tax Board
14 pursuant to this subdivision.

15 (9) Subdivision (g) of Section 17039 shall not apply to any
16 credit sold pursuant to this subdivision.

17 (10) For purposes of this subdivision, the unrelated party or
18 parties that purchase a credit pursuant to this subdivision shall be
19 treated as a qualified taxpayer pursuant to paragraph (1) of
20 subdivision (a).

21 (d) (1) No credit shall be allowed pursuant to this section unless
22 the qualified taxpayer provides the following to the California
23 Film Commission:

24 (A) Identification of each qualified individual.

25 (B) The specific start and end dates of production.

26 (C) The total wages paid.

27 (D) The total amount of qualified wages paid to qualified
28 individuals.

29 (E) Aggregate data for individuals whose wages are excluded
30 from qualified wages by clause (iv) of subparagraph (B) of
31 paragraph (21) of subdivision (b), including their gender, ethnic,
32 and racial makeup.

33 (F) The copyright registration number, as reflected on the
34 certificate of registration issued under the authority of Section 410
35 of Title 17 of the United States Code, relating to registration of
36 claim and issuance of certificate. The registration number shall be
37 provided on the return claiming the credit.

38 (G) The total amounts paid or incurred to purchase or lease
39 tangible personal property used in the production of a qualified
40 motion picture.

1 (H) Information to substantiate its qualified expenditures.

2 (I) Information required by the California Film Commission
3 under regulations promulgated pursuant to subdivision (g)
4 necessary to verify the amount of credit claimed.

5 (J) Data regarding the diversity of the workforce employed by
6 the applicant on the qualified motion picture, as described in
7 subdivision (g).

8 (K) Documentation verifying completion of the Career
9 Readiness requirement.

10 (L) Documentation verifying that the qualified taxpayer paid a
11 fee as described in subdivision (e).

12 (2) (A) Based on the information provided in paragraph (1),
13 the California Film Commission shall recompute the jobs ratio
14 previously computed in subdivision (g) and compare this
15 recomputed jobs ratio to the jobs ratio that the qualified taxpayer
16 previously listed on the application submitted pursuant to
17 subdivision (g).

18 (B) (i) If the California Film Commission determines that the
19 jobs ratio has been reduced by more than 10 percent for a qualified
20 motion picture, the California Film Commission shall reduce the
21 amount of credit allowed by an equal percentage, unless the
22 qualified taxpayer demonstrates, and the California Film
23 Commission determines, that reasonable cause exists for the jobs
24 ratio reduction.

25 (ii) If the California Film Commission determines that the jobs
26 ratio has been reduced by more than 20 percent for a qualified
27 motion picture, the California Film Commission shall not accept
28 an application described in subdivision (g) from that qualified
29 taxpayer or any member of the qualified taxpayer's controlled
30 group for a period of not less than one year from the date of that
31 determination, unless the qualified taxpayer demonstrates, and the
32 California Film Commission determines, that reasonable cause
33 exists for the jobs ratio reduction.

34 (C) For the purposes of this paragraph, "reasonable cause"
35 means unforeseen circumstances beyond the control of the qualified
36 taxpayer, such as, but not limited to, the cancellation of a television
37 series prior to the completion of the scheduled number of episodes
38 or other similar circumstances as determined by the California
39 Film Commission in regulations to be adopted pursuant to
40 subdivision (e).

1 (e) (1) (A) Subject to the Administrative Procedure Act
2 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
3 Division 3 of Title 2 of the Government Code), the California Film
4 Commission shall adopt rules and regulations to implement a pilot
5 Career Pathways Training program including a fee to be paid by
6 the qualified taxpayer, if the qualified taxpayer receives a credit
7 under this section, to fund technical skills training to individuals
8 from underserved communities for entry into film and television
9 industry jobs. The California Film Commission shall (i) identify
10 a not-for-profit fiscal agent with direct relationships to industry
11 skills training programs to manage the funds; and (ii) engage
12 labor-management jointly administered training programs with
13 skills training focused on the entertainment industry to implement
14 the program with California Film Commission approval and
15 oversight. With regard to the Career Readiness requirement in
16 Section 17053.95, the California Film Commission shall identify
17 training and public service opportunities that may include, but not
18 be limited to, hiring interns, public service announcements, and
19 community outreach shall continue. The California Film
20 Commission may prescribe rules and regulations to carry out the
21 purposes of this section, including, subparagraph (D) of paragraph
22 (4) of subdivision (a) and clause (iv) of subparagraph (D) of
23 paragraph (2) of subdivision (g), and including any rules and
24 regulations necessary to establish procedures, processes,
25 requirements, application fee structure, and rules identified in or
26 required to implement this section, including credit and logo
27 requirements and credit allocation procedures over multiple fiscal
28 years where the qualified taxpayer is producing a series of features
29 that will be filmed concurrently.

30 (B) Notwithstanding any other law, prior to preparing a notice
31 of proposed action pursuant to Section 11346.4 of the Government
32 Code and prior to making any revision to the proposed regulation
33 other than a change that is nonsubstantial or solely grammatical
34 in nature, the Governor's Office of Business and Economic
35 Development shall first approve the proposed regulation or
36 proposed change to a proposed regulation regarding allocating the
37 credit pursuant to subdivision (i), computing the jobs ratio as
38 described in subdivisions (d) and (g), and defining "reasonable
39 cause" pursuant to subparagraph (C) of paragraph (2) of subdivision
40 (d).

1 (2) (A) Implementation of this section for the 2020–21 fiscal
2 year is deemed an emergency and necessary for the immediate
3 preservation of the public peace, health, and safety, or general
4 welfare and, therefore, the California Film Commission is hereby
5 authorized to adopt emergency regulations to implement this
6 section during the 2020–21 fiscal year in accordance with the
7 rulemaking provisions of the Administrative Procedure Act
8 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
9 Division 3 of Title 2 of the Government Code).

10 (B) Nothing in this paragraph shall be construed to require the
11 Governor’s Office of Business and Economic Development to
12 approve emergency regulations adopted pursuant to this paragraph.

13 (3) The California Film Commission shall not be required to
14 prepare an economic impact analysis pursuant to the Administrative
15 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
16 Part 1 of Division 3 of Title 2 of the Government Code) with regard
17 to any rules and regulations adopted pursuant to this subdivision.

18 (f) If the qualified taxpayer fails to provide the copyright
19 registration number as required in subparagraph (E) of paragraph
20 (1) of subdivision (d), the credit shall be disallowed and assessed
21 and collected under Section 19051 until the procedures are
22 satisfied.

23 (g) For purposes of this section, the California Film Commission
24 shall do the following:

25 (1) Subject to the requirements of subparagraphs (A) to (E),
26 inclusive, of paragraph (2), on or after July 1, 2020, and before
27 July 1, ~~2025~~, 2030, in two or more allocation periods per fiscal
28 year, allocate tax credits to applicants.

29 (2) (A) Establish a procedure for applicants to file with the
30 California Film Commission a written application, on a form jointly
31 prescribed by the California Film Commission and the Franchise
32 Tax Board for the allocation of the tax credit. The application shall
33 include, but not be limited to, the following information:

- 34 (i) The budget for the motion picture production.
- 35 (ii) The number of production days.
- 36 (iii) A financing plan for the production.
- 37 (iv) The diversity of the workforce employed by the applicant,
38 including, but not limited to, the ethnic and racial makeup of the
39 individuals employed by the applicant during the production of
40 the qualified motion picture, to the extent possible.

- 1 (v) All members of a combined reporting group, if known at
2 the time of the application.
- 3 (vi) Financial information, if available, including, but not limited
4 to, the most recently produced balance sheets, annual statements
5 of profits and losses, audited or unaudited financial statements,
6 summary budget projections or results, or the functional equivalent
7 of these documents of a partnership or owner of a single member
8 limited liability company that is disregarded pursuant to Section
9 23038. The information provided pursuant to this clause shall be
10 confidential and shall not be subject to public disclosure.
- 11 (vii) The names of all partners in a partnership not publicly
12 traded or the names of all members of a limited liability company
13 classified as a partnership not publicly traded for California income
14 tax purposes that have a financial interest in the applicant's
15 qualified motion picture. The information provided pursuant to
16 this clause shall be confidential and shall not be subject to public
17 disclosure.
- 18 (viii) The amount of qualified wages the applicant expects to
19 pay to qualified individuals.
- 20 (ix) The amount of tax credit the applicant computes the
21 qualified motion picture will receive, applying the applicable credit
22 percentages described in paragraph (4) of subdivision (a).
- 23 (x) A statement establishing that the tax credit described in this
24 section is a significant factor in the applicant's choice of location
25 for the qualified motion picture. The statement shall include
26 information about whether the qualified motion picture is at risk
27 of not being filmed or specify the jurisdiction or jurisdictions in
28 which the qualified motion picture will be located in the absence
29 of the tax credit. The statement shall be signed by an officer or
30 executive of the applicant.
- 31 (xi) The applicant's written policy against unlawful harassment,
32 including, but not limited to, sexual harassment, which includes
33 procedures for reporting and investigating harassment claims, a
34 phone number for an individual who will be responsible for
35 receiving harassment claims, and a statement that the company
36 will not retaliate against an individual who reports harassment.
37 The applicant shall also indicate how the policy will be distributed
38 to employees and include a summary of education training
39 resources, including the prohibition against, and prevention and
40 correction of, sexual harassment and remedies available.

1 (xii) The ethnic and racial makeup and gender of individuals
2 whose wages are excluded from qualified wages as set forth in
3 clause (iv) of subparagraph (B) of paragraph (21) of subdivision
4 (b).

5 (xiii) A summary of the applicant's voluntary programs to
6 increase the representation of minorities and women in the job
7 classifications that are not included in qualified wages as set forth
8 in clause (iv) of subparagraph (B) of paragraph (21) of subdivision
9 (b) and information about how these programs are publicized to
10 interested parties. The officer or executive referenced in clause
11 (x) who is signing the statement shall provide additional
12 information about these programs, if needed and upon request, to
13 the California Film Commission.

14 (xiv) Any other information deemed relevant by the California
15 Film Commission or the Franchise Tax Board.

16 (B) Establish criteria, consistent with the requirements of this
17 section, for allocating tax credits.

18 (C) Determine and designate applicants who meet the
19 requirements of this section.

20 (D) (i) For purposes of allocating the credit amounts subject to
21 the categories described in subdivision (i) in any fiscal year, the
22 California Film Commission shall do all of the following:

23 (ii) For each allocation date and for each category, list each
24 applicant from highest to lowest according to the jobs ratio as
25 computed by the California Film Commission.

26 (iii) Subject to the applicable credit percentage, allocate the
27 credit to each applicant according to the highest jobs ratio, working
28 down the list, until the credit amount is exhausted.

29 (iv) Pursuant to regulations adopted pursuant to subdivision (e),
30 the California Film Commission may increase the jobs ratio by up
31 to 25 percent if a qualified motion picture increases economic
32 activity in California according to criteria developed by the
33 California Film Commission that would include, but not be limited
34 to, such factors as, the amount of the production and postproduction
35 spending in California, the utilization of scoring musicians in
36 California, and other criteria measuring economic impact in
37 California as determined by the California Film Commission.

38 (v) Notwithstanding any other law, any television series,
39 relocating television series, or any new television series based on
40 a pilot for a new television series that has been approved and issued

1 a credit allocation by the California Film Commission under this
2 section, Section 23698, 17053.95, 23695, 17053.85, or 23685 shall
3 be issued a credit for each subsequent season, for the life of that
4 television series whenever credits are allocated within a fiscal year.
5 The California Film Commission shall limit the amount of credits
6 any recurring television series receives in a subsequent season to
7 no more than the amount reserved in its prior fiscal year Credit
8 Allocation Letter or Letters, or if no amounts were reserved in the
9 prior fiscal year, the most immediate prior fiscal year in which a
10 Credit Allocation Letter or Letters were received. In the event that
11 insufficient tax credits are available to fund all recurring television
12 series pursuant to this clause for any fiscal year or in the event the
13 California Film Commission projects, in collaboration with the
14 Department of Finance, that there will be insufficient tax credits
15 available to fund all recurring television series in either of the
16 subsequent two fiscal years, the California Film Commission shall
17 make the following adjustments in the order given until the
18 shortfall, or any projected shortfall for the two subsequent fiscal
19 years, for recurring television series is eliminated:

20 (I) Notwithstanding clause (iii) of subparagraph (A) of paragraph
21 (2) of subdivision (i), the California Film Commission may redirect
22 up to 100 percent of the credit amounts allocated to the relocating
23 television series category to recurring television series for that
24 fiscal year until the shortfall or projected shortfall is eliminated.

25 (II) Notwithstanding clause (iv) of subparagraph (A) of
26 paragraph (2) of subdivision (i), the California Film Commission
27 may redirect up to 100 percent of the credit amounts allocated to
28 a new television series to recurring television series for that fiscal
29 year until the shortfall or projected shortfall is eliminated.

30 (III) Notwithstanding clause (ii) of subparagraph (A) of
31 paragraph (2) of subdivision (i), the California Film Commission
32 may redirect up to 100 percent of the credit allocations from the
33 features category to the recurring television series category for
34 that fiscal year until the shortfall is eliminated.

35 (IV) Allocate up to 25 percent of total credit allocations that
36 would otherwise be allocated in the ~~2024–25~~ 2029–30 fiscal year
37 to recurring television series in the current fiscal year until the
38 shortfall is eliminated. Any amounts transferred for allocation in
39 the current fiscal year shall be subtracted from the amount allowed
40 to be allocated in the ~~2024–25~~ 2029–30 fiscal year as specified in

1 subdivision (i). Notwithstanding paragraph (3), the credit
2 allocations that are subtracted from ~~2024–25~~ 2029–30 shall not be
3 certified until July 1, ~~2025~~ 2030, or later.

4 (V) The California Film Commission shall consult with the
5 qualified taxpayers who are producing the recurring television
6 series for purposes of negotiating a minimally impactful reduction
7 in the amount of credits awarded to each recurring television series
8 for that fiscal year until the shortfall is eliminated.

9 (E) Subject to the annual cap and the allocation credit amounts
10 based on categories described in subdivision (i), allocate an
11 aggregate amount of credits under this section and Section 23698,
12 and allocate any carryover of unallocated or unused credits from
13 prior years and Sections 17053.85, 17053.95, 23685, and 23695,
14 and the amount of any credits reduced pursuant to paragraph (2)
15 of subdivision (d).

16 (3) Certify tax credits allocated to qualified taxpayers.

17 (A) Establish a verification procedure to update the information
18 in subparagraph (A) of paragraph (2) of subdivision (g), including,
19 but not limited to, all of the following:

20 (i) The amounts of qualified expenditures paid or incurred by
21 the applicant.

22 (ii) The diversity of the workforce employed by the applicant.

23 (iii) The ethnic and racial makeup and gender of individuals
24 whose wages are excluded from qualified wages by clause (iv) of
25 subparagraph (B) of paragraph (21) of subdivision (b).

26 (B) Establish audit requirements that shall be satisfied before a
27 credit certificate may be issued by the California Film Commission.

28 (C) (i) Establish a procedure for a qualified taxpayer to report
29 to the California Film Commission, prior to the issuance of a credit
30 certificate, the following information:

31 (I) If readily available, a list of the states, provinces, or other
32 jurisdictions in which any member of the applicant’s combined
33 reporting group in the same business unit as the qualified taxpayer
34 that, in the preceding calendar year, has produced a qualified
35 motion picture intended for release in the United States market.
36 For purposes of this clause, “qualified motion picture” shall not
37 include any episodes of a television series that were complete or
38 in production prior to July 1, 2020.

39 (II) Whether a qualified motion picture described in subclause
40 (I) was awarded any financial incentive by the state, province, or

1 other jurisdiction that was predicated on the performance of
2 primary principal photography or postproduction in that location.

3 (ii) The California Film Commission may provide that the report
4 required by this subparagraph be filed in a single report provided
5 on a calendar year basis for those qualified taxpayers that receive
6 multiple credit certificates in a calendar year.

7 (D) Issue a credit certificate to a qualified taxpayer upon
8 completion of the qualified motion picture reflecting the credit
9 amount allocated after qualified expenditures have been verified
10 and the jobs ratio computed under this section. The amount of
11 credit shown on the credit certificate shall not exceed the amount
12 of credit allocated to that qualified taxpayer pursuant to this section.

13 (4) Obtain, when possible, the following information from
14 applicants that do not receive an allocation of credit:

15 (A) Whether the qualified motion picture that was the subject
16 of the application was completed.

17 (B) If completed, in which state or foreign jurisdiction was the
18 primary principal photography completed.

19 (C) Whether the applicant received any financial incentives
20 from the state or foreign jurisdiction to make the qualified motion
21 picture in that location.

22 (5) Provide the Legislative Analyst's Office, upon request, any
23 or all application materials or any other materials received from,
24 or submitted by, the applicants, in electronic format when available,
25 including, but not limited to, information provided pursuant to
26 clauses (i) to (xi) inclusive, of subparagraph (A) of paragraph (2)
27 and the diversity workplans provided pursuant to clause (iv) of
28 subparagraph (B) of paragraph (2) of subdivision (k).

29 (6) The information provided to the California Film Commission
30 pursuant to this section shall constitute confidential tax information
31 for purposes of Article 2 (commencing with Section 19542) of
32 Chapter 7 of Part 10.2.

33 (7) (A) Notwithstanding any other law, on or after July 1, ~~2025,~~
34 ~~2030,~~ the California Film Commission may allocate, pursuant to
35 this section, any previously allocated credits not certified that have
36 not previously been added to credit amounts available for allocation
37 under this section or a successor section or sections.

38 (B) For purposes of this section, "previously allocated credits
39 not certified" means either:

1 (i) Credits allocated under paragraph (1) for which the qualified
2 taxpayer to which the credit amounts were originally allocated has
3 notified the California Film Commission in writing that the
4 qualified taxpayer will not request certification for the allocated
5 credits.

6 (ii) The difference between the amount of credits allocated under
7 paragraph (1) to a qualified taxpayer and the amount of credits the
8 California Film Commission certified, for that qualified taxpayer.
9 For purposes of calculating the difference, the California Film
10 Commission shall not consider any credit amounts for which the
11 qualified taxpayer notifies the California Film Commission under
12 clause (i).

13 (8) Notwithstanding any other law, on or after July 1, ~~2025,~~
14 2030, the California Film Commission may allocate, pursuant to
15 this section, any credit amounts described in subparagraphs (B)
16 and (E) of paragraph (1) of subdivision (i) that have not previously
17 been added to credit amounts available for allocation under this
18 section or a successor section or sections.

19 (9) The California Film Commission shall submit a report to
20 the Legislature, on an annual basis beginning January 1, 2022, on
21 aggregate diversity information for the productions allocated tax
22 credits allowed in this section and the diversity of the motion
23 picture production industry in California more generally.

24 (h) (1) The California Film Commission shall annually provide
25 the Legislative Analyst's Office, the Franchise Tax Board, and the
26 California Department of Tax and Fee Administration with a list
27 of qualified taxpayers and the tax credit amounts allocated to each
28 qualified taxpayer by the California Film Commission. The list
29 shall include the names and taxpayer identification numbers,
30 including taxpayer identification numbers of each partner or
31 shareholder, as applicable, of the qualified taxpayer.

32 (2) (A) Notwithstanding paragraph (6) of subdivision (g), the
33 California Film Commission shall annually post on its internet
34 website and make available for public release the following:

35 (i) A table which includes all of the following information: a
36 list of qualified taxpayers and the tax credit amounts allocated to
37 each qualified taxpayer by the California Film Commission, the
38 number of production days in California the qualified taxpayer
39 represented in its application would occur, the number of California
40 jobs that the qualified taxpayer represented in its application would

1 be directly created by the production, and the total amount of
2 qualified expenditures expected to be spent by the production.

3 (ii) A narrative staff summary describing the production of the
4 qualified taxpayer as well as background information regarding
5 the qualified taxpayer contained in the qualified taxpayer's
6 application for the credit.

7 (iii) For qualified taxpayers allocated a credit, the aggregate
8 diversity information collected pursuant to clauses (iv) and (xii)
9 of subparagraph (A) of paragraph (2) of subdivision (g) organized
10 per production and an aggregate compilation describing the
11 voluntary programs collected pursuant to clause (xiii) of
12 subparagraph (A) of paragraph (2) of subdivision (g).

13 (B) Nothing in this subdivision shall be construed to make the
14 information submitted by an applicant for a tax credit under this
15 section a public record.

16 (3) The California Film Commission shall provide each city
17 and county in California with an instructional guide that includes,
18 but is not limited to, a review of best practices for facilitating
19 motion picture production in local jurisdictions, resources on
20 hosting and encouraging motion picture production, and the
21 California Film Commission's Model Filming Ordinance. The
22 California Film Commission shall maintain on its internet website
23 a list of initiatives by locality that encourage motion picture
24 production in regions across the state. The list shall be distributed
25 to each approved applicant for the program to highlight local
26 jurisdictions that offer incentives to facilitate film production.

27 (i) (1) (A) The aggregate amount of credits that may be
28 allocated for a fiscal year pursuant to this section and Section
29 23698, except as provided in subdivision (k) of this section and
30 subdivision (k) of Section 23698, is three hundred thirty million
31 dollars (\$330,000,000), plus any amount described in subparagraph
32 (B), (C), (D), or (E) in credits for the 2020–21 fiscal year and each
33 fiscal year thereafter, through and including the ~~2024–25~~ 2029–30
34 fiscal year, except as provided in paragraph (7) of subdivision (g),
35 plus the amount described in subparagraph (F) in credits for the
36 2021–22 and 2022–23 fiscal years.

37 (B) (i) Subject to clauses (ii) and (iii), the unused allocation
38 credit amount, if any, for the preceding fiscal year.

1 (ii) The amount of unused credit allocation attributable to
2 independent films shall only be allocated according to clause (i)
3 of subparagraph (A) of paragraph (2).

4 (iii) The total amount of any unused credit allocation amount
5 that is remaining shall only be allocated pursuant to clause (iv) of
6 subparagraph (A) of paragraph (2).

7 (C) The amount of previously allocated credits not certified.

8 (D) The amount of any credits reduced pursuant to paragraph
9 (2) of subdivision (d).

10 (E) That portion of any unused allocation credit amount, if any,
11 attributable to Section 17053.85, 17053.95, 23685, or 23695
12 available for that fiscal year in a manner as determined by
13 regulations promulgated by the California Film Commission.

14 (F) (i) For fiscal years 2021–22 and 2022–23, the California
15 Film Commission shall allocate an additional fifteen million dollars
16 (\$15,000,000) in credits to be granted exclusively to television
17 series that relocate to California.

18 (I) Notwithstanding subparagraph (A) of paragraph (2) of this
19 subdivision and clause (v) of subparagraph (D) of paragraph (2)
20 of subdivision (g), the moneys allocated pursuant to this
21 subparagraph shall not be redirected or reallocated.

22 (II) Notwithstanding paragraph (25) of subdivision (b), for
23 purposes of this subparagraph, a “television series that relocated
24 to California” means a television series, without regard to episode
25 length or initial media exhibition, with a minimum production
26 budget of one million dollars (\$1,000,000) per episode that both
27 filmed at least 75 percent of principal photography days for at least
28 one episode outside of California and has not filmed more than 25
29 percent of principal photography days for any episode inside of
30 California.

31 (ii) For fiscal years 2021–22 and 2022–23, the California Film
32 Commission shall allocate an additional seventy-five million
33 dollars (\$75,000,000) in credits to be granted exclusively to
34 recurring television series.

35 (2) (A) Notwithstanding the foregoing, and subject to paragraph
36 (4) of this subdivision and changes in allocations pursuant to clause
37 (v) of subparagraph (D) of paragraph (2) of subdivision (g), the
38 California Film Commission shall allocate the credit amounts
39 subject to the following categories:

1 (i) Independent films with qualified expenditures of ten million
2 dollars (\$10,000,000) or less shall be allocated 4.8 percent of the
3 amount specified in paragraph (1). Independent films with qualified
4 expenditures in excess of ten million dollars (\$10,000,000) shall
5 be allocated 3.2 percent of the amount specified in paragraph (1).
6 These amounts shall be in addition to any unused allocation credit
7 amount, if any, for the preceding fiscal year as described in
8 subparagraph (B) of paragraph (1).

9 (ii) Features shall be allocated 35 percent of the amount specified
10 in paragraph (1).

11 (iii) A relocating television series shall be allocated 17 percent
12 of the amount specified in paragraph (1).

13 (iv) A new television series, pilots for a new television series,
14 miniseries, and recurring television series shall be allocated 40
15 percent of the amount specified in paragraph (1), plus any unused
16 allocation credit amount, if any, for the preceding fiscal year as
17 described in subparagraph (B) of paragraph (1).

18 (B) Within any allocation period for credits to a relocating
19 television series, any unused amount shall be reallocated to the
20 category described in clause (iv) of subparagraph (A) and, if any
21 unused amount remains, reallocated in the next allocation period
22 for credits to a relocating television series.

23 (C) With respect to a relocating television series issued a credit
24 in a subsequent year pursuant to clause (v) of subparagraph (D)
25 of paragraph (2) of subdivision (g), that subsequent credit amount
26 shall be allowed from the allocation amount described in clause
27 (iv) of subparagraph (A).

28 (3) Any act that reduces the amount that may be allocated
29 pursuant to paragraph (1) constitutes a change in state taxes for
30 the purpose of increasing revenues within the meaning of Section
31 3 of Article XIII A of the California Constitution and may be passed
32 by not less than two-thirds of all Members elected to each of the
33 two houses of the Legislature.

34 (4) (A) Except as provided in subparagraph (B), a qualified
35 motion picture, as defined in subdivision (k), shall not be eligible
36 for an allocation under subdivisions (a) to (j), inclusive, if it
37 receives a credit under subdivision (k) during that fiscal year.

38 (B) Notwithstanding any other provision in this section, a
39 recurring television series, as that term is used under subdivision
40 (k), that is no longer eligible for the credit in paragraph (9) of

1 subdivision (k) shall be eligible to apply for an allocation of credits
2 under subdivisions (a) to (j), inclusive.

3 (j) The California Film Commission shall have the authority to
4 allocate tax credits in accordance with this section and in
5 accordance with any regulations prescribed pursuant to subdivision
6 (e) upon adoption.

7 (k) (1) For taxable years beginning on or after January 1, 2022,
8 and before January 1, 2032, there shall be allowed to a qualified
9 taxpayer a credit against the “net tax,” as defined in Section 17039,
10 subject to allocation by the California Film Commission, in an
11 amount equal to 20 percent or 25 percent, whichever is the
12 applicable credit percentage described in paragraph (4) of
13 subdivision (a), as modified by paragraph (3) of this subdivision,
14 of the qualified expenditures paid or incurred during the taxable
15 year by a qualified motion picture produced in the state at a
16 certified studio construction project.

17 (2) For purposes of this subdivision, the definitions in
18 subdivision (b) shall apply except as otherwise provided in this
19 subdivision.

20 (A) “Certified studio construction project” means a construction
21 or renovation project certified by the California Film Commission
22 as having met all of the following criteria:

23 (i) The project provides for the construction or renovation of
24 one or more soundstages located in the state.

25 (ii) Actual construction or renovation expenditures are not less
26 than twenty-five million dollars (\$25,000,000) of actual
27 construction or renovation expenditures made over not more than
28 five continuous calendar years.

29 (iii) The construction or renovation of each certified studio
30 construction project is performed in accordance with Section
31 17053.99.

32 (iv) The construction or renovation of each certified studio
33 construction project commences pursuant to a foundation permit
34 or a structural building permit for the construction or renovation
35 that is issued after the effective date of the act adopting this
36 subdivision.

37 (v) The applicant shall not have received a California Competes
38 Grant under Section 12096.6 of the Government Code for wages
39 or investment related to construction of the studio construction
40 project.

1 (B) “Qualified motion picture” means a qualified motion picture,
2 as defined in subdivision (b), that meets all of the following
3 requirements:

4 (i) For each taxable year for which the credit is claimed by the
5 qualified motion picture, films at least 50 percent of its principal
6 photography stage shooting days on a soundstage or soundstages
7 certified as a certified studio construction project, for which
8 certification was issued within the prior 36 months.

9 (ii) For each taxable year for which the credit is claimed by a
10 qualified motion picture, incurs at least seven million five hundred
11 thousand dollars (\$7,500,000) in qualified wages for filming on a
12 soundstage or soundstages certified as a certified studio
13 construction project that are paid or incurred in that taxable year.

14 (iii) Is produced by a qualified taxpayer that is either of the
15 following:

16 (I) More than 50 percent owned, directly or indirectly, by the
17 same owner or owners of the soundstage or soundstages that is
18 part of a certified studio construction project on which the
19 production is filmed.

20 (II) Entered into a contract or lease of 10 years or more with
21 the owner or owners of a certified studio construction project on
22 which the production is filmed.

23 (iv) Provides a diversity workplan that is approved by the
24 California Film Commission.

25 (C) For purposes of this subdivision, a qualified taxpayer and
26 a taxpayer include a passthrough entity and a disregarded entity.

27 (3) (A) The diversity workplan required pursuant to clause (iv)
28 of subparagraph (B) of paragraph (2) shall include all of the
29 following:

30 (i) A statement of the diversity goals the motion picture will
31 seek to achieve in terms of qualified wages paid by race, ethnicity,
32 and gender.

33 (ii) A statement of the diversity goals the motion picture will
34 seek to achieve for individuals whose wages are excluded from
35 qualified wages as set forth in clause (iv) of subparagraph (B) of
36 paragraph (21) of subdivision (b), with respect to both
37 compensation and to the representation of diversity in the creative
38 aspects of the motion picture.

39 (iii) A plan of what strategies the motion picture will employ
40 to achieve the goals in clauses (i) and (ii).

1 (B) The diversity workplan shall include goals that are broadly
2 reflective of California’s population, in terms of race, ethnicity,
3 and gender.

4 (C) The California Film Commission shall approve or reject the
5 diversity workplan of an applicant, to the extent allowed by federal
6 and state law.

7 (D) (i) The California Film Commission shall not certify any
8 tax credit under this subdivision until they have received a final
9 diversity report from the applicant.

10 (ii) The final diversity report shall calculate and provide
11 evidence for the extent to which the applicant met the diversity
12 goals laid out in their diversity workplan.

13 (iii) The California Film Commission shall have the authority
14 to audit the final diversity report to determine if the diversity goals
15 set forth in the applicant’s diversity workplan for the motion picture
16 production were achieved.

17 (iv) If the California Film Commission determines that the
18 applicant has met or made a good faith effort to meet the diversity
19 goals in its diversity workplan, the applicant’s credit percentage
20 described in paragraph (1) shall be increased by up to four
21 percentage points as follows:

22 (I) By two percentage points if the California Film Commission
23 determines that the applicant has met or made a good faith effort
24 to meet the diversity goals with respect to the diversity of the
25 workforce employed by the applicant in its diversity workplan
26 statement.

27 (II) By two percentage points if the California Film Commission
28 determines that the applicant has met or made a good faith effort
29 to meet the diversity goals with respect to individuals whose wages
30 are excluded from qualified wages as set forth in clause (iv) of
31 subparagraph (B) of paragraph (21) of subdivision (b), in its
32 diversity workplan statement.

33 (E) The California Film Commission, in consultation with the
34 Governor’s Office of Business and Economic Development, shall
35 establish guidelines to evaluate diversity workplans as described
36 in this paragraph. The guidelines shall be posted on the California
37 Film Commission’s internet website.

38 (4) The credit allowed under this subdivision shall be
39 administered in accordance with subdivisions (a), (b), (c), (d), (h),

1 and (l), except that paragraph (7) of subdivision (b) shall not apply
2 and paragraph (2) of subdivision (d) shall not apply.

3 (5) Subparagraph (A) of paragraph (2), subparagraphs (A), (B),
4 and (C) of paragraph (3), and paragraphs (4), (5), and (6) of
5 subdivision (g) shall apply.

6 (6) A conflict between this subdivision and any other
7 subdivisions in this section shall be reconciled in favor of this
8 subdivision.

9 (7) The aggregate amount of credit allocated by the California
10 Film Commission pursuant to subdivisions (a) to (j), inclusive, of
11 this section and Section 23698 shall not be reduced by the tax
12 credit allowed pursuant to this subdivision. The amount of credit
13 allowed by this subdivision shall not be limited by subdivision (i).

14 (8) (A) The credit allocated pursuant to this subdivision shall
15 be allowed for the taxable year in which the California Film
16 Commission issues a credit certificate in accordance with the
17 procedures provided for in subdivision (g) for the qualified motion
18 picture. The California Film Commission shall issue a credit
19 certificate to a qualified taxpayer upon completion of the qualified
20 motion picture reflecting the credit amount allocated after qualified
21 expenditures have been verified.

22 (B) (i) The California Film Commission, commencing with
23 fiscal year 2021–22, shall allocate tax credits each year to qualified
24 motion pictures meeting the criteria of this subdivision. The total
25 amount of credits that may be allocated under this subdivision is
26 one hundred fifty million dollars (\$150,000,000). A season of a
27 series or feature film may not be allocated more than twelve million
28 dollars (\$12,000,000) under this subdivision. Recurring television
29 series receiving an initial allocation under this subdivision shall
30 be allocated for subsequent seasons no more than allowed under
31 this paragraph.

32 (ii) A qualified motion picture shall not be eligible to receive a
33 credit allocation under this subdivision if that qualified motion
34 picture receives a credit allocation under subdivisions (a) to (j),
35 inclusive for the fiscal year. However, subject to paragraph (4) of
36 subdivision (i), any television series, relocating television series,
37 or any new television series based on a pilot for a new television
38 series that is no longer eligible for a credit under this subdivision
39 pursuant to paragraph (9) may apply to receive an allocation of
40 credits pursuant to subdivisions (a) to (j), inclusive.

1 (C) In any year the tax credits under this paragraph have been
2 allocated by the California Film Commission, a qualified motion
3 picture or a recurring television series that satisfies the criteria of
4 this subdivision, but have not received an allocation of credits,
5 may apply to receive an allocation of credits pursuant to
6 subdivision (i).

7 (D) Credits shall be allocated based on the assumption that the
8 motion picture meets the diversity criteria specified in clause (iv)
9 of subparagraph (D) of paragraph (3).

10 (9) (A) A qualified motion picture meeting the requirements
11 of this subdivision during the first three years after the certified
12 studio construction project is certified by the California Film
13 Commission shall be allowed a credit under this subdivision
14 commencing with its first year of filming in the certified studio
15 construction project facility and for each successive year until the
16 certified studio construction project has reached its fourth year
17 after being certified, as long as the qualified motion picture
18 continues to satisfy the criteria of this subdivision and to the extent
19 the total credit amount the California Film Commission is permitted
20 to allocate pursuant to subparagraph (B) of paragraph (8) has not
21 previously been allocated.

22 (B) (i) Subject to the allocation of credits under paragraph (8)
23 of this subdivision, if the first year of production of a qualified
24 motion picture occurs in the fourth year after the certified studio
25 construction project is certified by the California Film Commission
26 or any year thereafter, the qualified motion picture shall submit
27 an application subject to the annual cap and the allocation credit
28 amounts based on categories described in subdivision (i), subject
29 to the modifications included in this subparagraph.

30 (ii) For feature films and new television series, the jobs ratio
31 used to rank qualified motion pictures in subparagraph (D) of
32 paragraph (2) of subdivision (g) shall be equal to the product of
33 the jobs ratio calculated in paragraph (7) of subdivision (b) and
34 133 percent.

35 (10) Within six months of the effective date of this subdivision,
36 the California Film Commission shall:

37 (A) Establish procedures to certify a certified studio construction
38 project.

39 (B) Establish procedures to verify a qualified motion picture
40 has met the criteria established in this section for filming in a

1 certified studio construction project facility. That procedure shall
2 include a requirement that the qualified motion picture pay 0.5
3 percent of the approved credit amount to the Career Pathways
4 Training program specified in subdivision (e).

5 (C) (i) Implementation of this subdivision for the 2021–22
6 fiscal year is deemed an emergency and necessary for the
7 immediate preservation of the public peace, health, and safety, or
8 general welfare and, therefore, the California Film Commission
9 is hereby authorized to adopt emergency regulations to implement
10 this subdivision during the 2021–22 fiscal year in accordance with
11 the rulemaking provisions of the Administrative Procedure Act
12 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
13 Division 3 of Title 2 of the Government Code).

14 (ii) The California Film Commission shall adopt regulations in
15 order to implement this paragraph.

16 (11) In the case where the credit allowed by this subdivision
17 exceeds the taxpayer's tax liability computed under this part, the
18 excess credit may be carried over to reduce the "net tax" in the
19 following taxable year, and succeeding eight taxable years, if
20 necessary, until the credit has been exhausted.

21 (12) Upon completion of construction or renovation of the
22 soundstage or soundstages, the taxpayer shall certify to the
23 California Film Commission that all contractors and subcontractors
24 performing construction work on the soundstage or soundstages
25 were required to use a skilled and trained workforce to perform
26 such work in accordance with subdivision (b) of Section 17053.99.

27 (13) (A) Upon completion of construction or renovation of the
28 soundstage or soundstages, the soundstage or soundstages shall
29 be continuously operated, maintained, and repaired by any of the
30 following:

31 (i) A workforce that is paid at least the general prevailing rate
32 of per diem wages for the type of work and geographic area, as
33 determined by the Director of Industrial Relations pursuant to
34 Sections 1773 and 1773.9 of the Labor Code, if such services are
35 performed by a workforce that is employed directly, or indirectly
36 through a motion picture payroll services company, by the owner
37 or affiliate of the owner of the soundstage or lessee of the
38 soundstage described in subclause (II) of clause (iii) of
39 subparagraph (B) of paragraph (2) of this subdivision.

1 (ii) A skilled and trained workforce as defined in Chapter 2.9
2 (commencing with Section 2600) of Part 1 of Division 2 of the
3 Public Contract Code, if such services are provided by third-party
4 vendors.

5 (B) Each year following completion of construction or
6 renovation of the soundstage or soundstages that a qualified motion
7 picture is allocated a tax credit pursuant to this subdivision, the
8 qualified taxpayer shall certify to the California Film Commission
9 both of the following:

10 (i) The total amount of payments to third-party vendors or
11 qualified wages for operation, maintenance, and repair of the
12 certified soundstage.

13 (ii) The amount and percentage of the total amount of payments
14 to third-party vendors or qualified wages for operation,
15 maintenance, and repair of the certified soundstage performed by
16 each workforce described in subparagraph (A).

17 (C) If the percentage paid to workers in clause (i) of
18 subparagraph (A) is certified to be 90 percent of the total amount
19 under clause (i) of subparagraph (B) or greater, the qualified
20 taxpayer shall be entitled to 100 percent of the applicable credit
21 issued under this subdivision for the period. If the percentage paid
22 to workers in clause (i) of subparagraph (A) is certified to be less
23 than 90 percent of the total amount under clause (i) of subparagraph
24 (B) but greater than or equal to 75 percent of the total amount
25 under clause (i) of subparagraph (B), the qualified taxpayer shall
26 be entitled to 50 percent of the applicable credit issued under this
27 subdivision for the period. If the percentage paid to workers in
28 clause (i) of subparagraph (A) is certified to be less than 75 percent
29 of the total amount under clause (i) of subparagraph (B), the
30 qualified taxpayer shall not be entitled to any credit issued under
31 this subdivision for the applicable period.

32 (l) Section 41 shall not apply to the credits allowed by this
33 section.

34 *SEC. 2. Section 23698 of the Revenue and Taxation Code is*
35 *amended to read:*

36 23698. (a) (1) For taxable years beginning on or after January
37 1, 2020, there shall be allowed to a qualified taxpayer a credit
38 against the “tax,” as defined in Section 23036, subject to a
39 computation and ranking by the California Film Commission in
40 subdivision (g) and the allocation amount categories described in

1 subdivision (i), in an amount equal to 20 percent or 25 percent,
2 whichever is the applicable credit percentage described in
3 paragraph (4), of the qualified expenditures for the production of
4 a qualified motion picture in California. A credit shall not be
5 allowed under this section for any qualified expenditures for the
6 production of a motion picture in California if a credit has been
7 claimed for those same expenditures under Section 23685 or 23695.

8 (2) Except as otherwise provided in this section, the credit shall
9 be allowed for the taxable year in which the California Film
10 Commission issues the credit certificate pursuant to subdivision
11 (g) for the qualified motion picture, but in no instance prior to July
12 1, 2020, and shall be for the applicable percentage of all qualified
13 expenditures paid or incurred by the qualified taxpayer in all
14 taxable years for that qualified motion picture.

15 (3) (A) The amount of the credit allowed to a qualified taxpayer
16 shall be limited to the amount specified in the credit certificate
17 issued to the qualified taxpayer by the California Film Commission
18 pursuant to subdivision (g).

19 (B) In determining the amount specified in the credit certificate
20 in subparagraph (A), the California Film Commission shall be
21 limited to the following amounts of qualified expenditures for each
22 qualified motion picture:

23 (i) In the case of a feature, up to one hundred million dollars
24 (\$100,000,000).

25 (ii) In the case of a miniseries described in clause (ii) of
26 subparagraph (A) of paragraph (18) of subdivision (b), up to one
27 hundred million dollars (\$100,000,000).

28 (iii) In the case of a television series described in clause (iii) or
29 clause (v) of subparagraph (A) of paragraph (18) of subdivision
30 (b), up to one hundred million dollars (\$100,000,000) per season.

31 (iv) In the case of an independent film, up to ten million dollars
32 (\$10,000,000).

33 (4) For purposes of paragraphs (1) and (2), the applicable credit
34 percentage shall be:

35 (A) Twenty percent of the qualified expenditures attributable
36 to the production of a qualified motion picture in California,
37 including, but not limited to, a feature or a television series that
38 relocated to California that is in its second or subsequent years of
39 receiving a tax credit allocation pursuant to this section, Section
40 23685, or Section 23695.

1 (B) Twenty-five percent of the qualified expenditures
2 attributable to the production of a qualified motion picture in
3 California where the qualified motion picture is a television series
4 that relocated to California in its first year of receiving a tax credit
5 allocation pursuant to this section.

6 (C) Twenty-five percent of the qualified expenditures
7 attributable to the production of a qualified motion picture that is
8 an independent film.

9 (D) Additional credits shall be allowed for the production of a
10 qualified motion picture whose applicable credit percentage is
11 determined pursuant to subparagraph (A), in an aggregate amount
12 not to exceed 5 percent of the qualified expenditures under that
13 subparagraph, as follows:

14 (i) (I) Five percent of qualified expenditures, excluding qualified
15 wages described in subparagraph (E), relating to original
16 photography outside the Los Angeles zone.

17 (II) For purposes of this clause and subparagraph (E):

18 (ia) “Applicable period” means the period that commences with
19 preproduction and ends when original photography concludes. The
20 applicable period includes the time necessary to strike a remote
21 location and return to the Los Angeles zone.

22 (ib) “Los Angeles zone” means the area within a circle 30 miles
23 in radius from Beverly Boulevard and La Cienega Boulevard, Los
24 Angeles, California, and includes Agua Dulce, Castaic, including
25 Castaic Lake, Leo Carrillo State Beach, Ontario International
26 Airport, Piru, and Pomona, including the Los Angeles County
27 Fairgrounds. The Metro-Goldwyn-Mayer, Inc. Conejo Ranch
28 property is within the Los Angeles zone.

29 (ic) “Original photography” includes principal photography and
30 reshooting original footage.

31 (id) “Qualified expenditures relating to original photography
32 outside the Los Angeles zone” means amounts paid or incurred
33 during the applicable period for tangible personal property
34 purchased or leased and used or consumed outside the Los Angeles
35 zone and relating to original photography outside the Los Angeles
36 zone and qualified wages paid for services performed outside the
37 Los Angeles zone and relating to original photography outside the
38 Los Angeles zone.

1 (ii) Five percent of the qualified expenditures relating to
2 qualified visual effects attributable to the production of a qualified
3 motion picture in California.

4 (E) (i) Notwithstanding subparagraph (D), an amount equal to
5 10 percent of qualified wages paid for services performed relating
6 to original photography outside of the Los Angeles zone to
7 qualified individuals who reside in California but outside the Los
8 Angeles zone shall be allowed as an additional credit for the
9 production of a qualified motion picture whose applicable credit
10 percentage is determined pursuant to subparagraph (A).

11 (ii) Notwithstanding subparagraph (D), an amount equal to 5
12 percent of qualified wages paid for services performed relating to
13 original photography outside of the Los Angeles zone to qualified
14 individuals who reside in California but outside the Los Angeles
15 zone shall be allowed as an additional credit for the production of
16 a qualified motion picture whose applicable credit percentage is
17 determined pursuant to subparagraph (B) or (C).

18 (b) For purposes of this section:

19 (1) “Ancillary product” means any article for sale to the public
20 that contains a portion of, or any element of, the qualified motion
21 picture.

22 (2) “Budget” means an estimate of all expenses paid or incurred
23 during the production period of a qualified motion picture. It shall
24 be the same budget used by the qualified taxpayer and production
25 company for all qualified motion picture purposes.

26 (3) “Clip use” means a use of any portion of a motion picture,
27 other than the qualified motion picture, used in the qualified motion
28 picture.

29 (4) “Credit certificate” means the certificate issued by the
30 California Film Commission pursuant to subparagraph (D) of
31 paragraph (3) of subdivision (g).

32 (5) (A) “Employee fringe benefits” means the amount allowable
33 as a deduction under this part to the qualified taxpayer involved
34 in the production of the qualified motion picture, exclusive of any
35 amounts contributed by employees, for any year during the
36 production period with respect to any of the following:

37 (i) Employer contributions under any pension, profit-sharing,
38 annuity, or similar plan.

39 (ii) Employer-provided coverage under any accident or health
40 plan for employees.

1 (iii) The employer’s cost of life or disability insurance provided
2 to employees.

3 (B) Any amount treated as wages under clause (i) of
4 subparagraph (A) of paragraph (21) shall not be taken into account
5 under this paragraph.

6 (6) “Independent film” means a motion picture with a minimum
7 budget of one million dollars (\$1,000,000) that is produced by a
8 company that is not publicly traded and publicly traded companies
9 do not own, directly or indirectly, more than 25 percent of the
10 producing company.

11 (7) “Jobs ratio” means the amount of qualified wages paid to
12 qualified individuals divided by the amount of tax credit, not
13 including any additional credit allowed pursuant to subparagraphs
14 (D) and (E) of paragraph (4) of subdivision (a), as computed by
15 the California Film Commission. For the purposes of the
16 calculation of the jobs ratio only, 70 percent of qualified
17 expenditures for visual effects paid to third-party vendors for work
18 performed in California shall be deemed to be qualified wages
19 paid to a qualified individual.

20 (8) “Licensing” means any grant of rights to distribute the
21 qualified motion picture, in whole or in part.

22 (9) “New use” means any use of a motion picture in a medium
23 other than the medium for which it was initially created.

24 (10) “Pilot for a new television series” means the initial episode
25 produced for a proposed television series.

26 (11) (A) “Postproduction” means the final activities in a
27 qualified motion picture’s production, including editing, foley
28 recording, automatic dialogue replacement, sound editing, scoring,
29 music track recording by musicians and music editing, beginning
30 and end credits, negative cutting, negative processing and
31 duplication, the addition of sound and visual effects, sound mixing,
32 film-to-tape transfers, encoding, and color correction.

33 (B) “Postproduction” does not include the manufacture or
34 shipping of release prints or their equivalent.

35 (12) “Preproduction” means the process of preparation for actual
36 physical production which begins after a qualified motion picture
37 has received a firm agreement of financial commitment, or is
38 greenlit, with, for example, the establishment of a dedicated
39 production office, the hiring of key crew members, and includes,

1 but is not limited to, activities that include location scouting and
2 execution of contracts with vendors of equipment and stage space.

3 (13) “Principal photography” means the phase of production
4 during which the motion picture is actually shot, as distinguished
5 from preproduction and postproduction.

6 (14) “Production period” means the period beginning with
7 preproduction and ending upon completion of postproduction.

8 (15) “Qualified entity” means a personal service corporation as
9 defined in Section 269A(b)(1) of the Internal Revenue Code, a
10 payroll services corporation, or any entity receiving qualified wages
11 with respect to services performed by a qualified individual.

12 (16) “Qualified expenditures” means amounts paid or incurred
13 for tangible personal property purchased or leased, and used, within
14 this state in the production of a qualified motion picture and
15 payments, including qualified wages, for services performed within
16 this state in the production of a qualified motion picture.

17 (17) (A) “Qualified individual” means any individual who
18 performs services during the production period in an activity related
19 to the production of a qualified motion picture.

20 (B) “Qualified individual” shall not include either of the
21 following:

22 (i) Any individual related to the qualified taxpayer as described
23 in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal
24 Revenue Code.

25 (ii) Any 5-percent owner, as defined in Section 416(i)(1)(B) of
26 the Internal Revenue Code, of the qualified taxpayer.

27 (18) (A) “Qualified motion picture” means a motion picture
28 that is produced for distribution to the general public, regardless
29 of medium, that is one of the following:

30 (i) A feature with a minimum production budget of one million
31 dollars (\$1,000,000).

32 (ii) A miniseries consisting of two or more episodes, each longer
33 than 40 minutes of running time, exclusive of commercials, that
34 is produced in California, with a minimum production budget of
35 one million dollars (\$1,000,000) per episode.

36 (iii) A new television series of episodes longer than 40 minutes
37 each of running time, exclusive of commercials, that is produced
38 in California, with a minimum production budget of one million
39 dollars (\$1,000,000) per episode.

40 (iv) An independent film.

1 (v) A television series that relocated to California.

2 (vi) A pilot for a new television series that is longer than 40
3 minutes of running time, exclusive of commercials, that is produced
4 in California, and with a minimum production budget of one
5 million dollars (\$1,000,000).

6 (B) To qualify as a “qualified motion picture,” all of the
7 following conditions shall be satisfied:

8 (i) At least 75 percent of the principal photography days occur
9 wholly in California or 75 percent of the production budget is
10 incurred for payment for services performed within the state and
11 the purchase or rental of property used within the state.

12 (ii) Production of the qualified motion picture is completed
13 within 30 months from the date on which the qualified taxpayer’s
14 application is approved by the California Film Commission. For
15 purposes of this section, a qualified motion picture is “completed”
16 when the process of postproduction has been finished.

17 (iii) The copyright for the motion picture is registered with the
18 United States Copyright Office pursuant to Title 17 of the United
19 States Code.

20 (iv) Principal photography of the qualified motion picture
21 commences after the date on which the application is approved by
22 the California Film Commission, but no later than 180 days after
23 the date of that approval if the qualified motion picture has a budget
24 with qualified expenditures of less than one hundred million dollars
25 (\$100,000,000), and no later than 240 days after the date of that
26 approval in the case of a qualified motion picture with a budget
27 of qualified expenditures with at least one hundred million dollars
28 (\$100,000,000), unless death, disability, or disfigurement of the
29 director or of a principal cast member; an act of God, including,
30 but not limited to, fire, flood, earthquake, storm, hurricane, or other
31 natural disaster; terrorist activities; or government sanction has
32 directly prevented a production’s ability to begin principal
33 photography within the prescribed 180- or 240-day commencement
34 period.

35 (C) For the purposes of subparagraph (A), in computing the
36 total wages paid or incurred for the production of a qualified
37 motion picture, all amounts paid or incurred by all persons or
38 entities that share in the costs of the qualified motion picture shall
39 be aggregated.

1 (D) “Qualified motion picture” shall not include commercial
2 advertising, music videos, a motion picture produced for private
3 noncommercial use, such as weddings, graduations, or as part of
4 an educational course and made by students, a news program,
5 current events or public events program, talk show, game show,
6 sporting event or activity, awards show, telethon or other
7 production that solicits funds, reality television program, clip-based
8 programming if more than 50 percent of the content is comprised
9 of licensed footage, documentaries, variety programs, daytime
10 dramas, strip shows, one-half hour (air time) episodic television
11 shows, or any production that falls within the recordkeeping
12 requirements of Section 2257 of Title 18 of the United States Code.

13 (19) (A) “Qualified taxpayer” means a taxpayer who has paid
14 or incurred qualified expenditures, participated in the Career
15 Readiness requirement in Section 23695 and has been issued a
16 credit certificate by the California Film Commission pursuant to
17 subdivision (g).

18 (B) (i) In the case of any pass-thru entity, the determination of
19 whether a taxpayer is a qualified taxpayer under this section shall
20 be made at the entity level and any credit under this section is not
21 allowed to the pass-thru entity, but shall be passed through to the
22 partners or shareholders in accordance with applicable provisions
23 of Part 10 (commencing with Section 17001) or Part 11
24 (commencing with Section 23001). For purposes of this paragraph,
25 “pass-thru entity” means any entity taxed as a partnership or “S”
26 corporation.

27 (ii) In the case of an “S” corporation, the credit allowed under
28 this section shall not be used by an “S” corporation as a credit
29 against a tax imposed under Chapter 4.5 (commencing with Section
30 23800) of Part 11 of Division 2.

31 (20) “Qualified visual effects” means visual effects where at
32 least 75 percent or a minimum of ten million dollars (\$10,000,000)
33 of the qualified expenditures for the visual effects is paid or
34 incurred in California.

35 (21) (A) “Qualified wages” means all of the following:

36 (i) Any wages subject to withholding under Division 6
37 (commencing with Section 13000) of the Unemployment Insurance
38 Code that were paid or incurred by any taxpayer involved in the
39 production of a qualified motion picture with respect to a qualified

1 individual for services performed on the qualified motion picture
2 production within this state.

3 (ii) The portion of any employee fringe benefits paid or incurred
4 by any taxpayer involved in the production of the qualified motion
5 picture that are properly allocable to qualified wage amounts
6 described in clauses (i), (iii), and (iv).

7 (iii) Any payments made to a qualified entity for services
8 performed in this state by qualified individuals within the meaning
9 of paragraph (17).

10 (iv) Remuneration paid to an independent contractor who is a
11 qualified individual for services performed within this state by that
12 qualified individual.

13 (B) “Qualified wages” shall not include any of the following:

14 (i) Expenses, including wages, related to new use, reuse, clip
15 use, licensing, secondary markets, or residual compensation, or
16 the creation of any ancillary product, including, but not limited to,
17 a soundtrack album, toy, game, trailer, or teaser.

18 (ii) Expenses, including wages, paid or incurred with respect to
19 acquisition, development, turnaround, or any rights thereto.

20 (iii) Expenses, including wages, related to financing, overhead,
21 marketing, promotion, or distribution of a qualified motion picture.

22 (iv) Expenses, including wages, paid per person per qualified
23 motion picture for writers, directors, music directors, music
24 composers, music supervisors, producers, and performers, other
25 than background actors with no scripted lines.

26 (22) “Residual compensation” means supplemental
27 compensation paid at the time that a motion picture is exhibited
28 through new use, reuse, clip use, or in secondary markets, as
29 distinguished from payments made during production.

30 (23) “Reuse” means any use of a qualified motion picture in the
31 same medium for which it was created, following the initial use
32 in that medium.

33 (24) “Secondary markets” means media in which a qualified
34 motion picture is exhibited following the initial media in which it
35 is exhibited.

36 (25) “Television series that relocated to California” means a
37 television series, without regard to episode length or initial media
38 exhibition, with a minimum production budget of one million
39 dollars (\$1,000,000) per episode, that filmed at least 75 percent of
40 principal photography days in its most recent season outside of

1 California or has filmed all seasons outside of California and for
2 which the taxpayer certifies that the credit provided pursuant to
3 this section is the primary reason for relocating to California.

4 (26) “Visual effects” means the creation, alteration, or
5 enhancement of images that cannot be captured on a set or location
6 during live action photography and therefore is accomplished in
7 postproduction. It includes, but is not limited to, matte paintings,
8 animation, set extensions, computer-generated objects, characters
9 and environments, compositing (combining two or more elements
10 in a final image), and wire removals. “Visual effects” does not
11 include fully animated projects, whether created by traditional or
12 digital means.

13 (c) (1) Notwithstanding subdivision (i) of Section 23036, in
14 the case where the credit allowed by this section exceeds the
15 taxpayer’s tax liability computed under this part, a qualified
16 taxpayer may elect to assign any portion of the credit allowed
17 under this section to one or more affiliated corporations for each
18 taxable year in which the credit is allowed. For purposes of this
19 subdivision, “affiliated corporation” has the meaning provided in
20 subdivision (b) of Section 25110, as that section was amended by
21 Chapter 881 of the Statutes of 1993, as of the last day of the taxable
22 year in which the credit is allowed, except that “100 percent” is
23 substituted for “more than 50 percent” wherever it appears in the
24 section, and “voting common stock” is substituted for “voting
25 stock” wherever it appears in the section.

26 (2) The election provided in paragraph (1):

27 (A) May be based on any method selected by the qualified
28 taxpayer that originally receives the credit.

29 (B) Shall be irrevocable for the taxable year the credit is allowed,
30 once made.

31 (C) May be changed for any subsequent taxable year if the
32 election to make the assignment is expressly shown on each of the
33 returns of the qualified taxpayer and the qualified taxpayer’s
34 affiliated corporations that assign and receive the credits.

35 (D) Shall be reported to the Franchise Tax Board, in the form
36 and manner specified by the Franchise Tax Board, along with all
37 required information regarding the assignment of the credit,
38 including the corporation number, the federal employer
39 identification number, or other taxpayer identification number of
40 the assignee, and the amount of the credit assigned.

1 (3) (A) Notwithstanding any other law, a qualified taxpayer
2 may sell any credit allowed under this section that is attributable
3 to an independent film, as defined in paragraph (6) of subdivision
4 (b), to an unrelated party.

5 (B) The qualified taxpayer shall report to the Franchise Tax
6 Board prior to the sale of the credit, in the form and manner
7 specified by the Franchise Tax Board, all required information
8 regarding the purchase and sale of the credit, including the social
9 security or other taxpayer identification number of the unrelated
10 party to whom the credit has been sold, the face amount of the
11 credit sold, and the amount of consideration received by the
12 qualified taxpayer for the sale of the credit.

13 (4) In the case where the credit allowed under this section
14 exceeds the “tax,” the excess credit may be carried over to reduce
15 the “tax” in the following taxable year, and succeeding eight
16 taxable years, if necessary, until the credit has been exhausted.

17 (5) A credit shall not be sold pursuant to this subdivision to
18 more than one taxpayer, nor may the credit be resold by the
19 unrelated party to another taxpayer or other party.

20 (6) A party that has been assigned or acquired tax credits under
21 this subdivision shall be subject to the requirements of this section.

22 (7) In no event may a qualified taxpayer assign or sell any tax
23 credit to the extent the tax credit allowed by this section is claimed
24 on any tax return of the qualified taxpayer.

25 (8) In the event that both the taxpayer originally allocated a
26 credit under this section by the California Film Commission and
27 a taxpayer to whom the credit has been sold both claim the same
28 amount of credit on their tax returns, the Franchise Tax Board may
29 disallow the credit of either taxpayer, so long as the statute of
30 limitations upon assessment remains open.

31 (9) Chapter 3.5 (commencing with Section 11340) of Part 1 of
32 Division 3 of Title 2 of the Government Code does not apply to
33 any standard, criterion, procedure, determination, rule, notice, or
34 guideline established or issued by the Franchise Tax Board
35 pursuant to this subdivision.

36 (10) Subdivision (i) of Section 23036 shall not apply to any
37 credit sold pursuant to this subdivision.

38 (11) For purposes of this subdivision:

1 (A) An affiliated corporation or corporations that are assigned
2 a credit pursuant to paragraph (1) shall be treated as a qualified
3 taxpayer pursuant to paragraph (1) of subdivision (a).

4 (B) The unrelated party or parties that purchase a credit pursuant
5 to paragraphs (3) to (10), inclusive, shall be treated as a qualified
6 taxpayer pursuant to paragraph (1) of subdivision (a).

7 (d) (1) No credit shall be allowed pursuant to this section unless
8 the qualified taxpayer provides the following to the California
9 Film Commission:

10 (A) Identification of each qualified individual.

11 (B) The specific start and end dates of production.

12 (C) The total wages paid.

13 (D) The total amount of qualified wages paid to qualified
14 individuals.

15 (E) Aggregate data for individuals whose wages are excluded
16 from qualified wages by clause (iv) of subparagraph (B) of
17 paragraph (21) of subdivision (b), including their gender, ethnic,
18 and racial makeup.

19 (F) The copyright registration number, as reflected on the
20 certificate of registration issued under the authority of Section 410
21 of Title 17 of the United States Code, relating to registration of
22 claim and issuance of certificate. The registration number shall be
23 provided on the return claiming the credit.

24 (G) The total amounts paid or incurred to purchase or lease
25 tangible personal property used in the production of a qualified
26 motion picture.

27 (H) Information to substantiate its qualified expenditures.

28 (I) Information required by the California Film Commission
29 under regulations promulgated pursuant to subdivision (g)
30 necessary to verify the amount of credit claimed.

31 (J) Data regarding the diversity of the workforce employed by
32 the applicant on the qualified motion picture, as described in
33 subdivision (g).

34 (K) Documentation verifying completion of the Career
35 Readiness requirement.

36 (L) Documentation verifying that the qualified taxpayer paid a
37 fee as described in subdivision (e).

38 (2) (A) Based on the information provided in paragraph (1),
39 the California Film Commission shall recompute the jobs ratio
40 previously computed in subdivision (g) and compare this

1 recomputed jobs ratio to the jobs ratio that the qualified taxpayer
2 previously listed on the application submitted pursuant to
3 subdivision (g).

4 (B) (i) If the California Film Commission determines that the
5 jobs ratio has been reduced by more than 10 percent for a qualified
6 motion picture, the California Film Commission shall reduce the
7 amount of credit allowed by an equal percentage, unless the
8 qualified taxpayer demonstrates, and the California Film
9 Commission determines, that reasonable cause exists for the jobs
10 ratio reduction.

11 (ii) If the California Film Commission determines that the jobs
12 ratio has been reduced by more than 20 percent for a qualified
13 motion picture, the California Film Commission shall not accept
14 an application described in subdivision (g) from that qualified
15 taxpayer or any member of the qualified taxpayer's controlled
16 group for a period of not less than one year from the date of that
17 determination, unless the qualified taxpayer demonstrates, and the
18 California Film Commission determines, that reasonable cause
19 exists for the jobs ratio reduction.

20 (C) For the purposes of this paragraph, "reasonable cause"
21 means unforeseen circumstances beyond the control of the qualified
22 taxpayer, such as, but not limited to, the cancellation of a television
23 series prior to the completion of the scheduled number of episodes
24 or other similar circumstances as determined by the California
25 Film Commission in regulations to be adopted pursuant to
26 subdivision (e).

27 (e) (1) (A) Subject to the Administrative Procedure Act
28 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
29 Division 3 of Title 2 of the Government Code), the California Film
30 Commission shall adopt rules and regulations to implement a pilot
31 Career Pathways Training program including a fee to be paid by
32 the qualified taxpayer, if the qualified taxpayer receives a credit
33 under this section, to fund technical skills training to individuals
34 from underserved communities for entry into film and television
35 industry jobs. The California Film Commission shall (i) identify
36 a not-for-profit fiscal agent with direct relationships to industry
37 skills training programs to manage the funds; and (ii) engage
38 labor-management jointly administered training programs with
39 skills training focused on the entertainment industry to implement
40 the program with California Film Commission approval and

1 oversight. With regard to the Career Readiness requirement in
2 Section 23695, the California Film Commission shall identify
3 training and public service opportunities that may include, but not
4 be limited to, hiring interns, public service announcements, and
5 community outreach shall continue. The California Film
6 Commission may prescribe rules and regulations to carry out the
7 purposes of this section, including, subparagraph (D) of paragraph
8 (4) of subdivision (a) and clause (iv) of subparagraph (D) of
9 paragraph (2) of subdivision (g), and including any rules and
10 regulations necessary to establish procedures, processes,
11 requirements, application fee structure, and rules identified in or
12 required to implement this section, including credit and logo
13 requirements and credit allocation procedures over multiple fiscal
14 years where the qualified taxpayer is producing a series of features
15 that will be filmed concurrently.

16 (B) Notwithstanding any other law, prior to preparing a notice
17 of proposed action pursuant to Section 11346.4 of the Government
18 Code and prior to making any revision to the proposed regulation
19 other than a change that is nonsubstantial or solely grammatical
20 in nature, the Governor’s Office of Business and Economic
21 Development shall first approve the proposed regulation or
22 proposed change to a proposed regulation regarding allocating the
23 credit pursuant to subdivision (i), computing the jobs ratio as
24 described in subdivisions (d) and (g), and defining “reasonable
25 cause” pursuant to subparagraph (C) of paragraph (2) of subdivision
26 (d).

27 (2) (A) Implementation of this section for the 2020–21 fiscal
28 year is deemed an emergency and necessary for the immediate
29 preservation of the public peace, health, and safety, or general
30 welfare and, therefore, the California Film Commission is hereby
31 authorized to adopt emergency regulations to implement this
32 section during the 2020–21 fiscal year in accordance with the
33 rulemaking provisions of the Administrative Procedure Act
34 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
35 Division 3 of Title 2 of the Government Code).

36 (B) Nothing in this paragraph shall be construed to require the
37 Governor’s Office of Business and Economic Development to
38 approve emergency regulations adopted pursuant to this paragraph.

39 (3) The California Film Commission shall not be required to
40 prepare an economic impact analysis pursuant to the Administrative

1 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
2 Part 1 of Division 3 of Title 2 of the Government Code) with regard
3 to any rules and regulations adopted pursuant to this subdivision.

4 (f) If the qualified taxpayer fails to provide the copyright
5 registration number as required in subparagraph (E) of paragraph
6 (1) of subdivision (d), the credit shall be disallowed and assessed
7 and collected under Section 19051 until the procedures are
8 satisfied.

9 (g) For purposes of this section, the California Film Commission
10 shall do the following:

11 (1) Subject to the requirements of subparagraphs (A) to (E),
12 inclusive, of paragraph (2), on or after July 1, 2020, and before
13 July 1, ~~2025~~, 2030, in two or more allocation periods per fiscal
14 year, allocate tax credits to applicants.

15 (2) (A) Establish a procedure for applicants to file with the
16 California Film Commission a written application, on a form jointly
17 prescribed by the California Film Commission and the Franchise
18 Tax Board for the allocation of the tax credit. The application shall
19 include, but not be limited to, the following information:

20 (i) The budget for the motion picture production.

21 (ii) The number of production days.

22 (iii) A financing plan for the production.

23 (iv) The diversity of the workforce employed by the applicant,
24 including, but not limited to, the ethnic and racial makeup of the
25 individuals employed by the applicant during the production of
26 the qualified motion picture, to the extent possible.

27 (v) All members of a combined reporting group, if known at
28 the time of the application.

29 (vi) Financial information, if available, including, but not limited
30 to, the most recently produced balance sheets, annual statements
31 of profits and losses, audited or unaudited financial statements,
32 summary budget projections or results, or the functional equivalent
33 of these documents of a partnership or owner of a single member
34 limited liability company that is disregarded pursuant to Section
35 23038. The information provided pursuant to this clause shall be
36 confidential and shall not be subject to public disclosure.

37 (vii) The names of all partners in a partnership not publicly
38 traded or the names of all members of a limited liability company
39 classified as a partnership not publicly traded for California income
40 tax purposes that have a financial interest in the applicant's

1 qualified motion picture. The information provided pursuant to
2 this clause shall be confidential and shall not be subject to public
3 disclosure.

4 (viii) The amount of qualified wages the applicant expects to
5 pay to qualified individuals.

6 (ix) The amount of tax credit the applicant computes the
7 qualified motion picture will receive, applying the applicable credit
8 percentages described in paragraph (4) of subdivision (a).

9 (x) A statement establishing that the tax credit described in this
10 section is a significant factor in the applicant's choice of location
11 for the qualified motion picture. The statement shall include
12 information about whether the qualified motion picture is at risk
13 of not being filmed or specify the jurisdiction or jurisdictions in
14 which the qualified motion picture will be located in the absence
15 of the tax credit. The statement shall be signed by an officer or
16 executive of the applicant.

17 (xi) The applicant's written policy against unlawful harassment,
18 including, but not limited to, sexual harassment, which includes
19 procedures for reporting and investigating harassment claims, a
20 phone number for an individual who will be responsible for
21 receiving harassment claims, and a statement that the company
22 will not retaliate against an individual who reports harassment.
23 The applicant shall also indicate how the policy will be distributed
24 to employees and include a summary of education training
25 resources, including the prohibition against, and prevention and
26 correction of, sexual harassment and remedies available.

27 (xii) The ethnic and racial makeup and gender of individuals
28 whose wages are excluded from qualified wages as set forth in
29 clause (iv) of subparagraph (B) of paragraph (21) of subdivision
30 (b).

31 (xiii) A summary of the applicant's voluntary programs to
32 increase the representation of minorities and women in the job
33 classifications that are not included in qualified wages as set forth
34 in clause (iv) of subparagraph (B) of paragraph (21) of subdivision
35 (b) and information about how these programs are publicized to
36 interested parties. The officer or executive referenced in clause
37 (x) who is signing the statement shall provide additional
38 information about these programs, if needed and upon request, to
39 the California Film Commission.

1 (xiv) Any other information deemed relevant by the California
2 Film Commission or the Franchise Tax Board.

3 (B) Establish criteria, consistent with the requirements of this
4 section, for allocating tax credits.

5 (C) Determine and designate applicants who meet the
6 requirements of this section.

7 (D) (i) For purposes of allocating the credit amounts subject to
8 the categories described in subdivision (i) in any fiscal year, the
9 California Film Commission shall do all of the following:

10 (ii) For each allocation date and for each category, list each
11 applicant from highest to lowest according to the jobs ratio as
12 computed by the California Film Commission.

13 (iii) Subject to the applicable credit percentage, allocate the
14 credit to each applicant according to the highest jobs ratio, working
15 down the list, until the credit amount is exhausted.

16 (iv) Pursuant to regulations adopted pursuant to subdivision (e),
17 the California Film Commission may increase the jobs ratio by up
18 to 25 percent if a qualified motion picture increases economic
19 activity in California according to criteria developed by the
20 California Film Commission that would include, but not be limited
21 to, such factors as, the amount of the production and postproduction
22 spending in California, the utilization of scoring musicians in
23 California, and other criteria measuring economic impact in
24 California as determined by the California Film Commission.

25 (v) Notwithstanding any other law, any television series,
26 relocating television series, or any new television series based on
27 a pilot for a new television series that has been approved and issued
28 a credit allocation by the California Film Commission under this
29 section, Section 17053.98, 17053.85, 17053.95, 23685, or 23695
30 shall be issued a credit for each subsequent season, for the life of
31 that television series whenever credits are allocated within a fiscal
32 year. The California Film Commission shall limit the amount of
33 credits any recurring television series receives in a subsequent
34 season to no more than the amount reserved in its prior fiscal year
35 Credit Allocation Letter or Letters, or if no amounts were reserved
36 in the prior fiscal year, the most immediate prior fiscal year in
37 which a Credit Allocation Letter or Letters were received. In the
38 event that insufficient tax credits are available to fund all recurring
39 television series pursuant to this clause for any fiscal year or in
40 the event the California Film Commission projects, in collaboration

1 with the Department of Finance, that there will be insufficient tax
2 credits available to fund all recurring television series in either of
3 the subsequent two fiscal years, the California Film Commission
4 shall make the following adjustments in the order given until the
5 shortfall, or any projected shortfall for the two subsequent fiscal
6 years, for recurring television series is eliminated:

7 (I) Notwithstanding clause (iii) of subparagraph (A) of paragraph
8 (2) of subdivision (i), the California Film Commission may redirect
9 up to 100 percent of the credit amounts allocated to the relocating
10 television series category to recurring television series for that
11 fiscal year until the shortfall or projected shortfall is eliminated.

12 (II) Notwithstanding clause (iv) of subparagraph (A) of
13 paragraph (2) of subdivision (i), the California Film Commission
14 may redirect up to 100 percent of the credit amounts allocated to
15 a new television series to recurring television series for that fiscal
16 year until the shortfall or projected shortfall is eliminated.

17 (III) Notwithstanding clause (ii) of subparagraph (A) of
18 paragraph (2) of subdivision (i), the California Film Commission
19 may redirect up to 100 percent of the credit allocations from the
20 features category to the recurring television series category for
21 that fiscal year until the shortfall is eliminated.

22 (IV) Allocate up to 25 percent of total credit allocations that
23 would otherwise be allocated in the ~~2024–25~~ 2029–30 fiscal year
24 to recurring television series in the current fiscal year until the
25 shortfall is eliminated. Any amounts transferred for allocation in
26 the current fiscal year shall be subtracted from the amount allowed
27 to be allocated in the ~~2024–25~~ 2029–30 fiscal year as specified in
28 subdivision (i). Notwithstanding paragraph (3), the credit
29 allocations that are subtracted from ~~2024–25~~ 2029–30 shall not be
30 certified until July 1, ~~2025~~ 2030, or later.

31 (V) The California Film Commission shall consult with the
32 qualified taxpayers who are producing the recurring television
33 series for purposes of negotiating a minimally impactful reduction
34 in the amount of credits awarded to each recurring television series
35 for that fiscal year until the shortfall is eliminated.

36 (E) Subject to the annual cap and the allocation credit amounts
37 based on categories described in subdivision (i), allocate an
38 aggregate amount of credits under this section and Section
39 17053.98, and allocate any carryover of unallocated or unused
40 credits from prior years and Sections 17053.85, 17053.95, 23685,

1 and 23695, and the amount of any credits reduced pursuant to
2 paragraph (2) of subdivision (d).

3 (3) Certify tax credits allocated to qualified taxpayers.

4 (A) Establish a verification procedure to update the information
5 in subparagraph (A) of paragraph (2) of subdivision (g), including,
6 but not limited to, all of the following:

7 (i) The amounts of qualified expenditures paid or incurred by
8 the applicant.

9 (ii) The diversity of the workforce employed by the applicant.

10 (iii) The ethnic and racial makeup and gender of individuals
11 whose wages are excluded from qualified wages by clause (iv) of
12 subparagraph (B) of paragraph (21) of subdivision (b).

13 (B) Establish audit requirements that shall be satisfied before a
14 credit certificate may be issued by the California Film Commission.

15 (C) (i) Establish a procedure for a qualified taxpayer to report
16 to the California Film Commission, prior to the issuance of a credit
17 certificate, the following information:

18 (I) If readily available, a list of the states, provinces, or other
19 jurisdictions in which any member of the applicant's combined
20 reporting group in the same business unit as the qualified taxpayer
21 that, in the preceding calendar year, has produced a qualified
22 motion picture intended for release in the United States market.
23 For purposes of this clause, "qualified motion picture" shall not
24 include any episodes of a television series that were complete or
25 in production prior to July 1, 2020.

26 (II) Whether a qualified motion picture described in subclause
27 (I) was awarded any financial incentive by the state, province, or
28 other jurisdiction that was predicated on the performance of
29 primary principal photography or postproduction in that location.

30 (ii) The California Film Commission may provide that the report
31 required by this subparagraph be filed in a single report provided
32 on a calendar year basis for those qualified taxpayers that receive
33 multiple credit certificates in a calendar year.

34 (D) Issue a credit certificate to a qualified taxpayer upon
35 completion of the qualified motion picture reflecting the credit
36 amount allocated after qualified expenditures have been verified
37 and the jobs ratio computed under this section. The amount of
38 credit shown on the credit certificate shall not exceed the amount
39 of credit allocated to that qualified taxpayer pursuant to this section.

1 (4) Obtain, when possible, the following information from
2 applicants that do not receive an allocation of credit:

3 (A) Whether the qualified motion picture that was the subject
4 of the application was completed.

5 (B) If completed, in which state or foreign jurisdiction was the
6 primary principal photography completed.

7 (C) Whether the applicant received any financial incentives
8 from the state or foreign jurisdiction to make the qualified motion
9 picture in that location.

10 (5) Provide the Legislative Analyst's Office, upon request, any
11 or all application materials or any other materials received from,
12 or submitted by, the applicants, in electronic format when available,
13 including, but not limited to, information provided pursuant to
14 clauses (i) to (xi) inclusive, of subparagraph (A) of paragraph (2)
15 and the diversity workplans provided pursuant to clause (iv) of
16 subparagraph (B) of paragraph (2) of subdivision (k).

17 (6) The information provided to the California Film Commission
18 pursuant to this section shall constitute confidential tax information
19 for purposes of Article 2 (commencing with Section 19542) of
20 Chapter 7 of Part 10.2.

21 (7) (A) Notwithstanding any other law, on or after July 1, ~~2025,~~
22 ~~2030,~~ the California Film Commission may allocate, pursuant to
23 this section, any previously allocated credits not certified that have
24 not previously been added to credit amounts available for allocation
25 under this section or a successor section or sections.

26 (B) For purposes of this section, "previously allocated credits
27 not certified" means either:

28 (i) Credits allocated under paragraph (1) for which the qualified
29 taxpayer to which the credit amounts were originally allocated has
30 notified the California Film Commission in writing that the
31 qualified taxpayer will not request certification for the allocated
32 credits.

33 (ii) The difference between the amount of credits allocated under
34 paragraph (1) to a qualified taxpayer and the amount of credits the
35 California Film Commission certified, for that qualified taxpayer.
36 For purposes of calculating the difference, the California Film
37 Commission shall not consider any credit amounts for which the
38 qualified taxpayer notifies the California Film Commission under
39 clause (i).

1 (8) Notwithstanding any other law, on or after July 1, ~~2025,~~
2 2030, the California Film Commission may allocate, pursuant to
3 this section, any credit amounts described in subparagraphs (B)
4 and (E) of paragraph (1) of subdivision (i) that have not previously
5 been added to credit amounts available for allocation under this
6 section or a successor section or sections.

7 (9) The California Film Commission shall submit a report to
8 the Legislature, on an annual basis beginning January 1, 2022, on
9 aggregate diversity information for the productions allocated tax
10 credits allowed in this section and the diversity of the motion
11 picture production industry in California more generally.

12 (h) (1) The California Film Commission shall annually provide
13 the Legislative Analyst's Office, the Franchise Tax Board, and the
14 California Department of Tax and Fee Administration with a list
15 of qualified taxpayers and the tax credit amounts allocated to each
16 qualified taxpayer by the California Film Commission. The list
17 shall include the names and taxpayer identification numbers,
18 including taxpayer identification numbers of each partner or
19 shareholder, as applicable, of the qualified taxpayer.

20 (2) (A) Notwithstanding paragraph (6) of subdivision (g), the
21 California Film Commission shall annually post on its internet
22 website and make available for public release the following:

23 (i) A table which includes all of the following information: a
24 list of qualified taxpayers and the tax credit amounts allocated to
25 each qualified taxpayer by the California Film Commission, the
26 number of production days in California the qualified taxpayer
27 represented in its application would occur, the number of California
28 jobs that the qualified taxpayer represented in its application would
29 be directly created by the production, and the total amount of
30 qualified expenditures expected to be spent by the production.

31 (ii) A narrative staff summary describing the production of the
32 qualified taxpayer as well as background information regarding
33 the qualified taxpayer contained in the qualified taxpayer's
34 application for the credit.

35 (iii) For qualified taxpayers allocated a credit, the aggregate
36 diversity information collected pursuant to clauses (iv) and (xii)
37 of subparagraph (A) of paragraph (2) of subdivision (g) organized
38 per production and an aggregate compilation describing the
39 voluntary programs collected pursuant to clause (xiii) of
40 subparagraph (A) of paragraph (2) of subdivision (g).

1 (B) Nothing in this subdivision shall be construed to make the
2 information submitted by an applicant for a tax credit under this
3 section a public record.

4 (3) The California Film Commission shall provide each city
5 and county in California with an instructional guide that includes,
6 but is not limited to, a review of best practices for facilitating
7 motion picture production in local jurisdictions, resources on
8 hosting and encouraging motion picture production, and the
9 California Film Commission's Model Filming Ordinance. The
10 California Film Commission shall maintain on its internet website
11 a list of initiatives by locality that encourage motion picture
12 production in regions across the state. The list shall be distributed
13 to each approved applicant for the program to highlight local
14 jurisdictions that offer incentives to facilitate film production.

15 (i) (1) (A) The aggregate amount of credits that may be
16 allocated for a fiscal year pursuant to this section and Section
17 17053.98, except as provided in subdivision (k) of this section and
18 subdivision (k) of Section 17053.98, is three hundred thirty million
19 dollars (\$330,000,000), plus any amount described in subparagraph
20 (B), (C), (D), or (E) in credits for the 2020–21 fiscal year and each
21 fiscal year thereafter, through and including the ~~2024–25~~ 2029–30
22 fiscal year, except as provided in paragraph (7) of subdivision (g),
23 plus the amount described in subparagraph (F) in credits for the
24 2021–22 and 2022–23 fiscal years.

25 (B) (i) Subject to clauses (ii) and (iii), the unused allocation
26 credit amount, if any, for the preceding fiscal year.

27 (ii) The amount of unused credit allocation attributable to
28 independent films shall only be allocated according to clause (i)
29 of subparagraph (A) of paragraph (2).

30 (iii) The total amount of any unused credit allocation amount
31 that is remaining shall only be allocated pursuant to clause (iv) of
32 subparagraph (A) of paragraph (2).

33 (C) The amount of previously allocated credits not certified.

34 (D) The amount of any credits reduced pursuant to paragraph
35 (2) of subdivision (d).

36 (E) That portion of any unused allocation credit amount, if any,
37 attributable to Section 17053.85, 17053.95, 23685, or 23695
38 available for that fiscal year in a manner as determined by
39 regulations promulgated by the California Film Commission.

1 (F) (i) For fiscal years 2021–22 and 2022–23, the California
2 Film Commission shall allocate an additional fifteen million dollars
3 (\$15,000,000) in credits to be granted exclusively to television
4 series that relocate to California.

5 (I) Notwithstanding subparagraph (A) of paragraph (2) of this
6 subdivision and clause (v) of subparagraph (D) of paragraph (2)
7 of subdivision (g), the moneys allocated pursuant to this
8 subparagraph shall not be redirected or reallocated.

9 (II) Notwithstanding paragraph (25) of subdivision (b), for
10 purposes of this subparagraph, a “television series that relocated
11 to California” means a television series, without regard to episode
12 length or initial media exhibition, with a minimum production
13 budget of one million dollars (\$1,000,000) per episode that both
14 filmed at least 75 percent of principal photography days for at least
15 one episode outside of California and has not filmed more than 25
16 percent of principal photography days for any episode inside of
17 California.

18 (ii) For fiscal years 2021–22 and 2022–23, the California Film
19 Commission shall allocate an additional seventy-five million
20 dollars (\$75,000,000) in credits to be granted exclusively to
21 recurring television series.

22 (2) (A) Notwithstanding the foregoing, and subject to paragraph
23 (4) of this subdivision and changes in allocations pursuant to clause
24 (v) of subparagraph (D) of paragraph (2) of subdivision (g), the
25 California Film Commission shall allocate the credit amounts
26 subject to the following categories:

27 (i) Independent films with qualified expenditures of ten million
28 dollars (\$10,000,000) or less shall be allocated 4.8 percent of the
29 amount specified in paragraph (1). Independent films with qualified
30 expenditures in excess of ten million dollars (\$10,000,000) shall
31 be allocated 3.2 percent of the amount specified in paragraph (1).
32 These amounts shall be in addition to any unused allocation credit
33 amount, if any, for the preceding fiscal year as described in
34 subparagraph (B) of paragraph (1).

35 (ii) Features shall be allocated 35 percent of the amount specified
36 in paragraph (1).

37 (iii) A relocating television series shall be allocated 17 percent
38 of the amount specified in paragraph (1).

39 (iv) A new television series, pilots for a new television series,
40 miniseries, and recurring television series shall be allocated 40

1 percent of the amount specified in paragraph (1), plus any unused
2 allocation credit amount, if any, for the preceding fiscal year as
3 described in subparagraph (B) of paragraph (1).

4 (B) Within any allocation period for credits to a relocating
5 television series, any unused amount shall be reallocated to the
6 category described in clause (iv) of subparagraph (A) and, if any
7 unused amount remains, reallocated in the next allocation period
8 for credits to a relocating television series.

9 (C) With respect to a relocating television series issued a credit
10 in a subsequent year pursuant to clause (v) of subparagraph (D)
11 of paragraph (2) of subdivision (g), that subsequent credit amount
12 shall be allowed from the allocation amount described in clause
13 (iv) of subparagraph (A).

14 (3) Any act that reduces the amount that may be allocated
15 pursuant to paragraph (1) constitutes a change in state taxes for
16 the purpose of increasing revenues within the meaning of Section
17 3 of Article XIII A of the California Constitution and may be passed
18 by not less than two-thirds of all Members elected to each of the
19 two houses of the Legislature.

20 (4) (A) Except as provided in subparagraph (B), a qualified
21 motion picture, as defined in subdivision (k), shall not be eligible
22 for an allocation under subdivisions (a) to (j), inclusive, if it
23 receives a credit under subdivision (k) during that fiscal year.

24 (B) Notwithstanding any other provision in this section, a
25 recurring television series, as that term is used under subdivision
26 (k), that is no longer eligible for the credit in paragraph (9) of
27 subdivision (k) shall be eligible to apply for an allocation of credits
28 under subdivisions (a) to (j), inclusive.

29 (j) The California Film Commission shall have the authority to
30 allocate tax credits in accordance with this section and in
31 accordance with any regulations prescribed pursuant to subdivision
32 (e) upon adoption.

33 (k) (1) For taxable years beginning on or after January 1, 2022,
34 and before January 1, 2032, there shall be allowed to a qualified
35 taxpayer a credit against the “tax,” as defined in Section 23036,
36 subject to allocation by the California Film Commission, in an
37 amount equal to 20 percent or 25 percent, whichever is the
38 applicable credit percentage described in paragraph (4) of
39 subdivision (a), as modified by paragraph (3) of this subdivision,
40 of the qualified expenditures paid or incurred during the taxable

1 year by a qualified motion picture produced in the state at a
2 certified studio construction project.

3 (2) For purposes of this subdivision, the definitions in
4 subdivision (b) shall apply except as otherwise provided in this
5 subdivision.

6 (A) “Certified studio construction project” means a construction
7 or renovation project certified by the California Film Commission
8 as having met all of the following criteria:

9 (i) The project provides for the construction or renovation of
10 one or more soundstages located in the state.

11 (ii) Actual construction or renovation expenditures are not less
12 than twenty-five million dollars (\$25,000,000) of actual
13 construction or renovation expenditures made over not more than
14 five continuous calendar years.

15 (iii) The construction or renovation of each certified studio
16 construction project is performed in accordance with Section
17 17053.99.

18 (iv) The construction or renovation of each certified studio
19 construction project commences pursuant to a foundation permit
20 or a structural building permit for the construction or renovation
21 that is issued after the effective date of the act adopting this
22 subdivision.

23 (v) The applicant shall not have received a California Competes
24 Grant under Section 12096.6 of the Government Code for wages
25 or investment related to construction of the studio construction
26 project.

27 (B) “Qualified motion picture” means a qualified motion picture,
28 as defined in subdivision (b), that meets all of the following
29 requirements:

30 (i) For each taxable year for which the credit is claimed by the
31 qualified motion picture, films at least 50 percent of its principal
32 photography stage shooting days on a soundstage or soundstages
33 certified as a certified studio construction project, for which
34 certification was issued within the prior 36 months.

35 (ii) For each taxable year for which the credit is claimed by a
36 qualified motion picture, incurs at least seven million five hundred
37 thousand dollars (\$7,500,000) in qualified wages for filming on a
38 soundstage or soundstages certified as a certified studio
39 construction project that are paid or incurred in that taxable year.

- 1 (iii) Is produced by a qualified taxpayer that is either of the
2 following:
- 3 (I) More than 50 percent owned, directly or indirectly, by the
4 same owner or owners of the soundstage or soundstages that is
5 part of a certified studio construction project on which the
6 production is filmed.
- 7 (II) Entered into a contract or lease of 10 years or more with
8 the owner or owners of a certified studio construction project on
9 which the production is filmed.
- 10 (iv) Provides a diversity workplan that is approved by the
11 California Film Commission.
- 12 (C) For purposes of this subdivision, a qualified taxpayer and
13 a taxpayer include a passthrough entity and a disregarded entity.
- 14 (3) (A) The diversity workplan required pursuant to clause (iv)
15 of subparagraph (B) of paragraph (2) shall include all of the
16 following:
- 17 (i) A statement of the diversity goals the motion picture will
18 seek to achieve in terms of qualified wages paid by race, ethnicity,
19 and gender.
- 20 (ii) A statement of the diversity goals the motion picture will
21 seek to achieve for individuals whose wages are excluded from
22 qualified wages as set forth in clause (iv) of subparagraph (B) of
23 paragraph (21) of subdivision (b), with respect to both
24 compensation and to the representation of diversity in the creative
25 aspects of the motion picture.
- 26 (iii) A plan of what strategies the motion picture will employ
27 to achieve the goals in clauses (i) and (ii).
- 28 (B) The diversity workplan shall include goals that are broadly
29 reflective of California's population, in terms of race, ethnicity,
30 and gender.
- 31 (C) The California Film Commission shall approve or reject the
32 diversity workplan of an applicant, to the extent allowed by federal
33 and state law.
- 34 (D) (i) The California Film Commission shall not certify any
35 tax credit under this subdivision until they have received a final
36 diversity report from the applicant.
- 37 (ii) The final diversity report shall calculate and provide
38 evidence for the extent to which the applicant met the diversity
39 goals laid out in their diversity workplan.

1 (iii) The California Film Commission shall have the authority
2 to audit the final diversity report to determine if the diversity goals
3 set forth in the applicant's diversity workplan for the motion picture
4 production were achieved.

5 (iv) If the California Film Commission determines that the
6 applicant has met or made a good faith effort to meet the diversity
7 goals in its diversity workplan, the applicant's credit percentage
8 described in paragraph (1) shall be increased by up to four
9 percentage points as follows:

10 (I) By two percentage points if the California Film Commission
11 determines that the applicant has met or made a good faith effort
12 to meet the diversity goals with respect to the diversity of the
13 workforce employed by the applicant in its diversity workplan
14 statement.

15 (II) By two percentage points if the California Film Commission
16 determines that the applicant has met or made a good faith effort
17 to meet the diversity goals with respect to individuals whose wages
18 are excluded from qualified wages as set forth in clause (iv) of
19 subparagraph (B) of paragraph (21) of subdivision (b), in its
20 diversity workplan statement.

21 (E) The California Film Commission, in consultation with the
22 Governor's Office of Business and Economic Development, shall
23 establish guidelines to evaluate diversity workplans as described
24 in this paragraph. The guidelines shall be posted on the California
25 Film Commission's internet website.

26 (4) The credit allowed under this subdivision shall be
27 administered in accordance with subdivisions (a), (b), (c), (d), (h),
28 and (l), except that paragraph (7) of subdivision (b) shall not apply
29 and paragraph (2) of subdivision (d) shall not apply.

30 (5) Subparagraph (A) of paragraph (2), subparagraphs (A), (B),
31 and (C) of paragraph (3), and paragraphs (4), (5), and (6) of
32 subdivision (g) shall apply.

33 (6) A conflict between this subdivision and any other
34 subdivisions in this section shall be reconciled in favor of this
35 subdivision.

36 (7) The aggregate amount of credit allocated by the California
37 Film Commission pursuant to subdivisions (a) to (j), inclusive, of
38 this section and Section 17053.98 shall not be reduced by the tax
39 credit allowed pursuant to this subdivision. The amount of credit
40 allowed by this subdivision shall not be limited by subdivision (i).

1 (8) (A) The credit allocated pursuant to this subdivision shall
2 be allowed for the taxable year in which the California Film
3 Commission issues a credit certificate in accordance with the
4 procedures provided for in subdivision (g) for the qualified motion
5 picture. The California Film Commission shall issue a credit
6 certificate to a qualified taxpayer upon completion of the qualified
7 motion picture reflecting the credit amount allocated after qualified
8 expenditures have been verified.

9 (B) (i) The California Film Commission, commencing with
10 fiscal year 2021–22, shall allocate tax credits each year to qualified
11 motion pictures meeting the criteria of this subdivision. The total
12 amount of credits that may be allocated under this subdivision is
13 one hundred fifty million dollars (\$150,000,000). A season of a
14 series or feature film may not be allocated more than twelve million
15 dollars (\$12,000,000) under this subdivision. Recurring television
16 series receiving an initial allocation under this subdivision shall
17 be allocated for subsequent seasons no more than allowed under
18 this paragraph.

19 (ii) A qualified motion picture shall not be eligible to receive a
20 credit allocation under this subdivision if that qualified motion
21 picture receives a credit allocation under subdivisions (a) to (j),
22 inclusive, for the fiscal year. However, subject to paragraph (4) of
23 subdivision (i), any television series, relocating television series,
24 or any new television series based on a pilot for a new television
25 series that is no longer eligible for a credit under this subdivision
26 pursuant to paragraph (9) may apply to receive an allocation of
27 credits pursuant to subdivisions (a) to (j), inclusive.

28 (C) In any year the tax credits under this paragraph have been
29 allocated by the California Film Commission, a qualified motion
30 picture or a recurring television series that satisfies the criteria of
31 this subdivision, but have not received an allocation of credits,
32 may apply to receive an allocation of credits pursuant to
33 subdivision (i).

34 (D) Credits shall be allocated based on the assumption that the
35 motion picture meets the diversity criteria specified in clause (iv)
36 of subparagraph (D) of paragraph (3).

37 (9) (A) A qualified motion picture meeting the requirements
38 of this subdivision during the first three years after the certified
39 studio construction project is certified by the California Film
40 Commission shall be allowed a credit under this subdivision

1 commencing with its first year of filming in the certified studio
2 construction project facility and for each successive year until the
3 certified studio construction project has reached its fourth year
4 after being certified, as long as the qualified motion picture
5 continues to satisfy the criteria of this subdivision and to the extent
6 the total credit amount the California Film Commission is permitted
7 to allocate pursuant to subparagraph (B) of paragraph (8) has not
8 previously been allocated.

9 (B) (i) Subject to the allocation of credits under paragraph (8)
10 of this subdivision, if the first year of production of a qualified
11 motion picture occurs in the fourth year after the certified studio
12 construction project is certified by the California Film Commission
13 or any year thereafter, the qualified motion picture shall submit
14 an application subject to the annual cap and the allocation credit
15 amounts based on categories described in subdivision (i), subject
16 to the modifications included in this subparagraph.

17 (ii) For feature films and new television series, the jobs ratio
18 used to rank qualified motion pictures in subparagraph (D) of
19 paragraph (2) of subdivision (g) shall be equal to the product of
20 the jobs ratio calculated in paragraph (7) of subdivision (b) and
21 133 percent.

22 (10) Within six months of the effective date of this subdivision,
23 the California Film Commission shall:

24 (A) Establish procedures to certify a certified studio construction
25 project.

26 (B) Establish procedures to verify a qualified motion picture
27 has met the criteria established in this section for filming in a
28 certified studio construction project facility. That procedure shall
29 include a requirement that the qualified motion picture pay 0.5
30 percent of the approved credit amount to the Career Pathways
31 Training program specified in subdivision (e).

32 (C) (i) Implementation of this subdivision for the 2021–22
33 fiscal year is deemed an emergency and necessary for the
34 immediate preservation of the public peace, health, and safety, or
35 general welfare and, therefore, the California Film Commission
36 is hereby authorized to adopt emergency regulations to implement
37 this subdivision during the 2021–22 fiscal year in accordance with
38 the rulemaking provisions of the Administrative Procedure Act
39 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
40 Division 3 of Title 2 of the Government Code).

1 (ii) The California Film Commission shall adopt regulations in
2 order to implement this paragraph.

3 (11) In the case where the credit allowed by this subdivision
4 exceeds the taxpayer's tax liability computed under this part, the
5 excess credit may be carried over to reduce the "tax" in the
6 following taxable year, and succeeding eight taxable years, if
7 necessary, until the credit has been exhausted.

8 (12) Upon completion of construction or renovation of the
9 soundstage or soundstages, the taxpayer shall certify to the
10 California Film Commission that all contractors and subcontractors
11 performing construction work on the soundstage or soundstages
12 were required to use a skilled and trained workforce to perform
13 such work in accordance with subdivision (b) of Section 17053.99.

14 (13) (A) Upon completion of construction or renovation of the
15 soundstage or soundstages, the soundstage or soundstages shall
16 be continuously operated, maintained, and repaired by any of the
17 following:

18 (i) A workforce that is paid at least the general prevailing rate
19 of per diem wages for the type of work and geographic area, as
20 determined by the Director of Industrial Relations pursuant to
21 Sections 1773 and 1773.9 of the Labor Code, if such services are
22 performed by a workforce that is employed directly, or indirectly
23 through a motion picture payroll services company, by the owner
24 or affiliate of the owner of the soundstage or lessee of the
25 soundstage described in subclause (II) of clause (iii) of
26 subparagraph (B) of paragraph (2) of this subdivision.

27 (ii) A skilled and trained workforce as defined in Chapter 2.9
28 (commencing with Section 2600) of Part 1 of Division 2 of the
29 Public Contract Code, if such services are provided by third-party
30 vendors.

31 (B) Each year following completion of construction or
32 renovation of the soundstage or soundstages that a qualified motion
33 picture is allocated a tax credit pursuant to this subdivision, the
34 qualified taxpayer shall certify to the California Film Commission
35 both of the following:

36 (i) The total amount of payments to third-party vendors or
37 qualified wages for operation, maintenance, and repair of the
38 certified soundstage.

39 (ii) The amount and percentage of the total amount of payments
40 to third-party vendors or qualified wages for operation,

1 maintenance, and repair of the certified soundstage performed by
2 each workforce described in subparagraph (A).

3 (C) If the percentage paid to workers in clause (i) of
4 subparagraph (A) is certified to be 90 percent of the total amount
5 under clause (i) of subparagraph (B) or greater, the qualified
6 taxpayer shall be entitled to 100 percent of the applicable credit
7 issued under this subdivision for the period. If the percentage paid
8 to workers in clause (i) of subparagraph (A) is certified to be less
9 than 90 percent of the total amount under clause (i) of subparagraph
10 (B) but greater than or equal to 75 percent of the total amount
11 under clause (i) of subparagraph (B), the qualified taxpayer shall
12 be entitled to 50 percent of the applicable credit issued under this
13 subdivision for the period. If the percentage paid to workers in
14 clause (i) of subparagraph (A) is certified to be less than 75 percent
15 of the total amount under clause (i) of subparagraph (B), the
16 qualified taxpayer shall not be entitled to any credit issued under
17 this subdivision for the applicable period.

18 (d) Section 41 shall not apply to the credits allowed by this
19 section.

20 *SEC. 3. This act provides for a tax levy within the meaning of*
21 *Article IV of the California Constitution and shall go into*
22 *immediate effect.*

23
24
25 **All matter omitted in this version of the bill**
26 **appears in the bill as amended in the**
27 **Senate, May 20, 2021. (JR11)**
28

29
30
31 **CORRECTIONS:** _____

32 **Heading—Line 5.** _____

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