

CA A 913, Amended

California

Legislative History and Analysis

Changes in Bill text reflected as:

~~Text Deleted~~

~~Text Added~~ ~~Text Vetoed~~

session: California 2019-20 Regular Session cite: 2019 CA A 913

Amended

September 6, 2019

Limon

Amended IN Senate September 06, 2019

CALIFORNIA LEGISLATURE--2019-2020 REGULAR SESSION

Assembly Bill

No. 913

Introduced by Assembly Member ~~Limon~~ **Calderon**

February 20, 2019

An act to amend ~~Section 25206.1 of the Corporations Code, relating to securities.~~ **Sections 17053.95 and 23695 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.**

LEGISLATIVE COUNSEL'S DIGEST

AB 913, as amended, ~~Limon~~ **Calderon**. ~~Broker-dealers: exemptions: finders: filings.~~ **Income taxes: credits: motion pictures.**

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including motion picture credits for taxable years beginning on or after January 1, 2016, to be allocated by the California Film Commission on or after July 1, 2015, and before July 1, 2020. Existing law, in the case where the credits allowed pursuant to these provisions exceed the tax liability of the taxpayer, allows a taxpayer to carryover the credit amount to reduce tax liability in the following taxable year, and succeeding 5 taxable years, until the credit has been exhausted.

This bill would, under both laws, extend the carryover period from 5 succeeding taxable years to 8 succeeding taxable years.

This bill would take effect immediately as a tax levy.

~~Under the Corporate Securities Law of 1968, the Commissioner of Business Oversight regulates the activities of a broker-dealer, which is defined as, among other things, any person engaged in the business of effecting securities transactions in California for the account of others or his or her own account. The law specifies persons or entities excluded from the definition. Among the excluded persons is a finder, as defined, which is a person that meets specified requirements including filing an initial statement of information and paying a filing fee. The law requires a finder to annually supplement the initial information in a renewable statement within 30 days of the anniversary of the first statement.~~

~~This bill would change the required timing of the supplemental filing by requiring the renewal statement to be filed initially on or before December 31 following the anniversary of the filing of the initial statement and annually thereafter. The bill would also authorize the commissioner to, by rule or order, require additional information to be included in the supplemental renewal filing.~~

Vote: MAJORITY

Appropriation: NO

Fiscal Committee: YES

Local Program: NO

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

SECTION 1. Section 17053.95 of the Revenue and Taxation Code is amended to read:

17053.95. (a) (1) For taxable years beginning on or after January 1, 2016, there shall be allowed to a qualified taxpayer a credit against the "net tax," as defined in Section 17039, subject to a computation and ranking by the California Film Commission in subdivision (g) and the allocation amount categories described in subdivision (i), in an amount equal to 20 percent or 25 percent, whichever is the applicable credit percentage described in paragraph (4), of the qualified expenditures for the production of a qualified motion picture in California. A credit shall not be allowed under this section for any qualified expenditures for the production of a motion picture in California if a credit has been claimed for those same expenditures under Section 17053.85.

(2) Except as otherwise provided in this section, the credit shall be allowed for the taxable year in which the California Film Commission issues the credit certificate pursuant to subdivision (g) for the qualified motion picture, but in no instance prior to July 1, 2016, and shall be for the applicable percentage of all qualified expenditures paid or incurred by the qualified taxpayer in all taxable years for that qualified motion picture.

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

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

(A) Twenty percent of the qualified expenditures attributable to the production of a qualified motion picture in California, including, but not limited to, a feature, up to one hundred million dollars (\$100,000,000) in qualified expenditures, or a television series that relocated to California that is in its second or subsequent years of receiving a tax credit allocation pursuant to this section or Section 17053.85.

(B) Twenty-five percent of the qualified expenditures attributable to the production of a qualified motion picture in California where the qualified motion picture is a television

series that relocated to California in its first year of receiving a tax credit allocation pursuant to this section.

(C) Twenty-five percent of the qualified expenditures, up to ten million dollars (\$10,000,000), attributable to the production of a qualified motion picture that is an independent film.

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

(i) (I) Five percent of qualified expenditures relating to original photography outside the Los Angeles zone.

(II) For purposes of this clause:

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

(ib) "Los Angeles zone" means the area within a circle 30 miles in radius from Beverly Boulevard and La Cienega Boulevard, Los Angeles, California, and includes Agua Dulce, Castaic, including Lake Castaic, Leo ~~Carillo~~ Carrillo State Beach, Ontario International Airport, Piru, and Pomona, including the Los Angeles County Fairgrounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch property is within the Los Angeles zone.

(ic) "Original photography" includes principal photography and reshooting original footage.

(id) "Qualified expenditures relating to original photography outside the Los Angeles zone" means amounts paid or incurred during the applicable period for tangible personal property purchased or leased and used or consumed outside the Los Angeles zone and relating to original photography outside the Los Angeles zone and qualified wages paid for services performed outside the Los Angeles zone and relating to original photography outside the Los Angeles zone.

(ii) Five percent of the qualified expenditures relating to music scoring and music track recording by musicians attributable to the production of a qualified motion picture in California.

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

(b) For purposes of this section:

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

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

- (3) "Clip use" means a use of any portion of a motion picture, other than the qualified motion picture, used in the qualified motion picture.
- (4) "Credit certificate" means the certificate issued by the California Film Commission pursuant to subparagraph(C) of paragraph (3) of subdivision (g).
- (5) (A) "Employee fringe benefits" means the amount allowable as a deduction under this part to the qualified taxpayer involved in the production of the qualified motion picture, exclusive of any amounts contributed by employees, for any year during the production period with respect to any of the following:
 - (i) Employer contributions under any pension, profit-sharing, annuity, or similar plan.
 - (ii) Employer-provided coverage under any accident or health plan for employees.
 - (iii) The employer's cost of life or disability insurance provided to employees.(B) Any amount treated as wages under clause (i) of subparagraph (A) of paragraph (21) shall not be taken into account under this paragraph.
- (6) "Independent film" means a motion picture with a minimum budget of one million dollars (\$1,000,000) that is produced by a company that is not publicly traded and publicly traded companies do not own, directly or indirectly, more than 25 percent of the producing company.
- (7) "Jobs ratio" means the amount of qualified wages paid to qualified individuals divided by the amount of tax credit, not including any additional credit allowed pursuant to subparagraph (D) of paragraph (4) of subdivision (a), as computed by the California Film Commission.
- (8) "Licensing" means any grant of rights to distribute the qualified motion picture, in whole or in part.
- (9) "New use" means any use of a motion picture in a medium other than the medium for which it was initially created.
- (10) "Pilot for a new television series" means the initial episode produced for a proposed television series.
- (11) (A) "Postproduction" means the final activities in a qualified motion picture's production, including editing, foley recording, automatic dialogue replacement, sound editing, scoring, music track recording by musicians and music editing, beginning and end credits, negative cutting, negative processing and duplication, the addition of sound and visual effects, sound mixing, film-to-tape transfers, encoding, and color correction.

(B) "Postproduction" does not include the manufacture or shipping of release prints or their equivalent.
- (12) "Preproduction" means the process of preparation for actual physical production which begins after a qualified motion picture has received a firm agreement of financial commitment, or is greenlit, with, for example, the establishment of a dedicated production office, the hiring of key crew members, and includes, but is not limited to, activities that include location scouting and execution of contracts with vendors of equipment and stage space.

- (13) "Principal photography" means the phase of production during which the motion picture is actually shot, as distinguished from preproduction and postproduction.
- (14) "Production period" means the period beginning with preproduction and ending upon completion of postproduction.
- (15) "Qualified entity" means a personal service corporation as defined in Section 269A(b)(1) of the Internal Revenue Code, a payroll services corporation, or any entity receiving qualified wages with respect to services performed by a qualified individual.
- (16) "Qualified expenditures" means amounts paid or incurred for tangible personal property purchased or leased, and used, within this state in the production of a qualified motion picture and payments, including qualified wages, for services performed within this state in the production of a qualified motion picture.
- (17) (A) "Qualified individual" means any individual who performs services during the production period in an activity related to the production of a qualified motion picture.
(B) "Qualified individual" shall not include either of the following:
 - (i) Any individual related to the qualified taxpayer as described in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal Revenue Code.
 - (ii) Any 5-percent owner, as defined in Section 416(i)(1)(B) of the Internal Revenue Code, of the qualified taxpayer.
- (18) (A) "Qualified motion picture" means a motion picture that is produced for distribution to the general public, regardless of medium, that is one of the following:
 - (i) A feature with a minimum production budget of one million dollars (\$1,000,000).
 - (ii) A movie of the week or miniseries with a minimum production budget of five hundred thousand dollars (\$500,000).
 - (iii) A new television series of episodes longer than 40 minutes each of running time, exclusive of commercials, that is produced in California, with a minimum production budget of one million dollars (\$1,000,000) per episode.
 - (iv) An independent film.
 - (v) A television series that relocated to California.
 - (vi) A pilot for a new television series that is longer than 40 minutes of running time, exclusive of commercials, that is produced in California, and with a minimum production budget of one million dollars (\$1,000,000).
(B) To qualify as a "qualified motion picture," all of the following conditions shall be satisfied:
 - (i) At least 75 percent of the principal photography days occur wholly in California or 75 percent of the production budget is incurred for payment for services performed within the state and the purchase or rental of property used within the state.
 - (ii) Production of the qualified motion picture is completed within 30 months from the date on which the qualified taxpayer's application is approved by the California Film Commission. For purposes of this section, a qualified motion picture is "completed" when the process of postproduction has been finished.

- (iii) The copyright for the motion picture is registered with the United States Copyright Office pursuant to Title 17 of the United States Code.
 - (iv) Principal photography of the qualified motion picture commences after the date on which the application is approved by the California Film Commission, but no later than 180 days after the date of that approval unless death, disability, or disfigurement of the director or of a principal cast member, an act of God, including, but not limited to, fire, flood, earthquake, storm, hurricane, or other natural disaster, terrorist activities, or government sanction has directly prevented a production's ability to begin principal photography within the prescribed 180day commencement period.
- (C) For the purposes of subparagraph (A), in computing the total wages paid or incurred for the production of a qualified motion picture, all amounts paid or incurred by all persons or entities that share in the costs of the qualified motion picture shall be aggregated.
- (D) "Qualified motion picture" shall not include commercial advertising, music videos, a motion picture produced for private noncommercial use, such as weddings, graduations, or as part of an educational course and made by students, a news program, current events or public events program, talk show, game show, sporting event or activity, awards show, telethon or other production that solicits funds, reality television program, clip-based programming if more than 50 percent of the content is comprised of licensed footage, documentaries, variety programs, daytime dramas, strip shows, one-half hour (air time) episodic television shows, or any production that falls within the recordkeeping requirements of Section 2257 of Title 18 of the United States Code.
- (19) (A) "Qualified taxpayer" means a taxpayer who has paid or incurred qualified expenditures, participated in the Career Readiness requirement, and has been issued a credit certificate by the California Film Commission pursuant to subdivision (g).
- (B) In the case of any pass-thru entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section is not allowed to the pass-thru entity, but shall be passed through to the partners or shareholders in accordance with applicable provisions of Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001). For purposes of this paragraph, "pass-thru entity" means any entity taxed as a partnership or "S" corporation.
- (20) "Qualified visual effects" means visual effects where at least 75 percent or a minimum of ten million dollars(\$10,000,000) of the qualified expenditures for the visual effects is paid or incurred in California.
- (21) (A) "Qualified wages" means all of the following:
- (i) Any wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code that were paid or incurred by any taxpayer involved in the production of a qualified motion picture with respect to a qualified individual for services performed on the qualified motion picture production within this state.
 - (ii) The portion of any employee fringe benefits paid or incurred by any taxpayer involved in the production of the qualified motion picture that are properly allocable to qualified wage amounts described in clauses (i), (iii), and (iv).

- (iii) Any payments made to a qualified entity for services performed in this state by qualified individuals within the meaning of paragraph (17).
- (iv) Remuneration paid to an independent contractor who is a qualified individual for services performed within this state by that qualified individual.

(B) "Qualified wages" shall not include any of the following:

- (i) Expenses, including wages, related to new use, reuse, clip use, licensing, secondary markets, or residual compensation, or the creation of any ancillary product, including, but not limited to, a soundtrack album, toy, game, trailer, or teaser.
 - (ii) Expenses, including wages, paid or incurred with respect to acquisition, development, turnaround, or any rights thereto.
 - (iii) Expenses, including wages, related to financing, overhead, marketing, promotion, or distribution of a qualified motion picture.
 - (iv) Expenses, including wages, paid per person per qualified motion picture for writers, directors, music directors, music composers, music supervisors, producers, and performers, other than background actors with no scripted lines.
- (22) "Residual compensation" means supplemental compensation paid at the time that a motion picture is exhibited through new use, reuse, clip use, or in secondary markets, as distinguished from payments made during production.
- (23) "Reuse" means any use of a qualified motion picture in the same medium for which it was created, following the initial use in that medium.
- (24) "Secondary markets" means media in which a qualified motion picture is exhibited following the initial media in which it is exhibited.
- (25) "Television series that relocated to California" means a television series, without regard to episode length or initial media exhibition, with a minimum production budget of one million dollars (\$1,000,000) per episode, that filmed its most recent season outside of California or has filmed all seasons outside of California and for which the taxpayer certifies that the credit provided pursuant to this section is the primary reason for relocating to California.
- (26) "Visual effects" means the creation, alteration, or enhancement of images that cannot be captured on a set or location during live action photography and therefore is accomplished in postproduction. It includes, but is not limited to, matte paintings, animation, set extensions, computer-generated objects, characters and environments, compositing (combining two or more elements in a final image), and wire removals. "Visual effects" does not include fully animated projects, whether created by traditional or digital means.

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

(2) The qualified taxpayer shall report to the Franchise Tax Board prior to the sale of the credit, in the form and manner specified by the Franchise Tax Board, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party to whom the credit has been

sold, the face amount of the credit sold, and the amount of consideration received by the qualified taxpayer for the sale of the credit.

- (3) In the case where the credit allowed under this section exceeds the “net tax,” the excess credit may be carried over to reduce the “net tax” in the following taxable year, and succeeding ~~five~~ **eight** taxable years, if necessary, until the credit has been exhausted.
 - (4) A credit shall not be sold pursuant to this subdivision to more than one taxpayer, nor may the credit be resold by the unrelated party to another taxpayer or other party.
 - (5) A party that has acquired tax credits under this subdivision shall be subject to the requirements of this section.
 - (6) In no event may a qualified taxpayer assign or sell any tax credit to the extent the tax credit allowed by this section is claimed on any tax return of the qualified taxpayer.
 - (7) In the event that both the taxpayer originally allocated a credit under this section by the California Film Commission and a taxpayer to whom the credit has been sold both claim the same amount of credit on their tax returns, the Franchise Tax Board may disallow the credit of either taxpayer, so long as the statute of limitations upon assessment remains open.
 - (8) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to this subdivision.
 - (9) Subdivision (g) of Section 17039 shall not apply to any credit sold pursuant to this subdivision.
 - (10) For purposes of this subdivision, the unrelated party or parties that purchase a credit pursuant to this subdivision shall be treated as a qualified taxpayer pursuant to paragraph (1) of subdivision (a).
- (d) (1) No credit shall be allowed pursuant to this section unless the qualified taxpayer provides the following to the California Film Commission:
- (A) Identification of each qualified individual.
 - (B) The specific start and end dates of production.
 - (C) The total wages paid.
 - (D) The total amount of qualified wages paid to qualified individuals.
 - (E) The copyright registration number, as reflected on the certificate of registration issued under the authority of Section 410 of Title 17 of the United States Code, relating to registration of claim and issuance of certificate. The registration number shall be provided on the return claiming the credit.
 - (F) The total amounts paid or incurred to purchase or lease tangible personal property used in the production of a qualified motion picture.
 - (G) Information to substantiate its qualified expenditures.

- (H) Information required by the California Film Commission under regulations promulgated pursuant to subdivision (g) necessary to verify the amount of credit claimed.
 - (I) Provides documentation verifying completion of the Career Readiness requirement.
- (2) (A) Based on the information provided in paragraph (1), the California Film Commission shall recompute the jobs ratio previously computed in subdivision (g) and compare this recomputed jobs ratio to the jobs ratio that the qualified taxpayer previously listed on the application submitted pursuant to subdivision (g).
- (B) (i) If the California Film Commission determines that the jobs ratio has been reduced by more than 10 percent for a qualified motion picture other than an independent film, the California Film Commission shall reduce the amount of credit allowed by an equal percentage, unless the qualified taxpayer demonstrates, and the California Film Commission determines, that reasonable cause exists for the jobs ratio reduction.
- (ii) If the California Film Commission determines that the jobs ratio has been reduced by more than 20 percent for a qualified motion picture other than an independent film, the California Film Commission shall not accept an application described in subdivision (g) from that qualified taxpayer or any member of the qualified taxpayer's controlled group for a period of not less than one year from the date of that determination, unless the qualified taxpayer demonstrates, and the California Film Commission determines, that reasonable cause exists for the jobs ratio reduction.
- (C) If the California Film Commission determines that the jobs ratio has been reduced by more than 30 percent for an independent film, the California Film Commission shall reduce the amount of credit allowed by an equal percentage, plus 10 percent of the amount of credit that would otherwise have been allowed, unless the qualified taxpayer demonstrates, and the California Film Commission determines, that reasonable cause exists for the jobs ratio reduction.
- (D) For the purposes of this paragraph, "reasonable cause" means unforeseen circumstances beyond the control of the qualified taxpayer, such as, but not limited to, the cancellation of a television series prior to the completion of the scheduled number of episodes or other similar circumstances as determined by the California Film Commission in regulations to be adopted pursuant to subdivision (e).
- (e) (1) (A) Subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the California Film Commission shall adopt rules and regulations to implement a Career Readiness requirement by which the California Film Commission shall identify training and public service opportunities that may include, but not be limited to, hiring interns, public service announcements, and community outreach and may prescribe rules and regulations to carry out the purposes of this section, including, subparagraph (D) of paragraph (4) of subdivision (a) and clause (iv) of subparagraph (D) of paragraph (2) of subdivision (g), and including any rules and regulations necessary to establish procedures, processes, requirements, application fee structure, and rules identified in or required to implement this section, including credit and logo requirements and credit allocation procedures over multiple fiscal years where the qualified taxpayer is producing a series of features that will be filmed concurrently.
- (B) Notwithstanding any other law, prior to preparing a notice of proposed action pursuant to Section 11346.4 of the Government Code and prior to making any revision to the proposed regulation other than a change that is non substantial or solely grammatical in nature, the Governor's Office of Business and Economic Development shall first

approve the proposed regulation or proposed change to a proposed regulation regarding allocating the credit pursuant to subdivision (i), computing the jobs ratio as described in subdivisions (d) and (g), and defining "reasonable cause" pursuant to subparagraph (E) of paragraph (2) of subdivision (d).

- (2) (A) Implementation of this section for the 2015-16 fiscal year is deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare and, therefore, the California Film Commission is hereby authorized to adopt emergency regulations to implement this section during the 2015-16 fiscal year in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).
- (B) Nothing in this paragraph shall be construed to require the Governor's Office of Business and Economic Development to approve emergency regulations adopted pursuant to this paragraph.
- (3) The California Film Commission shall not be required to prepare an economic impact analysis pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) with regard to any rules and regulations adopted pursuant to this subdivision.
- (f) If the qualified taxpayer fails to provide the copyright registration number as required in subparagraph (E) of paragraph (1) of subdivision (d), the credit shall be disallowed and assessed and collected under Section 19051 until the procedures are satisfied.
- (g) For purposes of this section, the California Film Commission shall do the following:
 - (1) Subject to the requirements of subparagraphs (A) through (E), inclusive, of paragraph (2), on or after July 1, 2015, and before July 1, 2016, in one or more allocation periods per fiscal year, allocate tax credits to applicants.
 - (2) On or after July 1, 2016, and before July 1, 2020, in two or more allocation periods per fiscal year, allocate tax credits to applicants.
 - (A) Establish a procedure for applicants to file with the California Film Commission a written application, on a form jointly prescribed by the California Film Commission and the Franchise Tax Board for the allocation of the tax credit. The application shall include, but not be limited to, the following information:
 - (i) The budget for the motion picture production.
 - (ii) The number of production days.
 - (iii) A financing plan for the production.
 - (iv) The diversity of the workforce employed by the applicant, including, but not limited to, the ethnic and racial makeup of the individuals employed by the applicant during the production of the qualified motion picture, to the extent possible.
 - (v) All members of a combined reporting group, if known at the time of the application.
 - (vi) Financial information, if available, including, but not limited to, the most recently produced balance sheets, annual statements of profits and losses, audited or unaudited financial statements, summary budget projections or results, or the

functional equivalent of these documents of a partnership or owner of a single member limited liability company that is disregarded pursuant to Section 23038. The information provided pursuant to this clause shall be confidential and shall not be subject to public disclosure.

- (vii) The names of all partners in a partnership not publicly traded or the names of all members of a limited liability company classified as a partnership not publicly traded for California income tax purposes that have a financial interest in the applicant's qualified motion picture. The information provided pursuant to this clause shall be confidential and shall not be subject to public disclosure.
 - (viii) The amount of qualified wages the applicant expects to pay to qualified individuals.
 - (ix) The amount of tax credit the applicant computes the qualified motion picture will receive, applying the applicable credit percentages described in paragraph (4) of subdivision (a).
 - (x) A statement establishing that the tax credit described in this section is a significant factor in the applicant's choice of location for the qualified motion picture. The statement shall include information about whether the qualified motion picture is at risk of not being filmed or specify the jurisdiction or jurisdictions in which the qualified motion picture will be located in the absence of the tax credit. The statement shall be signed by an officer or executive of the applicant.
 - (xi) Any other information deemed relevant by the California Film Commission or the Franchise Tax Board.
- (B) Establish criteria, consistent with the requirements of this section, for allocating tax credits.
- (C) Determine and designate applicants who meet the requirements of this section.
- (D) (i) For purposes of allocating the credit amounts subject to the categories described in subdivision (i) in any fiscal year, the California Film Commission shall do all of the following:
- (ii) For each allocation date and for each category, list each applicant from highest to lowest according to the jobs ratio as computed by the California Film Commission.
 - (iii) Subject to the applicable credit percentage, allocate the credit to each applicant according to the highest jobs ratio, working down the list, until the credit amount is exhausted.
 - (iv) Pursuant to regulations adopted pursuant to subdivision (e), the California Film Commission may increase the jobs ratio by up to 25 percent if a qualified motion picture increases economic activity in California according to criteria developed by the California Film Commission that would include, but not be limited to, such factors as, the amount of the production and postproduction spending in California, the utilization of production facilities in California, and other criteria measuring economic impact in California as determined by the **California** Film Commission.
 - (v) Notwithstanding any other provision, any television series, relocating television series, or any new television series based on a pilot for a new television series

that has been approved and issued a credit allocation by the California Film Commission under this section, Section 23695, 17053.85, or 23685 shall be issued a credit for each subsequent year, for the life of that television series whenever credits are allocated within a fiscal year.

- (E) Subject to the annual cap and the allocation credit amounts based on categories described in subdivision (i), allocate an aggregate amount of credits under this section and Section 23695, and allocate any carryover of unallocated credits from prior years and the amount of any credits reduced pursuant to paragraph (2) of subdivision (d).
- (3) Certify tax credits allocated to qualified taxpayers.
- (A) Establish a verification procedure for the amount of qualified expenditures paid or incurred by the applicant, including, but not limited to, updates to the information in subparagraph (A) of paragraph (2) of subdivision (g).
 - (B) Establish audit requirements that must be satisfied before a credit certificate may be issued by the California Film Commission.
 - (C) (i) Establish a procedure for a qualified taxpayer to report to the California Film Commission, prior to the issuance of a credit certificate, the following information:
 - (I) If readily available, a list of the states, provinces, or other jurisdictions in which any member of the applicant's combined reporting group in the same business unit as the qualified taxpayer that, in the preceding calendar year, has produced a qualified motion picture intended for release in the United States market. For purposes of this clause, "qualified motion picture" shall not include any episodes of a television series that were complete or in production prior to July 1, 2016.
 - (II) Whether a qualified motion picture described in subclause (I) was awarded any financial incentive by the state, province, or other jurisdiction that was predicated on the performance of primary principal photography or postproduction in that location.
 - (ii) The California Film Commission may provide that the report required by this subparagraph be filed in a single report provided on a calendar year basis for those qualified taxpayers that receive multiple credit certificates in a calendar year.
 - (D) Issue a credit certificate to a qualified taxpayer upon completion of the qualified motion picture reflecting the credit amount allocated after qualified expenditures have been verified and the jobs ratio computed under this section. The amount of credit shown in the credit certificate shall not exceed the amount of credit allocated to that qualified taxpayer pursuant to this section.
- (4) Obtain, when possible, the following information from applicants that do not receive an allocation of credit:
- (A) Whether the qualified motion picture that was the subject of the application was completed.
 - (B) If completed, in which state or foreign jurisdiction was the primary principal photography completed.
 - (C) Whether the applicant received any financial incentives from the state or foreign jurisdiction to make the qualified motion picture in that location.

- (5) Provide the Legislative Analyst's Office, upon request, any or all application materials or any other materials received from, or submitted by, the applicants, in electronic format when available, including, but not limited to, information provided pursuant to clauses (i) to (xi) inclusive, of subparagraph (A) of paragraph (2).
- (6) The information provided to the California Film Commission pursuant to this section shall constitute confidential tax information for purposes of Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2.
- (h) (1) The California Film Commission shall annually provide the Legislative Analyst's Office, the Franchise Tax Board, and the board with a list of qualified taxpayers and the tax credit amounts allocated to each qualified taxpayer by the California Film Commission. The list shall include the names and taxpayer identification numbers, including taxpayer identification numbers of each partner or shareholder, as applicable, of the qualified taxpayer.
- (2) (A) Notwithstanding paragraph (6) of subdivision (g), the California Film Commission shall annually post on its ~~Internet Web site~~ *internet website* and make available for public release the following:
 - (i) A table which includes all of the following information: a list of qualified taxpayers and the tax credit amounts allocated to each qualified taxpayer by the California Film Commission, the number of production days in California the qualified taxpayer represented in its application would occur, the number of California jobs that the qualified taxpayer represented in its application would be directly created by the production, and the total amount of qualified expenditures expected to be spent by the production.
 - (ii) A narrative staff summary describing the production of the qualified taxpayer as well as background information regarding the qualified taxpayer contained in the qualified taxpayer's application for the credit.
- (B) Nothing in this subdivision shall be construed to make the information submitted by an applicant for a tax credit under this section a public record.
- (3) The California Film Commission shall provide each city and county in California with an instructional guide that includes, but is not limited to, a review of best practices for facilitating motion picture production in local jurisdictions, resources on hosting and encouraging motion picture production, and the California Film Commissions' Model Film Ordinance. The California Film Commission shall maintain on its ~~Internet Web site~~ *internet website* a list of initiatives by locality that encourage motion picture production in regions across the state. The list shall be distributed to each approved applicant for the program to highlight local jurisdictions that offer incentives to facilitate film production.
- (i) (1) (A) The aggregate amount of credits that may be allocated for a fiscal year pursuant to this section and Section 23695 is the applicable amount described in the following, plus any amount described in subparagraph (B), (C), or (D):
 - (i) Two hundred thirty million dollars (\$230,000,000) in credits for the 2015-16 fiscal year.
 - (ii) Three hundred thirty million dollars (\$330,000,000) in credits for the 2016-17 fiscal year and each fiscal year thereafter, through and including the 2019-20 fiscal year.
- (B) The unused allocation credit amount, if any, for the preceding fiscal year.
- (C) The amount of previously allocated credits not certified.

- (D) The amount of any credits reduced pursuant to paragraph (2) of subdivision (d).
- (2) (A) Notwithstanding the foregoing, the California Film Commission shall allocate the credit amounts subject to the following categories:
- (i) Independent films shall be allocated 5 percent of the amount specified in paragraph (1).
 - (ii) Features shall be allocated 35 percent of the amount specified in paragraph (1).
 - (iii) A relocating television series shall be allocated 20 percent of the amount specified in paragraph (1).
 - (iv) A new television series, pilots for a new television series, movies of the week, miniseries, and recurring television series shall be allocated 40 percent of the amount specified in paragraph (1).
- (B) Within 60 days after the allocation period, any unused amount within a category or categories shall be first reallocated to the category described in clause (iv) of subparagraph (A) and, if any unused amount remains, reallocated to another category or categories with a higher demand as determined by the California Film Commission.
- (C) Notwithstanding the foregoing, the California Film Commission may increase or decrease an allocation amount in subparagraph (A) by 5 percent, if necessary, due to the jobs ratio, the number of applications, or the allocation credit amounts available by category compared to demand.
- (D) With respect to a relocating television series issued a credit in a subsequent year pursuant to clause (v) of subparagraph (D) of paragraph (2) of subdivision (g), that subsequent credit amount shall be allowed from the allocation amount described in clause (iv) of subparagraph (A).
- (3) Any act that reduces the amount that may be allocated pursuant to paragraph (1) constitutes a change in state taxes for the purpose of increasing revenues within the meaning of Section 3 of Article XIII A of the California Constitution and may be passed by not less than two-thirds of all Members elected to each of the two houses of the Legislature.
- (j) The California Film Commission shall have the authority to allocate tax credits in accordance with this section and in accordance with any regulations prescribed pursuant to subdivision (e) upon adoption.

SEC. 2. Section 23695 of the Revenue and Taxation Code is amended to read:

23695. (a) (1) For taxable years beginning on or after January 1, 2016, there shall be allowed to a qualified taxpayer a credit against the "tax," as defined in Section 23036, subject to a computation and ranking by the California Film Commission in subdivision (g) and the allocation amount categories described in subdivision (i), in an amount equal to 20 percent or 25 percent, whichever is the applicable credit percentage described in paragraph (4), of the qualified expenditures for the production of a qualified motion picture in California. A credit shall not be allowed under this section for any qualified expenditures for the production of a motion picture in California if a credit has been claimed for those same expenditures under Section 23685.
- (2) Except as otherwise provided in this section, the credit shall be allowed for the taxable year in which the California Film Commission issues the credit certificate

pursuant to subdivision (g) for the qualified motion picture, but in no instance prior to July 1, 2016, and shall be for the applicable percentage of all qualified expenditures paid or incurred by the qualified taxpayer in all taxable years for that qualified motion picture.

- (3) The amount of the credit allowed to a qualified taxpayer shall be limited to the amount specified in the credit certificate issued to the qualified taxpayer by the California Film Commission pursuant to subdivision (g).
- (4) For purposes of paragraphs (1) and (2), the applicable credit percentage shall be:
 - (A) Twenty percent of the qualified expenditures attributable to the production of a qualified motion picture in California, including, but not limited to, a feature, up to one hundred million dollars (\$100,000,000) in qualified expenditures, or a television series that relocated to California that is in its second or subsequent years of receiving a tax credit allocation pursuant to this section or Section 23685.
 - (B) Twenty-five percent of the qualified expenditures attributable to the production of a qualified motion picture in California where the qualified motion picture is a television series that relocated to California in its first year of receiving a tax credit allocation pursuant to this section.
 - (C) Twenty-five percent of the qualified expenditures, up to ten million dollars (\$10,000,000), attributable to the production of a qualified motion picture that is an independent film.
 - (D) Additional credits shall be allowed to a qualified motion picture whose applicable credit percentage is determined pursuant to subparagraph (A), in an aggregate amount not to exceed 5 percent of the qualified expenditures under that subparagraph, as follows:
 - (i) (I) Five percent of qualified expenditures relating to original photography outside the Los Angeles zone.
 - (II) For purposes of this clause:
 - (ia) "Applicable period" means the period that commences with preproduction and ends when original photography concludes. The applicable period includes the time necessary to strike a remote location and return to the Los Angeles zone.
 - (ib) "Los Angeles zone" means the area within a circle 30 miles in radius from Beverly Boulevard and La Cienega Boulevard, Los Angeles, California, and includes Agua Dulce, Castaic, including Lake Castaic, Leo ~~Carillo~~ Carrillo State Beach, Ontario International Airport, Piru, and Pomona, including the Los Angeles County Fairgrounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch property is within the Los Angeles zone.
 - (ic) "Original photography" includes principal photography and reshooting original footage.
 - (id) "Qualified expenditures relating to original photography outside the Los Angeles zone" means amounts paid or incurred during the applicable period for tangible personal property purchased or leased and used or consumed outside the Los Angeles zone and relating to

original photography outside the Los Angeles zone and qualified wages paid for services performed outside the Los Angeles zone and relating to original photography outside the Los Angeles zone.

(ii) Five percent of the qualified expenditures relating to music scoring and music track recording by musicians attributable to the production of a qualified motion picture in California.

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

(b) For purposes of this section:

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

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

(3) "Clip use" means a use of any portion of a motion picture, other than the qualified motion picture, used in the qualified motion picture.

(4) "Credit certificate" means the certificate issued by the California Film Commission pursuant to subparagraph(C) of paragraph (3) of subdivision (g).

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

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

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

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

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

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

(7) "Jobs ratio" means the amount of qualified wages paid to qualified individuals divided by the amount of tax credit, not including any additional credit allowed pursuant to subparagraph (D) of paragraph (4) of subdivision (a), as computed by the California Film Commission.

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

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

- (10) "Pilot for a new television series" means the initial episode produced for a proposed television series.
- (11) (A) "Postproduction" means the final activities in a qualified motion picture's production, including editing, foley recording, automatic dialogue replacement, sound editing, scoring, music track recording by musicians and music editing, beginning and end credits, negative cutting, negative processing and duplication, the addition of sound and visual effects, sound mixing, film-to-tape transfers, encoding, and color correction.
- (B) "Postproduction" does not include the manufacture or shipping of release prints or their equivalent.
- (12) "Preproduction" means the process of preparation for actual physical production which begins after a qualified motion picture has received a firm agreement of financial commitment, or is greenlit, with, for example, the establishment of a dedicated production office, the hiring of key crew members, and includes, but is not limited to, activities that include location scouting and execution of contracts with vendors of equipment and stage space.
- (13) "Principal photography" means the phase of production during which the motion picture is actually shot, as distinguished from preproduction and postproduction.
- (14) "Production period" means the period beginning with preproduction and ending upon completion of postproduction.
- (15) "Qualified entity" means a personal service corporation as defined in Section 269A(b)(1) of the Internal Revenue Code, a payroll services corporation, or any entity receiving qualified wages with respect to services performed by a qualified individual.
- (16) "Qualified expenditures" means amounts paid or incurred for tangible personal property purchased or leased, and used, within this state in the production of a qualified motion picture and payments, including qualified wages, for services performed within this state in the production of a qualified motion picture.
- (17) (A) "Qualified individual" means any individual who performs services during the production period in an activity related to the production of a qualified motion picture.
- (B) "Qualified individual" shall not include either of the following:
- (i) Any individual related to the qualified taxpayer as described in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal Revenue Code.
 - (ii) Any 5-percent owner, as defined in Section 416(i)(1)(B) of the Internal Revenue Code, of the qualified taxpayer.
- (18) (A) "Qualified motion picture" means a motion picture that is produced for distribution to the general public, regardless of medium, that is one of the following:
- (i) A feature with a minimum production budget of one million dollars (\$1,000,000).
 - (ii) A movie of the week or miniseries with a minimum production budget of five hundred thousand dollars (\$500,000).

- (iii) A new television series of episodes longer than 40 minutes each of running time, exclusive of commercials, that is produced in California, with a minimum production budget of one million dollars (\$1,000,000) per episode.
 - (iv) An independent film.
 - (v) A television series that relocated to California.
 - (vi) A pilot for a new television series that is longer than 40 minutes of running time, exclusive of commercials, that is produced in California, and with a minimum production budget of one million dollars (\$1,000,000).
- (B) To qualify as a “qualified motion picture,” all of the following conditions shall be satisfied:
- (i) At least 75 percent of the principal photography days occur wholly in California or 75 percent of the production budget is incurred for payment for services performed within the state and the purchase or rental of property used within the state.
 - (ii) Production of the qualified motion picture is completed within 30 months from the date on which the qualified taxpayer’s application is approved by the California Film Commission. For purposes of this section, a qualified motion picture is “completed” when the process of postproduction has been finished.
 - (iii) The copyright for the motion picture is registered with the United States Copyright Office pursuant to Title 17 of the United States Code.
 - (iv) Principal photography of the qualified motion picture commences after the date on which the application is approved by the California Film Commission, but no later than 180 days after the date of that approval unless death, disability, or disfigurement of the director or of a principal cast member, an act of God, including, but not limited to, fire, flood, earthquake, storm, hurricane, or other natural disaster, terrorist activities, or government sanction has directly prevented a production’s ability to begin principal photography within the prescribed 180day commencement period.
- (C) For the purposes of subparagraph (A), in computing the total wages paid or incurred for the production of a qualified motion picture, all amounts paid or incurred by all persons or entities that share in the costs of the qualified motion picture shall be aggregated.
- (D) “Qualified motion picture” shall not include commercial advertising, music videos, a motion picture produced for private noncommercial use, such as weddings, graduations, or as part of an educational course and made by students, a news program, current events or public events program, talk show, game show, sporting event or activity, awards show, telethon or other production that solicits funds, reality television program, clip-based programming if more than 50 percent of the content is comprised of licensed footage, documentaries, variety programs, daytime dramas, strip shows, one-half hour (air time) episodic television shows, or any production that falls within the recordkeeping requirements of Section 2257 of Title 18 of the United States Code.
- (19) (A) “Qualified taxpayer” means a taxpayer who has paid or incurred qualified expenditures, participated in the Career Readiness requirement, and has been issued a credit certificate by the California Film Commission pursuant to subdivision (g).

- (B) (i) In the case of any pass-thru entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section is not allowed to the pass-thru entity, but shall be passed through to the partners or shareholders in accordance with applicable provisions of Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001). For purposes of this paragraph, "pass-thru entity" means any entity taxed as a partnership or "S" corporation.
 - (ii) In the case of an "S" corporation, the credit allowed under this section shall not be used by an "S" corporation as a credit against a tax imposed under Chapter 4.5 (commencing with Section 23800) of Part 11 of Division 2.
- (20) "Qualified visual effects" means visual effects where at least 75 percent or a minimum of ten million dollars(\$10,000,000) of the qualified expenditures for the visual effects is paid or incurred in California.
- (21) (A) "Qualified wages" means all of the following:
- (i) Any wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code that were paid or incurred by any taxpayer involved in the production of a qualified motion picture with respect to a qualified individual for services performed on the qualified motion picture production within this state.
 - (ii) The portion of any employee fringe benefits paid or incurred by any taxpayer involved in the production of the qualified motion picture that are properly allocable to qualified wage amounts described in clauses (i), (iii), and (iv).
 - (iii) Any payments made to a qualified entity for services performed in this state by qualified individuals within the meaning of paragraph (17).
 - (iv) Remuneration paid to an independent contractor who is a qualified individual for services performed within this state by that qualified individual.
- (B) "Qualified wages" shall not include any of the following:
- (i) Expenses, including wages, related to new use, reuse, clip use, licensing, secondary markets, or residual compensation, or the creation of any ancillary product, including, but not limited to, a soundtrack album, toy, game, trailer, or teaser.
 - (ii) Expenses, including wages, paid or incurred with respect to acquisition, development, turnaround, or any rights thereto.
 - (iii) Expenses, including wages, related to financing, overhead, marketing, promotion, or distribution of a qualified motion picture.
 - (iv) Expenses, including wages, paid per person per qualified motion picture for writers, directors, music directors, music composers, music supervisors, producers, and performers, other than background actors with no scripted lines.
- (22) "Residual compensation" means supplemental compensation paid at the time that a motion picture is exhibited through new use, reuse, clip use, or in secondary markets, as distinguished from payments made during production.

- (23) "Reuse" means any use of a qualified motion picture in the same medium for which it was created, following the initial use in that medium.
 - (24) "Secondary markets" means media in which a qualified motion picture is exhibited following the initial media in which it is exhibited.
 - (25) "Television series that relocated to California" means a television series, without regard to episode length or initial media exhibition, with a minimum production budget of one million dollars (\$1,000,000) per episode, that filmed its most recent season outside of California or has filmed all seasons outside of California and for which the taxpayer certifies that the credit provided pursuant to this section is the primary reason for relocating to California.
 - (26) "Visual effects" means the creation, alteration, or enhancement of images that cannot be captured on a set or location during live action photography and therefore is accomplished in postproduction. It includes, but is not limited to, matte paintings, animation, set extensions, computer-generated objects, characters and environments, compositing (combining two or more elements in a final image), and wire removals. "Visual effects" does not include fully animated projects, whether created by traditional or digital means.
- (c) (1) Notwithstanding subdivision (i) of Section 23036, in the case where the credit allowed by this section exceeds the taxpayer's tax liability computed under this part, a qualified taxpayer may elect to assign any portion of the credit allowed under this section to one or more affiliated corporations for each taxable year in which the credit is allowed. For purposes of this subdivision, "affiliated corporation" has the meaning provided in subdivision (b) of Section 25110, as that section was amended by Chapter 881 of the Statutes of 1993, as of the last day of the taxable year in which the credit is allowed, except that "100 percent" is substituted for "more than 50 percent" wherever it appears in the section, and "voting common stock" is substituted for "voting stock" wherever it appears in the section.
- (2) The election provided in paragraph (1):
- (A) May be based on any method selected by the qualified taxpayer that originally receives the credit.
 - (B) Shall be irrevocable for the taxable year the credit is allowed, once made.
 - (C) May be changed for any subsequent taxable year if the election to make the assignment is expressly shown on each of the returns of the qualified taxpayer and the qualified taxpayer's affiliated corporations that assign and receive the credits.
 - (D) Shall be reported to the Franchise Tax Board, in the form and manner specified by the Franchise Tax Board, along with all required information regarding the assignment of the credit, including the corporation number, the federal employer identification number, or other taxpayer identification number of the assignee, and the amount of the credit assigned.
- (3) (A) Notwithstanding any other law, a qualified taxpayer may sell any credit allowed under this section that is attributable to an independent film, as defined in paragraph (6) of subdivision (b), to an unrelated party.
- (B) The qualified taxpayer shall report to the Franchise Tax Board prior to the sale of the credit, in the form and manner specified by the Franchise Tax Board, all required information regarding the purchase and sale of the credit, including the

social security or other taxpayer identification number of the unrelated party to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the qualified taxpayer for the sale of the credit.

- (4) In the case where the credit allowed under this section exceeds the "tax," the excess credit may be carried over to reduce the "tax" in the following taxable year, and succeeding ~~five~~ **eight** taxable years, if necessary, until the credit has been exhausted.
- (5) A credit shall not be sold pursuant to this subdivision to more than one taxpayer, nor may the credit be resold by the unrelated party to another taxpayer or other party.
- (6) A party that has been assigned or acquired tax credits under this subdivision shall be subject to the requirements of this section.
- (7) In no event may a qualified taxpayer assign or sell any tax credit to the extent the tax credit allowed by this section is claimed on any tax return of the qualified taxpayer.
- (8) In the event that both the taxpayer originally allocated a credit under this section by the California Film Commission and a taxpayer to whom the credit has been sold both claim the same amount of credit on their tax returns, the Franchise Tax Board may disallow the credit of either taxpayer, so long as the statute of limitations upon assessment remains open.
- (9) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to this subdivision.
- (10) Subdivision (i) of Section 23036 shall not apply to any credit sold pursuant to this subdivision.
- (11) For purposes of this subdivision:
 - (A) An affiliated corporation or corporations that are assigned a credit pursuant to paragraph (1) shall be treated as a qualified taxpayer pursuant to paragraph (1) of subdivision (a).
 - (B) The unrelated party or parties that purchase a credit pursuant to paragraphs (3) to (10), inclusive, shall be treated as a qualified taxpayer pursuant to paragraph (1) of subdivision (a).
- (d) (1) No credit shall be allowed pursuant to this section unless the qualified taxpayer provides the following to the California Film Commission:
 - (A) Identification of each qualified individual.
 - (B) The specific start and end dates of production.
 - (C) The total wages paid.
 - (D) The total amount of qualified wages paid to qualified individuals.
 - (E) The copyright registration number, as reflected on the certificate of registration issued under the authority of Section 410 of Title 17 of the United States Code,

relating to registration of claim and issuance of certificate. The registration number shall be provided on the return claiming the credit.

- (F) The total amounts paid or incurred to purchase or lease tangible personal property used in the production of a qualified motion picture.
 - (G) Information to substantiate its qualified expenditures.
 - (H) Information required by the California Film Commission under regulations promulgated pursuant to subdivision (g) necessary to verify the amount of credit claimed.
 - (I) Provides documentation verifying completion of the Career Readiness requirement.
- (2) (A) Based on the information provided in paragraph (1), the California Film Commission shall recompute the jobs ratio previously computed in subdivision (g) and compare this recomputed jobs ratio to the jobs ratio that the qualified taxpayer previously listed on the application submitted pursuant to subdivision (g).
- (B) (i) If the California Film Commission determines that the jobs ratio has been reduced by more than 10 percent for a qualified motion picture other than an independent film, the California Film Commission shall reduce the amount of credit allowed by an equal percentage, unless the qualified taxpayer demonstrates, and the California Film Commission determines, that reasonable cause exists for the jobs ratio reduction.
 - (ii) If the California Film Commission determines that the jobs ratio has been reduced by more than 20 percent for a qualified motion picture other than an independent film, the California Film Commission shall not accept an application described in subdivision (g) from that qualified taxpayer or any member of the qualified taxpayer's controlled group for a period of not less than one year from the date of that determination, unless the qualified taxpayer demonstrates, and the California Film Commission determines, that reasonable cause exists for the jobs ratio reduction.
- (C) If the California Film Commission determines that the jobs ratio has been reduced by more than 30 percent for an independent film, the California Film Commission shall reduce the amount of credit allowed by an equal percentage, plus 10 percent of the amount of credit that would otherwise have been allowed, unless the qualified taxpayer demonstrates, and the California Film Commission determines, that reasonable cause exists for the jobs ratio reduction.
- (D) For the purposes of this paragraph, "reasonable cause" means unforeseen circumstances beyond the control of the qualified taxpayer, such as, but not limited to, the cancellation of a television series prior to the completion of the scheduled number of episodes or other similar circumstances as determined by the California Film Commission in regulations to be adopted pursuant to subdivision (e).
- (e) (1) (A) Subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the California Film Commission shall adopt rules and regulations to implement a Career Readiness requirement by which the California Film Commission shall identify training and public service opportunities that may include, but not be

limited to, hiring interns, public service announcements, and community outreach and may prescribe rules and regulations to carry out the purposes of this section, including, subparagraph (D) of paragraph (4) of subdivision (a) and clause (iv) of subparagraph (D) of paragraph (2) of subdivision (g), and including any rules and regulations necessary to establish procedures, processes, requirements, application fee structure, and rules identified in or required to implement this section, including credit and logo requirements and credit allocation procedures over multiple fiscal years where the qualified taxpayer is producing a series of features that will be filmed concurrently.

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

(2) (A) Implementation of this section for the 2015-16 fiscal year is deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare and, therefore, the California Film Commission is hereby authorized to adopt emergency regulations to implement this section during the 2015-16 fiscal year in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

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

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

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

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

(1) Subject to the requirements of subparagraphs (A) through (E), inclusive, of paragraph (2), on or after July 1, 2015, and before July 1, 2016, in one or more allocation periods per fiscal year, allocate tax credits to applicants.

(2) On or after July 1, 2016, and before July 1, 2020, in two or more allocation periods per fiscal year, allocate tax credits to applicants.

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

- (i) The budget for the motion picture production.
 - (ii) The number of production days.
 - (iii) A financing plan for the production.
 - (iv) The diversity of the workforce employed by the applicant, including, but not limited to, the ethnic and racial makeup of the individuals employed by the applicant during the production of the qualified motion picture, to the extent possible.
 - (v) All members of a combined reporting group, if known at the time of the application.
 - (vi) Financial information, if available, including, but not limited to, the most recently produced balance sheets, annual statements of profits and losses, audited or unaudited financial statements, summary budget projections or results, or the functional equivalent of these documents of a partnership or owner of a single member limited liability company that is disregarded pursuant to Section 23038. The information provided pursuant to this clause shall be confidential and shall not be subject to public disclosure.
 - (vii) The names of all partners in a partnership not publicly traded or the names of all members of a limited liability company classified as a partnership not publicly traded for California income tax purposes that have a financial interest in the applicant's qualified motion picture. The information provided pursuant to this clause shall be confidential and shall not be subject to public disclosure.
 - (viii) The amount of qualified wages the applicant expects to pay to qualified individuals.
 - (ix) The amount of tax credit the applicant computes the qualified motion picture will receive, applying the applicable credit percentages described in paragraph (4) of subdivision (a).
 - (x) A statement establishing that the tax credit described in this section is a significant factor in the applicant's choice of location for the qualified motion picture. The statement shall include information about whether the qualified motion picture is at risk of not being filmed or specify the jurisdiction or jurisdictions in which the qualified motion picture will be located in the absence of the tax credit. The statement shall be signed by an officer or executive of the applicant.
 - (xi) Any other information deemed relevant by the California Film Commission or the Franchise Tax Board.
- (B) Establish criteria, consistent with the requirements of this section, for allocating tax credits.
- (C) Determine and designate applicants who meet the requirements of this section.
- (D) (i) For purposes of allocating the credit amounts subject to the categories described in subdivision (i) in any fiscal year, the California Film Commission shall do all of the following:

- (ii) For each allocation date and for each category, list each applicant from highest to lowest according to the jobs ratio as computed by the California Film Commission.
 - (iii) Subject to the applicable credit percentage, allocate the credit to each applicant according to the highest jobs ratio, working down the list, until the credit amount is exhausted.
 - (iv) Pursuant to regulations adopted pursuant to subdivision (e), the California Film Commission may increase the jobs ratio by up to 25 percent if a qualified motion picture increases economic activity in California according to criteria developed by the California Film Commission that would include, but not be limited to, such factors as, the amount of the production and postproduction spending in California, the utilization of production facilities in California, and other criteria measuring economic impact in California as determined by the **California** Film Commission.
 - (v) Notwithstanding any other provision, any television series, relocating television series, or any new television series based on a pilot for a new television series that has been approved and issued a credit allocation by the California Film Commission under this section, Section 17053.95, 17053.85, or 23685 shall be issued a credit for each subsequent year, for the life of that television series whenever credits are allocated within a fiscal year.
- (E) Subject to the annual cap and the allocation credit amounts based on categories described in subdivision (i), allocate an aggregate amount of credits under this section and Section 17053.95, and allocate any carryover of unallocated credits from prior years and the amount of any credits reduced pursuant to paragraph (2) of subdivision (d).
- (3) Certify tax credits allocated to qualified taxpayers.
- (A) Establish a verification procedure for the amount of qualified expenditures paid or incurred by the applicant, including, but not limited to, updates to the information in subparagraph (A) of paragraph (2) of subdivision (g).
 - (B) Establish audit requirements that must be satisfied before a credit certificate may be issued by the California Film Commission.
 - (C) (i) Establish a procedure for a qualified taxpayer to report to the California Film Commission, prior to the issuance of a credit certificate, the following information:
 - (I) If readily available, a list of the states, provinces, or other jurisdictions in which any member of the applicant's combined reporting group in the same business unit as the qualified taxpayer that, in the preceding calendar year, has produced a qualified motion picture intended for release in the United States market. For purposes of this clause, "qualified motion picture" shall not include any episodes of a television series that were complete or in production prior to July 1, 2016.
 - (II) Whether a qualified motion picture described in subclause (I) was awarded any financial incentive by the state, province, or other jurisdiction that was predicated on the performance of primary principal photography or postproduction in that location.

- (ii) The California Film Commission may provide that the report required by this subparagraph be filed in a single report provided on a calendar year basis for those qualified taxpayers that receive multiple credit certificates in a calendar year.
- (D) Issue a credit certificate to a qualified taxpayer upon completion of the qualified motion picture reflecting the credit amount allocated after qualified expenditures have been verified and the jobs ratio computed under this section. The amount of credit shown in the credit certificate shall not exceed the amount of credit allocated to that qualified taxpayer pursuant to this section.
- (4) Obtain, when possible, the following information from applicants that do not receive an allocation of credit:
 - (A) Whether the qualified motion picture that was the subject of the application was completed.
 - (B) If completed, in which state or foreign jurisdiction was the primary principal photography completed.
 - (C) Whether the applicant received any financial incentives from the state or foreign jurisdiction to make the qualified motion picture in that location.
- (5) Provide the Legislative Analyst's Office, upon request, any or all application materials or any other materials received from, or submitted by, the applicants, in electronic format when available, including, but not limited to, information provided pursuant to clauses (i) to (xi) inclusive, of subparagraph (A) of paragraph (2).
- (6) The information provided to the California Film Commission pursuant to this section shall constitute confidential tax information for purposes of Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2.
- (h) (1) The California Film Commission shall annually provide the Legislative Analyst's Office, the Franchise Tax Board, and the board with a list of qualified taxpayers and the tax credit amounts allocated to each qualified taxpayer by the California Film Commission. The list shall include the names and taxpayer identification numbers, including taxpayer identification numbers of each partner or shareholder, as applicable, of the qualified taxpayer.
- (2) (A) Notwithstanding paragraph (6) of subdivision (g), the California Film Commission shall annually post on its ~~Internet Web site~~ *internet website* and make available for public release the following:
 - (i) A table which includes all of the following information: a list of qualified taxpayers and the tax credit amounts allocated to each qualified taxpayer by the California Film Commission, the number of production days in California the qualified taxpayer represented in its application would occur, the number of California jobs that the qualified taxpayer represented in its application would be directly created by the production, and the total amount of qualified expenditures expected to be spent by the production.
 - (ii) A narrative staff summary describing the production of the qualified taxpayer as well as background information regarding the qualified taxpayer contained in the qualified taxpayer's application for the credit.
- (B) Nothing in this subdivision shall be construed to make the information submitted by an applicant for a tax credit under this section a public record.

(3) The California Film Commission shall provide each city and county in California with an instructional guide that includes, but is not limited to, a review of best practices for facilitating motion picture production in local jurisdictions, resources on hosting and encouraging motion picture production, and the California Film Commissions' Model Film Ordinance. The California Film Commission shall maintain on its ~~Internet Web site~~ *internet website* a list of initiatives by locality that encourage motion picture production in regions across the state. The list shall be distributed to each approved applicant for the program to highlight local jurisdictions that offer incentives to facilitate film production.

(i) (1) (A) The aggregate amount of credits that may be allocated for a fiscal year pursuant to this section and Section 17053.95 is the applicable amount described in the following, plus any amount described in subparagraph (B), (C), or (D):

(i) Two hundred thirty million dollars (\$230,000,000) in credits for the 2015-16 fiscal year.

(ii) Three hundred thirty million dollars (\$330,000,000) in credits for the 2016-17 fiscal year and each fiscal year thereafter, through and including the 2019-20 fiscal year.

(B) The unused allocation credit amount, if any, for the preceding fiscal year.

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

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

(2) (A) Notwithstanding the foregoing, the California Film Commission shall allocate the credit amounts subject to the following categories:

(i) Independent films shall be allocated 5 percent of the amount specified in paragraph (1).

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

(iii) A relocating television series shall be allocated 20 percent of the amount specified in paragraph (1).

(iv) A new television series, pilots for a new television series, movies of the week, miniseries, and recurring television series shall be allocated 40 percent of the amount specified in paragraph (1).

(B) Within 60 days after the allocation period, any unused amount within a category or categories shall be first reallocated to the category described in clause (iv) of subparagraph (A) and, if any unused amount remains, reallocated to another category or categories with a higher demand as determined by the California Film Commission.

(C) Notwithstanding the foregoing, the California Film Commission may increase or decrease an allocation amount in subparagraph (A) by 5 percent, if necessary, due to the jobs ratio, the number of applications, or the allocation credit amounts available by category compared to demand.

(D) With respect to a relocating television series issued a credit in a subsequent year pursuant to clause (v) of subparagraph (D) of paragraph (2) of subdivision

(g), that subsequent credit amount shall be allowed from the allocation amount described in clause (iv) of subparagraph (A).

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

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

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

***** TEXT OMITTED, DOES NOT PERTAIN TO FILM *****