

# CA SB 144, Chaptered

California

SUMMARY: Provides certain information to the State Film Commission. Requires a qualified taxpayer to provide additional information, including data regarding the diversity of the applicant's workforce, to be eligible for the motion picture credit. Requires an applicant with a production that is an independent film to include, in its application, a summary of the applicant's voluntary programs to increase the representation of minorities and women in specified job classifications.

Changes in Bill text reflected as:

~~Text Deleted~~

*Text Added*

~~Text Vetoed~~

Current Legislative Status

01/08/2021 INTRODUCED.

01/28/2021 To SENATE Committee on BUDGET AND FISCAL REVIEW.

02/16/2021 Withdrawn from SENATE Committee on BUDGET AND FISCAL REVIEW.

02/16/2021 In SENATE. Ordered to second reading.

02/17/2021 In SENATE. Read second time. To third reading.

02/22/2021 In SENATE. Read third time. Passed SENATE. \*\*\*\*\*To ASSEMBLY.

02/25/2021 To ASSEMBLY Committee on BUDGET.

07/11/2021 From ASSEMBLY Committee on BUDGET with author's amendments.

07/11/2021 In ASSEMBLY. Read second time and amended. Re-referred to Committee on BUDGET.

07/12/2021 In ASSEMBLY. Suspend Assembly Rule 96.

07/12/2021 Re-referred to ASSEMBLY Committee on REVENUE AND TAXATION.

07/12/2021 In ASSEMBLY. Joint Rule 62(a) suspended.

07/14/2021 From ASSEMBLY Committee on REVENUE AND TAXATION: Do pass.

07/14/2021 In ASSEMBLY. Coauthors revised.

07/15/2021 In ASSEMBLY. Coauthors revised.

07/15/2021 In ASSEMBLY. Assembly Rule 63 suspended.

07/15/2021 In ASSEMBLY. Read third time. Passed ASSEMBLY. \*\*\*\*\*To SENATE for concurrence.

07/15/2021 In SENATE. SENATE concurred in ASSEMBLY amendments. To enrollment.

07/15/2021 Enrolled.

07/15/2021 \*\*\*\*\*To GOVERNOR.

07/21/2021 Signed by GOVERNOR.

07/21/2021 Chaptered by Secretary of State. Chapter No. 2021-114

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session: California 2021-22 Regular Session

cite: 2021 CA SB 144

Chaptered July 21, 2021

Portantino

Senate Bill No. 144

CHAPTER 114

An act to amend Sections 38.9, 17053.98, 19393, and 23698 of, and to add Section 17053.99 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor July 21, 2021. Filed with Secretary of State July 21, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 144, Portantino. Taxes: credits: qualified motion pictures: certified studio construction projects: reports.

- (1) 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.

Under existing law, a qualified taxpayer, as defined, is required to provide certain information to the California Film Commission, including the specific start and end dates of production.

Existing law does not require an applicant with a production that is an independent film, in filing an application for a motion picture credit with the commission, to provide a summary of the applicant's voluntary programs to increase the representation of minorities and women in specified job classifications.

This bill would require a qualified taxpayer to provide additional information, including data regarding the diversity of the applicant's workforce, to be eligible for the motion picture credit. The bill would require an applicant with a production that is an independent film to include, in its application, a summary of the applicant's voluntary programs to increase the representation of minorities and women in specified job classifications. The bill would also require the commission to establish additional verification procedures for updating application information. The bill would require the commission to submit an annual report to the Legislature, beginning January 1, 2022, on aggregate diversity information for the productions allocated motion picture credits and the diversity of the motion picture production industry in California more generally.

Existing law limits the aggregate amount of credits that may be allocated under the film credits to \$330,000,000, as specified, and sets forth allocation percentages for various productions under the motion picture credit.

This bill would increase the aggregate amount of credits that may be allocated for the 2021-22 and 2022-23 fiscal years by \$15,000,000, and would make these credits exclusively available to television series that relocate to California, as defined. The bill would also increase the aggregate amount of credits that may be allocated for the 2021-22 and 2022-23 fiscal years by \$75,000,000, and would make these credits exclusively available to recurring television series. The bill would require the commission to limit the amount of credits any recurring television series receives in a subsequent season, as specified, and would require the commission to make adjustments, except as provided, to credit allocations if there are certain tax credit shortfalls.

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%, or as modified, 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 taxpayer 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 provided. The bill would allocate a total of \$150,000,000 under this new tax credit, as provided. The bill would prohibit qualified motion pictures from receiving the credit if it receives a credit under the existing motion picture credits provisions, except as specified. By requiring a taxpayer 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.

- (2) Existing law provides that if any deduction, credit, or exclusion provided in the Personal Income Tax Law or Corporation Tax Law is finally adjudged discriminatory against a national banking association, as described, is finally adjudged invalid, or is discriminatory under the California or United States Constitution, the tax of the favored taxpayer shall be recomputed by the Franchise Tax Board for the taxable year in question, as specified.

This bill would state that this provision does not apply to a taxpayer for the invalidation of specified provisions of this bill.

- (3) Existing law requires, on or before January 1, 2023, the Legislative Analyst's Office (LAO) to provide to certain legislative committees and the public a report evaluating the economic effects and administration of specified tax credits.

This bill would change the due date for that report to May 1, 2023, and would require the report to include information relating to the motion picture tax credits. The bill would also require, on or before May 1, 2025, the LAO to provide to those legislative committees and the public certain workforce diversity information relating to those same tax credits. The bill would permit the LAO to request specified information from the California Film Commission and would additionally require the California Department of Tax and Fee Administration to provide information requested by the LAO.

- (4) 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.

- (5) This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of 2/3 of the membership of each house of the Legislature.
- (6) This bill would take effect immediately as a tax levy.

Vote Required: TWO THIRDS Appropriation: NO Fiscal Committee: YES Local Program: YES Immediate Effect YES Urgency: NO Tax Levy: YES Election: NO Usual Current Expenses: NO Budget Bill: NO Prop 25 Trailer Bill: NO

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

SECTION 1. Section 38.9 of the Revenue and Taxation Code is amended to read:

38.9. (a) On or before May 1, 2023, the Legislative Analyst's Office shall provide to the Assembly Committee on Revenue and Taxation, the Senate Committee on Governance and Finance, and the public a report evaluating the economic effects and administration of the tax credits allowed pursuant to Sections 6902.5, as amended by Chapter 8 of the Statutes of 2020, 17053.95, 17053.98, 23695, and 23698. In researching the reports, the Legislative Analyst's Office may do all of the following:

- (1) Request and receive all information provided to the California Film Commission pursuant to subdivision (g) of Sections 17053.95, 17053.98, 23695, and 23698.
- (2) Request and receive all information provided to the Franchise Tax Board relating to the sale or assignment of credits pursuant to subdivision (c) of Sections 17053.95, 17053.98, 23695, and 23698.
- (3) Request and receive all information provided to the California Department of Tax and Fee Administration pursuant to subdivisions (c) and (g) of Section 6902.5, as amended by Chapter 8 of the Statutes of 2020.

(b) On or before May 1, 2025, the Legislative Analyst's Office shall provide to

the Assembly Committee on Revenue and Taxation, the Senate Committee on Governance and Finance, and the public a report that summarizes the workforce diversity information collected by the California Film Commission pursuant to Sections 17053.95, 17053.98, 23695, and 23698 and that evaluates the effectiveness of the tax credits allowed pursuant to Sections 17053.98 and 23698, calculated using any applicable additional credit percentages, for increasing the diversity of the film production workforce. In researching the report, the Legislative Analyst's Office may request and receive all information provided to the California Film Commission pursuant to subdivision (g) of Sections 17053.95, 17053.98, 23695, and 23698.

- (c) Notwithstanding Section 19542, the California Film Commission, the California Department of Tax and Fee Administration, the Franchise Tax Board, the Employment Development Department, and all other relevant state agencies shall provide additional information, as specified by the Legislative Analyst's Office, as needed to research the reports required by this section.
- (d) (1) The information received by the Legislative Analyst's Office pursuant to this section shall be considered confidential taxpayer information subject to Sections 7056, 7056.5, and 19542 of this code and Section 1094 of the Unemployment Insurance Code, and shall be subject to the appropriate confidentiality requirements of the participating state agency.
- (2) The Legislative Analyst's Office may publish statistics in conjunction with the reports required by this section that are derived from information provided to the Legislative Analyst's Office pursuant to this section, if the published statistics are classified to prevent the identification of particular taxpayers, reports, and tax returns and the publication of the percentage of dividends paid by a corporation that is deductible by the recipient under Part 11 (commencing with Section 23001) of Division 2.

SEC. 2. Section 17053.98 of the Revenue and Taxation Code is amended to read:

- 17053.98. (a) (1) For taxable years beginning on or after January 1, 2020, 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 or 17053.95.
- (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, 2020, 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) (A) 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).

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

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

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

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

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

(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 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, Section 17053.85, or Section 17053.95.

(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 attributable to the production of a qualified motion picture that is an independent film.

(D) Additional credits shall be allowed for the production of 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, excluding qualified wages described in subparagraph (E), relating to original photography outside the Los Angeles zone.

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

(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 Castaic Lake, Leo 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 qualified visual effects attributable to the production of a qualified motion picture in California.

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

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

(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 (D) 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 subparagraphs (D) and (E) of paragraph (4) of subdivision (a), as computed by the California Film Commission. For the purposes of the calculation of the jobs ratio only, 70 percent of qualified expenditures for visual effects paid to third-party vendors for work performed in California shall be deemed to be qualified wages paid to a qualified individual.
- (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 miniseries consisting of two or more episodes, each longer than 40 minutes 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.
  - (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 if the qualified motion picture has a budget with qualified expenditures of less than one hundred million dollars (\$100,000,000), and no later than 240 days after the date of that approval in the case of a qualified motion picture with a budget of qualified expenditures with at least one hundred million dollars (\$100,000,000), 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 180- or 240-day 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 in Section 17053.95, 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 at least 75 percent of principal photography days in 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 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) Aggregate data for individuals whose wages are excluded from qualified wages by clause (iv) of subparagraph (B) of paragraph (21) of subdivision (b), including their gender, ethnic, and racial makeup.
  - (F) 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.
  - (G) The total amounts paid or incurred to purchase or lease tangible personal property used in the production of a qualified motion picture.

- (H) Information to substantiate its qualified expenditures.
  - (I) Information required by the California Film Commission under regulations promulgated pursuant to subdivision (g) necessary to verify the amount of credit claimed.
  - (J) Data regarding the diversity of the workforce employed by the applicant on the qualified motion picture, as described in subdivision (g).
  - (K) Documentation verifying completion of the Career Readiness requirement.
  - (L) Documentation verifying that the qualified taxpayer paid a fee as described in subdivision (e).
- (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, 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, 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) 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 pilot Career Pathways Training program including a fee to be paid by the qualified taxpayer, if the qualified taxpayer receives a credit under this section, to fund technical skills training to individuals from underserved communities for entry into film and television industry jobs. The California Film Commission shall (i) identify a not-for-profit fiscal agent with direct relationships to industry

skills training programs to manage the funds; and (ii) engage labor-management jointly administered training programs with skills training focused on the entertainment industry to implement the program with California Film Commission approval and oversight. With regard to the Career Readiness requirement in Section 17053.95, 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 shall continue. The California Film Commission 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 nonsubstantial 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 (C) of paragraph (2) of subdivision (d).

(2)(A) Implementation of this section for the 2020-21 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 2020-21 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) to (E), inclusive, of paragraph (2), on or after July 1, 2020, and before July 1, 2025, in two or more allocation periods per fiscal year, allocate tax credits to applicants.
- (2) (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) The applicant's written policy against unlawful harassment, including, but not limited to, sexual harassment, which includes procedures for reporting and investigating harassment claims, a phone number for an individual who will be responsible for receiving harassment claims, and a statement that the company will not retaliate against an individual who reports harassment. The applicant shall also indicate how the policy will be distributed to employees and include a summary of education training resources, including the prohibition against, and prevention and correction of, sexual harassment and remedies available.
  - (xii) The ethnic and racial makeup and gender of individuals whose wages are excluded from qualified wages as set forth in clause (iv) of subparagraph (B) of paragraph (21) of subdivision (b).
  - (xiii) A summary of the applicant's voluntary programs to increase the representation of minorities and women in the job classifications that are not included in qualified wages as set forth in clause (iv) of subparagraph (B) of paragraph (21) of subdivision (b) and information about how these programs are publicized to interested parties. The officer or executive referenced in clause (x) who is signing the statement shall provide additional information about these programs, if needed and upon request, to the California Film Commission.
  - (xiv) 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 scoring musicians in California, and

other criteria measuring economic impact in California as determined by the California Film Commission.

- (v) Notwithstanding any other law, 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 23698, 17053.95, 23695, 17053.85, or 23685 shall be issued a credit for each subsequent season, for the life of that television series whenever credits are allocated within a fiscal year. The California Film Commission shall limit the amount of credits any recurring television series receives in a subsequent season to no more than the amount reserved in its prior fiscal year Credit Allocation Letter or Letters, or if no amounts were reserved in the prior fiscal year, the most immediate prior fiscal year in which a Credit Allocation Letter or Letters were received. In the event that insufficient tax credits are available to fund all recurring television series pursuant to this clause for any fiscal year or in the event the California Film Commission projects, in collaboration with the Department of Finance, that there will be insufficient tax credits available to fund all recurring television series in either of the subsequent two fiscal years, the California Film Commission shall make the following adjustments in the order given until the shortfall, or any projected shortfall for the two subsequent fiscal years, for recurring television series is eliminated:
  - (I) Notwithstanding clause (iii) of subparagraph (A) of paragraph (2) of subdivision (i), the California Film Commission may redirect up to 100 percent of the credit amounts allocated to the relocating television series category to recurring television series for that fiscal year until the shortfall or projected shortfall is eliminated.
  - (II) Notwithstanding clause (iv) of subparagraph (A) of paragraph (2) of subdivision (i), the California Film Commission may redirect up to 100 percent of the credit amounts allocated to a new television series to recurring television series for that fiscal year until the shortfall or projected shortfall is eliminated.
  - (III) Notwithstanding clause (ii) of subparagraph (A) of paragraph (2) of subdivision (i), the California Film Commission may redirect up to 100 percent of the credit allocations from the features category to the recurring television series category for that fiscal year until the shortfall is eliminated.
  - (IV) Allocate up to 25 percent of total credit allocations that would otherwise be allocated in the 2024-25 fiscal year to recurring television series in the current fiscal year until the shortfall is eliminated. Any amounts transferred for allocation in the current fiscal year shall be subtracted from the amount allowed to be allocated in the 2024-25 fiscal year as specified in subdivision (i). Notwithstanding paragraph (3), the credit allocations that are subtracted from 2024-25 shall not be certified until July 1, 2025 or later.

- (V) The California Film Commission shall consult with the qualified taxpayers who are producing the recurring television series for purposes of negotiating a minimally impactful reduction in the amount of credits awarded to each recurring television series for that fiscal year until the shortfall is eliminated.
- (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 23698, and allocate any carryover of unallocated or unused credits from prior years and Sections 17053.85, 17053.95, 23685, and 23695, 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 to update the information in subparagraph (A) of paragraph (2) of subdivision (g), including, but not limited to, all of the following:
    - (i) The amounts of qualified expenditures paid or incurred by the applicant.
    - (ii) The diversity of the workforce employed by the applicant.
    - (iii) The ethnic and racial makeup and gender of individuals whose wages are excluded from qualified wages by clause (iv) of subparagraph (B) of paragraph (21) of subdivision (b).
  - (B) Establish audit requirements that shall 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, 2020.
    - (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 on 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) and the diversity workplans provided pursuant to clause (iv) of subparagraph (B) of paragraph (2) of subdivision (k).
- (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.
- (7) (A) Notwithstanding any other law, on or after July 1, 2025, the California Film Commission may allocate, pursuant to this section, any previously allocated credits not certified that have not previously been added to credit amounts available for allocation under this section or a successor section or sections.
  - (B) For purposes of this section, "previously allocated credits not certified" means either:
    - (i) Credits allocated under paragraph (1) for which the qualified taxpayer to which the credit amounts were originally allocated has notified the California Film Commission in writing that the qualified taxpayer will not request certification for the allocated credits.
    - (ii) The difference between the amount of credits allocated under paragraph (1) to a qualified taxpayer and the amount of credits the California Film Commission certified, for that qualified taxpayer. For purposes of calculating the difference, the California Film Commission shall not consider any credit amounts for which the qualified taxpayer notifies the California Film Commission under clause (i).
- (8) Notwithstanding any other law, on or after July 1, 2025, the California Film Commission may allocate, pursuant to this section, any credit amounts described in subparagraphs (B) and (E) of paragraph (1) of subdivision (i)

that have not previously been added to credit amounts available for allocation under this section or a successor section or sections.

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

(h)(1) The California Film Commission shall annually provide the Legislative Analyst's Office, the Franchise Tax Board, and the California Department of Tax and Fee Administration 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 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.

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

(B) Nothing in this subdivision shall be construed to make the information submitted by an applicant for a taxcredit 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 Commission's Model Filming Ordinance. The California Film Commission shall maintain on its 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 23698, except as provided in subdivision (k) of this section and subdivision (k) of Section 23698, is threehundred thirty million dollars (\$330,000,000), plus any amount described in subparagraph (B), (C), (D), or (E) in credits for the 2020-21 fiscal year and each fiscal year thereafter, through and including the 2024-25 fiscal year, except as provided in paragraph (7) of subdivision (g), plus the amount described in subparagraph (F) in credits for the 2021-22 and 2022-23 fiscal years.
- (B) (i) Subject to clauses (ii) and (iii), the unused allocation credit amount, if any, for the preceding fiscal year.
- (ii) The amount of unused credit allocation attributable to independent films shall only be allocated according to clause (i) of subparagraph (A) of paragraph (2).
- (iii) The total amount of any unused credit allocation amount that is remaining shall only be allocated pursuant to clause (iv) of subparagraph (A) of paragraph (2).
- (C) The amount of previously allocated credits not certified.
- (D) The amount of any credits reduced pursuant to paragraph (2) of subdivision (d).
- (E) That portion of any unused allocation credit amount, if any, attributable to Section 17053.85, 17053.95, 23685, or 23695 available for that fiscal year in a manner as determined by regulations promulgated by the California Film Commission.
- (F) (i) For fiscal years 2021-22 and 2022-23, the California Film Commission shall allocate an additional fifteen million dollars (\$15,000,000) in credits to be granted exclusively to television series that relocate to California.
- (I) Notwithstanding subparagraph (A) of paragraph (2) of this subdivision and clause (v) of subparagraph (D) of paragraph (2) of subdivision (g), the moneys allocated pursuant to this subparagraph shall not be redirected or reallocated.
- (II) Notwithstanding paragraph (25) of subdivision (b), for purposes of this subparagraph, a “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 both filmed at least 75 percent of principal photography days for at least one episode outside of California and has not filmed more than 25 percent of principal photography days for any episode inside of California.
- (ii) For fiscal years 2021-22 and 2022-23, the California Film Commission shall allocate an additional seventy- five million dollars (\$75,000,000) in credits to be granted exclusively to recurring television series.

- (2) (A) Notwithstanding the foregoing, and subject to paragraph (4) of this subdivision and changes in allocations pursuant to clause (v) of subparagraph (D) of paragraph (2) of subdivision (g), the California Film Commission shall allocate the credit amounts subject to the following categories:
- (i) Independent films with qualified expenditures of ten million dollars (\$10,000,000) or less shall be allocated 4.8 percent of the amount specified in paragraph (1). Independent films with qualified expenditures in excess of ten million dollars (\$10,000,000) shall be allocated 3.2 percent of the amount specified in paragraph (1). These amounts shall be in addition to any unused allocation credit amount, if any, for the preceding fiscal year as described in subparagraph (B) of paragraph (1).
  - (ii) Features shall be allocated 35 percent of the amount specified in paragraph (1).
  - (iii) A relocating television series shall be allocated 17 percent of the amount specified in paragraph (1).
  - (iv) A new television series, pilots for a new television series, miniseries, and recurring television series shall be allocated 40 percent of the amount specified in paragraph (1), plus any unused allocation credit amount, if any, for the preceding fiscal year as described in subparagraph (B) of paragraph (1).
- (B) Within any allocation period for credits to a relocating television series, any unused amount shall be reallocated to the category described in clause (iv) of subparagraph (A) and, if any unused amount remains, reallocated in the next allocation period for credits to a relocating television series.
- (C) 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 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.
- (4) (A) Except as provided in subparagraph (B), a qualified motion picture, as defined in subdivision (k), shall not be eligible for an allocation under subdivisions (a) to (j), inclusive, if it receives a credit under subdivision (k) during that fiscal year.
- (B) Notwithstanding any other provision in this section, a recurring television series, as that term is used under subdivision (k), that is no longer eligible for the credit in paragraph (9) of subdivision (k) shall be eligible to apply for an allocation of credits under subdivisions (a) to (j), inclusive.

- (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.
- (k) (1) For taxable years beginning on or after January 1, 2022, and before January 1, 2032, there shall be allowed to a qualified taxpayer a credit against the "net tax," as defined in Section 17039, subject to allocation by the California Film Commission, in an amount equal to 20 percent or 25 percent, whichever is the applicable credit percentage described in paragraph (4) of subdivision (a), as modified by paragraph (3) of this subdivision, of the qualified expenditures paid or incurred during the taxable year by a qualified motion picture produced in the state at a certified studio construction project.  
(2) For purposes of this subdivision, the definitions in subdivision (b) shall apply except as otherwise provided in this subdivision.
  - (A) "Certified studio construction project" means a construction or renovation project certified by the California Film Commission as having met all of the following criteria:
    - (i) The project provides for the construction or renovation of one or more soundstages located in the state.
    - (ii) Actual construction or renovation expenditures are not less than twenty-five million dollars (\$25,000,000) of actual construction or renovation expenditures made over not more than five continuous calendar years.
    - (iii) The construction or renovation of each certified studio construction project is performed in accordance with Section 17053.99.
    - (iv) The construction or renovation of each certified studio construction project commences pursuant to a foundation permit or a structural building permit for the construction or renovation that is issued after the effective date of the act adopting this subdivision.
    - (v) The applicant shall not have received a California Competes Grant under Section 12096.6 of the Government Code for wages or investment related to construction of the studio construction project.
  - (B) "Qualified motion picture" means a qualified motion picture, as defined in subdivision (b), that meets all of the following requirements:
    - (i) For each taxable year for which the credit is claimed by the qualified motion picture, films at least 50 percent of its principal photography stage shooting days on a soundstage or soundstages certified as a certified studio construction project, for which certification was issued within the prior 36 months.
    - (ii) For each taxable year for which the credit is claimed by a qualified motion picture, incurs at least seven million five hundred thousand dollars (\$7,500,000) in qualified wages for filming on a soundstage



or soundstages certified as a certified studio construction project that are paid or incurred in that taxable year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (iv) If the California Film Commission determines that the applicant has met or made a good faith effort to meet the diversity goals in its diversity workplan, the applicant's credit percentage described in paragraph (1) shall be increased by up to four percentage points as follows:
  - (I) By two percentage points if the California Film Commission determines that the applicant has met or made a good faith effort to meet the diversity goals with respect to the diversity of the workforce employed by the applicant in its diversity workplan statement.
  - (II) By two percentage points if the California Film Commission determines that the applicant has met or made a good faith effort to meet the diversity goals with respect to individuals whose wages are excluded from qualified wages as set forth in clause (iv) of subparagraph (B) of paragraph (21) of subdivision (b), in its diversity workplan statement.
- (E) The California Film Commission, in consultation with the Governor's Office of Business and Economic Development, shall establish guidelines to evaluate diversity workplans as described in this paragraph. The guidelines shall be posted on the California Film Commission's internet website.
- (4) The credit allowed under this subdivision shall be administered in accordance with subdivisions (a), (b), (c), (d), (h), and (l), except that paragraph (7) of subdivision (b) shall not apply and paragraph (2) of subdivision (d) shall not apply.
- (5) Subparagraph (A) of paragraph (2), subparagraphs (A), (B), and (C) of paragraph (3), and paragraphs (4), (5), and (6) of subdivision (g) shall apply.
- (6) A conflict between this subdivision and any other subdivisions in this section shall be reconciled in favor of this subdivision.
- (7) The aggregate amount of credit allocated by the California Film Commission pursuant to subdivisions (a) to (j), inclusive, of this section and Section 23698 shall not be reduced by the tax credit allowed pursuant to this subdivision. The amount of credit allowed by this subdivision shall not be limited by subdivision (i).
- (8) (A) The credit allocated pursuant to this subdivision shall be allowed for the taxable year in which the California Film Commission issues a credit certificate in accordance with the procedures provided for in subdivision (g) for the qualified motion picture. The California Film Commission shall 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.
  - (B) (i) The California Film Commission, commencing with fiscal year 2021-22, shall allocate tax credits each year to qualified motion pictures meeting the criteria of this subdivision. The total amount of credits that may be allocated under this subdivision is one hundred fifty

million dollars (\$150,000,000). A season of a series or feature film may not be allocated more than twelve million dollars (\$12,000,000) under this subdivision. Recurring television series receiving an initial allocation under this subdivision shall be allocated for subsequent seasons no more than allowed under this paragraph.

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

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

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

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

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

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

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

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

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

(C) (i) Implementation of this subdivision for the 2021-22 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 subdivision during the 2021-22 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).

(ii) The Governor's Office of Business and Economic Development shall adopt regulations in order to implement this paragraph.

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

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

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

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

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

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

- (i) The total amount of payments to third-party vendors or qualified wages for operation, maintenance, and repair of the certified soundstage.
  - (ii) The amount and percentage of the total amount of payments to third-party vendors or qualified wages for operation, maintenance, and repair of the certified soundstage performed by each workforce described in subparagraph (A).
- (C) If the percentage paid to workers in clause (i) of subparagraph (A) is certified to be 90 percent of the total amount under clause (i) of subparagraph (B) or greater, the qualified taxpayer shall be entitled to 100 percent of the applicable credit issued under this subdivision for the period. If the percentage paid to workers in clause (i) of subparagraph (A) is certified to be less than 90 percent of the total amount under clause (i) of subparagraph (B) but greater than or equal to 75 percent of the total amount under clause (i) of subparagraph (B), the qualified taxpayer shall be entitled to 50 percent of the applicable credit issued under this subdivision for the period. If the percentage paid to workers in clause (i) of subparagraph (A) is certified to be less than 75 percent of the total amount under clause (i) of subparagraph (B), the qualified taxpayer shall not be entitled to any credit issued under this subdivision for the applicable period.

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

SEC. 3. Section 17053.99 is added to the Revenue and Taxation Code, to read:

17053.99. A taxpayer seeking certification of a certified studio construction project by the California FilmCommission shall do both of the following:

- (a) Certify to the California Film Commission that either of the following is true:
  - (1) The entirety of the project is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.
  - (2) The project is not in its entirety a public work for which prevailing wages must be paid under Article 1 (commencing with Section 1720) of Chapter 1 of Part 7 of Division 2 of the Labor Code, but all construction workers employed on the project will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the project is subject to this paragraph, then for those portions of the project that are not a public work all of the following shall apply:
    - (A) The taxpayer shall ensure that the prevailing wage requirement is included in all contracts for the performance of all construction work.
    - (B) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered

in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

- (C) Except as provided in subparagraph (E), all contractors and subcontractors performing construction work shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.
  - (D) Except as provided in subparagraph (E), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the project, or by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.
  - (E) Subparagraphs (C) and (D) shall not apply if all contractors and subcontractors performing construction work on the project are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the project and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.
- (b) Certify to the California Film Commission that a skilled and trained workforce will be used to perform all construction work on the proposed project.
- (1) For purposes of this section, "skilled and trained workforce" has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.
  - (2) If the taxpayer has certified that a skilled and trained workforce will be used to construct all work on the project, the following shall apply:
    - (A) The taxpayer shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to construct the project.
    - (B) Every contractor and subcontractor shall use a skilled and trained workforce to construct the project.
    - (C) For purposes of this subdivision, "taxpayer" has the same meaning as "awarding body" as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

- (D) Contractors and subcontractors that fail to use a skilled and trained workforce shall be subject to the penalties provided in Section 2603 of the Public Contract Code. Penalties for a contractor's or subcontractor's failure to comply with the requirement to use a skilled and trained workforce may be assessed by the Labor Commissioner within 18 months of completion of the project using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 2603 of the Public Contract Code. Penalties shall be paid to the State Public Works Enforcement Fund.
- (E) The taxpayer shall provide copies of the monthly reports demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code to the California Film Commission on a monthly basis while the project or contract is being performed. These reports shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and shall be open to public inspection.
- (F) Subparagraphs (C) to (E), inclusive, shall not apply if all contractors and subcontractors performing work on the project are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

SEC. 4. Section 19393 of the Revenue and Taxation Code is amended to read:

19393. (a) Except as provided in subdivision (b), for the purposes of the tax imposed under Chapter 2 (commencing with Section 23101) of Part 11, if any deduction, credit, or exclusion provided for in Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001) is finally adjudged discriminatory against a national banking association contrary to Section 548 of Title 12 of the United States Code, or is for any reason finally adjudged invalid or discriminatory under the California Constitution, or the laws or the Constitution of the United States, the tax of the favored taxpayer shall be recomputed by the Franchise Tax Board for the taxable year in question, as of the time of allowance of the deduction, credit, or exclusion, by disallowing the deduction, credit, or exclusion, and any difference between the amount of the tax as recomputed and the amount of the tax as originally computed shall be subject to the provisions hereof relating to original computations.
- (b) Subdivision (a) shall not apply to a taxpayer for the invalidation of any provision of Section 17053.98, 17053.99, or 23698 amended or added by the act that added this subdivision.

SEC. 5. Section 23698 of the Revenue and Taxation Code is amended to read:

23698. (a) (1) For taxable years beginning on or after January 1, 2020, 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 or 23695.

- (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, 2020, 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) (A) 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).
- (B) In determining the amount specified in the credit certificate in subparagraph (A), the California Film Commission shall be limited to the following amounts of qualified expenditures for each qualified motion picture:
  - (i) In the case of a feature, up to one hundred million dollars (\$100,000,000).
  - (ii) In the case of a miniseries described in clause (ii) of subparagraph (A) of paragraph (18) of subdivision (b), up to one hundred million dollars (\$100,000,000).
  - (iii) In the case of a television series described in clause (iii) or clause (v) of subparagraph (A) of paragraph (18) of subdivision (b), up to one hundred million dollars (\$100,000,000) per season.
  - (iv) In the case of an independent film, up to ten million dollars (\$10,000,000).
- (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 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, Section 23685, or Section 23695.
  - (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 attributable to the production of a qualified motion picture that is an independent film.



- (D) Additional credits shall be allowed for the production of 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, excluding qualified wages described in subparagraph (E), relating to original photography outside the Los Angeles zone.
  - (II) For purposes of this clause and subparagraph (E):
    - (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 Castaic Lake, Leo 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 qualified visual effects attributable to the production of a qualified motion picture in California.
- (E)(i) Notwithstanding subparagraph (D), an amount equal to 10 percent of qualified wages paid for services performed relating to original photography outside of the Los Angeles zone to qualified individuals who reside in California but outside the Los Angeles zone shall be allowed as an additional credit for the production of a qualified motion picture whose applicable credit percentage is determined pursuant to subparagraph (A).
- (ii) Notwithstanding subparagraph (D), an amount equal to 5 percent of qualified wages paid for services performed relating to original photography outside of the Los Angeles zone to qualified individuals who reside in California but outside the Los Angeles zone shall be allowed as an additional credit for the production of a qualified

motion picture whose applicable credit percentage is determined pursuant to subparagraph (B) or (C).

(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 (D) 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 subparagraphs (D) and (E) of paragraph (4) of subdivision (a), as computed by the California Film Commission. For the purposes of the calculation of the jobs ratio only, 70 percent of qualified expenditures for visual effects paid to third-party vendors for work performed in California shall be deemed to be qualified wages paid to a qualified individual.
- (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 miniseries consisting of two or more episodes, each longer than 40 minutes 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.
  - (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 if the qualified motion picture has a budget with qualified expenditures of less than one hundred million dollars (\$100,000,000), and no later than 240 days after the date of that approval in the case of a qualified motion picture with a budget of qualified expenditures with at least one hundred million dollars (\$100,000,000), 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 180- or 240-day 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 in Section 23695 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 at least 75 percent of principal photography days in 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 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) Aggregate data for individuals whose wages are excluded from qualified wages by clause (iv) of subparagraph (B) of paragraph (21) of subdivision (b), including their gender, ethnic, and racial makeup.
  - (F) 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.
  - (G) The total amounts paid or incurred to purchase or lease tangible



personal property used in the production of a qualified motion picture.

(H) Information to substantiate its qualified expenditures.

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

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

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

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

(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, 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, 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) 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 pilot Career Pathways Training program including a fee to be paid by the qualified taxpayer,

if the qualified taxpayer receives a credit under this section, to fund technical skills training to individuals from underserved communities for entry into film and television industry jobs. The California Film Commission shall (i) identify a not-for-profit fiscal agent with direct relationships to industry skills training programs to manage the funds; and (ii) engage labor-management jointly administered training programs with skills training focused on the entertainment industry to implement the program with California Film Commission approval and oversight. With regard to the Career Readiness requirement in Section 23695, 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 shall continue. The California Film Commission 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 nonsubstantial 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 (C) of paragraph (2) of subdivision (d).
- (2)(A) Implementation of this section for the 2020-21 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 2020-21 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) to (E), inclusive, of paragraph (2), on or after July 1, 2020, and before July 1, 2025, in two or more allocation periods per fiscal year, allocate tax credits to applicants.
  - (2) (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) The applicant's written policy against unlawful harassment, including, but not limited to, sexual harassment, which includes procedures for reporting and investigating harassment claims, a phone number for an individual who will be responsible for receiving harassment claims, and a statement that the company will not retaliate against an individual who reports harassment. The applicant shall also indicate how the policy will be distributed to employees and include a summary of education training resources, including the prohibition against, and prevention and correction of, sexual harassment and remedies available.
  - (xii) The ethnic and racial makeup and gender of individuals whose wages are excluded from qualified wages as set forth in clause (iv) of subparagraph (B) of paragraph (21) of subdivision (b).
  - (xiii) A summary of the applicant's voluntary programs to increase the representation of minorities and women in the job classifications that are not included in qualified wages as set forth in clause (iv) of subparagraph (B) of paragraph (21) of subdivision (b) and information about how these programs are publicized to interested parties. The officer or executive referenced in clause (x) who is signing the statement shall provide additional information about these programs, if needed and upon request, to the California Film Commission.
  - (xiv) 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 scoring musicians in California, and other criteria measuring economic impact in California as determined by the California Film Commission.
- (v) Notwithstanding any other law, 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 17053.98, 17053.85, 17053.95, 23685, or 23695 shall be issued a credit for each subsequent season, for the life of that television series whenever credits are allocated within a fiscal year. The California Film Commission shall limit the amount of credits any recurring television series receives in a subsequent season to no more than the amount reserved in its prior fiscal year Credit Allocation Letter or Letters, or if no amounts were reserved in the prior fiscal year, the most immediate prior fiscal year in which a Credit Allocation Letter or Letters were received. In the event that insufficient tax credits are available to fund all recurring television series pursuant to this clause for any fiscal year or in the event the California Film Commission projects, in collaboration with the Department of Finance, that there will be insufficient tax credits available to fund all recurring television series in either of the subsequent two fiscal years, the California Film Commission shall make the following adjustments in the order given until the shortfall, or any projected shortfall for the two subsequent fiscal years, for recurring television series is eliminated:
  - (I) Notwithstanding clause (iii) of subparagraph (A) of paragraph (2) of subdivision (i), the California Film Commission may redirect up to 100 percent of the credit amounts allocated to the relocating television series category to recurring television series for that fiscal year until the shortfall or projected shortfall is eliminated.
  - (II) Notwithstanding clause (iv) of subparagraph (A) of paragraph (2) of subdivision (i), the California Film Commission may redirect up to 100 percent of the credit amounts allocated to a new television series to recurring television series for that fiscal year until the shortfall or projected shortfall is eliminated.
  - (III) Notwithstanding clause (ii) of subparagraph (A) of

paragraph (2) of subdivision (i), the California Film Commission may redirect up to 100 percent of the credit allocations from the features category to the recurring television series category for that fiscal year until the shortfall is eliminated.

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

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

(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 17053.98, and allocate any carryover of unallocated or unused credits from prior years and Sections 17053.85, 17053.95, 23685, and 23695, 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 to update the information in subparagraph (A) of paragraph (2) of subdivision (g), including, but not limited to, all of the following:

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

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

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

(B) Establish audit requirements that shall 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, 2020.

(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 on 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) and the diversity workplans provided pursuant to clause (iv) of subparagraph (B) of paragraph (2) of subdivision (k).

(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.

(7) (A) Notwithstanding any other law, on or after July 1, 2025, the California Film Commission may allocate, pursuant to this section, any previously allocated credits not certified that have not previously been added to credit amounts available for allocation

under this section or a successor section or sections.

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

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

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

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

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

(h)(1) The California Film Commission shall annually provide the Legislative Analyst's Office, the Franchise Tax Board, and the California Department of Tax and Fee Administration 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 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.

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

(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 Commission's Model Filming Ordinance. The California Film Commission shall maintain on its 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 17053.98, except as provided in subdivision (k) of this section and subdivision (k) of Section 17053.98, is three hundred thirty million dollars (\$330,000,000), plus any amount described in subparagraph (B), (C), (D), or (E) in credits for the 2020-21 fiscal year and each fiscal year thereafter, through and including the 2024-25 fiscal year, except as provided in paragraph (7) of subdivision (g), plus the amount described in subparagraph (F) in credits for the 2021-22 and 2022-23 fiscal years.

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

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

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

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

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

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

- (F)(i) For fiscal years 2021-22 and 2022-23, the California Film Commission shall allocate an additional fifteen million dollars (\$15,000,000) in credits to be granted exclusively to television series that relocate to California.
    - (I) Notwithstanding subparagraph (A) of paragraph (2) of this subdivision and clause (v) of subparagraph (D) of paragraph (2) of subdivision (g), the moneys allocated pursuant to this subparagraph shall not be redirected or reallocated.
    - (II) Notwithstanding paragraph (25) of subdivision (b), for purposes of this subparagraph, a "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 both filmed at least 75 percent of principal photography days for at least one episode outside of California and has not filmed more than 25 percent of principal photography days for any episode inside of California.
  - (ii) For fiscal years 2021-22 and 2022-23, the California Film Commission shall allocate an additional seventy-five million dollars (\$75,000,000) in credits to be granted exclusively to recurring television series.
- (2)(A) Notwithstanding the foregoing, and subject to paragraph (4) of this subdivision and changes in allocations pursuant to clause (v) of subparagraph (D) of paragraph (2) of subdivision (g), the California Film Commission shall allocate the credit amounts subject to the following categories:
- (i) Independent films with qualified expenditures of ten million dollars (\$10,000,000) or less shall be allocated 4.8 percent of the amount specified in paragraph (1). Independent films with qualified expenditures in excess of ten million dollars (\$10,000,000) shall be allocated 3.2 percent of the amount specified in paragraph (1). These amounts shall be in addition to any unused allocation credit amount, if any, for the preceding fiscal year as described in subparagraph (B) of paragraph (1).
  - (ii) Features shall be allocated 35 percent of the amount specified in paragraph (1).
  - (iii) A relocating television series shall be allocated 17 percent of the amount specified in paragraph (1).
  - (iv) A new television series, pilots for a new television series, miniseries, and recurring television series shall be allocated 40 percent of the amount specified in paragraph (1), plus any unused allocation credit amount, if any, for the preceding fiscal year as described in subparagraph (B) of paragraph (1).
- (B) Within any allocation period for credits to a relocating television series, any unused amount shall be reallocated to the category

described in clause (iv) of subparagraph (A) and, if any unused amount remains, reallocated in the next allocation period for credits to a relocating television series.

(C) 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 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.

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

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

(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.

(k) (1) For taxable years beginning on or after January 1, 2022, and before January 1, 2032, there shall be allowed to a qualified taxpayer a credit against the "tax," as defined in Section 23036, subject to allocation by the California Film Commission, in an amount equal to 20 percent or 25 percent, whichever is the applicable credit percentage described in paragraph (4) of subdivision (a), as modified by paragraph (3) of this subdivision, of the qualified expenditures paid or incurred during the taxable year by a qualified motion picture produced in the state at a certified studio construction project.

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

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

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

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

- (iii) The construction or renovation of each certified studio construction project is performed in accordance with Section 17053.99.
  - (iv) The construction or renovation of each certified studio construction project commences pursuant to a foundation permit or a structural building permit for the construction or renovation that is issued after the effective date of the act adopting this subdivision.
  - (v) The applicant shall not have received a California Competes Grant under Section 12096.6 of the Government Code for wages or investment related to construction of the studio construction project.
- (B) "Qualified motion picture" means a qualified motion picture, as defined in subdivision (b), that meets all of the following requirements:
- (i) For each taxable year for which the credit is claimed by the qualified motion picture, films at least 50 percent of its principal photography stage shooting days on a soundstage or soundstages certified as a certified studio construction project, for which certification was issued within the prior 36 months.
  - (ii) For each taxable year for which the credit is claimed by a qualified motion picture, incurs at least seven million five hundred thousand dollars (\$7,500,000) in qualified wages for filming on a soundstage or soundstages certified as a certified studio construction project that are paid or incurred in that taxable year.
  - (iii) Is produced by a qualified taxpayer that is either of the following:
    - (I) More than 50 percent owned, directly or indirectly, by the same owner or owners of the soundstage or soundstages that is part of a certified studio construction project on which the production is filmed.
    - (II) Entered into a contract or lease of 10 years or more with the owner or owners of a certified studio construction project on which the production is filmed.
  - (iv) Provides a diversity workplan that is approved by the California Film Commission.
- (C) For purposes of this subdivision, a qualified taxpayer and a taxpayer include a passthrough entity and a disregarded entity.
- (3) (A) The diversity workplan required pursuant to clause (iv) of subparagraph (B) of paragraph (2) shall include all of the following:
- (i) A statement of the diversity goals the motion picture will seek to achieve in terms of qualified wages paid by race and gender.

- (ii) A statement of the diversity goals the motion picture will seek to achieve for individuals whose wages are excluded from qualified wages as set forth in clause (iv) of subparagraph (B) of paragraph (21) of subdivision (b), with respect to both compensation and to the representation of diversity in the creative aspects of the motion picture.
  - (iii) A plan of what strategies the motion picture will employ to achieve the goals in clauses (i) and (ii).
- (B) The diversity workplan shall include goals that are broadly reflective of California's population, in terms of race and gender.
- (C) The California Film Commission shall approve or reject the diversity workplan of an applicant, to the extent allowed by federal and state law.
- (D) (i) The California Film Commission shall not certify any tax credit under this subdivision until they have received a final diversity report from the applicant.
- (ii) The final diversity report shall calculate and provide evidence for the extent to which the applicant met the diversity goals laid out in their diversity workplan.
- (iii) The California Film Commission shall have the authority to audit the final diversity report to determine if the diversity goals set forth in the applicant's diversity workplan for the motion picture production were achieved.
- (iv) If the California Film Commission determines that the applicant has met or made a good faith effort to meet the diversity goals in its diversity workplan, the applicant's credit percentage described in paragraph (1) shall be increased by up to four percentage points as follows:
- (I) By two percentage points if the California Film Commission determines that the applicant has met or made a good faith effort to meet the diversity goals with respect to the diversity of the workforce employed by the applicant in its diversity workplan statement.
  - (II) By two percentage points if the California Film Commission determines that the applicant has met or made a good faith effort to meet the diversity goals with respect to individuals whose wages are excluded from qualified wages as set forth in clause (iv) of subparagraph (B) of paragraph (21) of subdivision (b), in its diversity workplan statement.
- (E) The California Film Commission, in consultation with the Governor's Office of Business and Economic Development,

shall establish guidelines to evaluate diversity workplans as described in this paragraph. The guidelines shall be posted on the California Film Commission's internet website.

- (4) The credit allowed under this subdivision shall be administered in accordance with subdivisions (a), (b), (c), (d), (h), and (l), except that paragraph (7) of subdivision (b) shall not apply and paragraph (2) of subdivision (d) shall not apply.
- (5) Subparagraph (A) of paragraph (2), subparagraphs (A), (B), and (C) of paragraph (3), and paragraphs (4), (5), and (6) of subdivision (g) shall apply.
- (6) A conflict between this subdivision and any other subdivisions in this section shall be reconciled in favor of this subdivision.
- (7) The aggregate amount of credit allocated by the California Film Commission pursuant to subdivisions (a) to (j), inclusive, of this section and Section 17053.98 shall not be reduced by the tax credit allowed pursuant to this subdivision. The amount of credit allowed by this subdivision shall not be limited by subdivision (i).
- (8) (A) The credit allocated pursuant to this subdivision shall be allowed for the taxable year in which the California Film Commission issues a credit certificate in accordance with the procedures provided for in subdivision (g) for the qualified motion picture. The California Film Commission shall 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.
  - (B) (i) The California Film Commission, commencing with fiscal year 2021-22, shall allocate tax credits each year to qualified motion pictures meeting the criteria of this subdivision. The total amount of credits that may be allocated under this subdivision is one hundred fifty million dollars (\$150,000,000). A season of a series or feature film may not be allocated more than twelve million dollars (\$12,000,000) under this subdivision. Recurring television series receiving an initial allocation under this subdivision shall be allocated for subsequent seasons no more than allowed under this paragraph.
    - (ii) A qualified motion picture shall not be eligible to receive a credit allocation under this subdivision if that qualified motion picture receives a credit allocation under subdivisions (a) to (j), inclusive, for the fiscal year. However, subject to paragraph (4) of subdivision (i), any television series, relocating television series, or any new television series based on a pilot for a new television series that is no longer eligible for a credit under this subdivision pursuant to paragraph (9) may apply to receive an allocation of credits pursuant to subdivisions (a) to (j), inclusive.
  - (C) In any year the tax credits under this paragraph have been

allocated by the California Film Commission, a qualified motion picture or a recurring television series that satisfies the criteria of this subdivision, but have not received an allocation of credits, may apply to receive an allocation of credits pursuant to subdivision (i).

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

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

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

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

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

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

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

(C) (i) Implementation of this subdivision for the 2021-22 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 subdivision during the 2021-22 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).

- (ii) The Governor's Office of Business and Economic Development shall adopt regulations in order to implement this paragraph.
- (11) In the case where the credit allowed by this subdivision exceeds the taxpayer's tax liability computed under this part, the excess credit may be carried over to reduce the "tax" in the following taxable year, and succeeding eight taxable years, if necessary, until the credit has been exhausted.
- (12) Upon completion of construction or renovation of the soundstage or soundstages, the taxpayer shall certify to the California Film Commission that all contractors and subcontractors performing construction work on the soundstage or soundstages were required to use a skilled and trained workforce to perform such work in accordance with subdivision (b) of Section 17053.99.
- (13) (A) Upon completion of construction or renovation of the soundstage or soundstages, the soundstage or soundstages shall be continuously operated, maintained, and repaired by any of the following:
- (i) A workforce that is paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, if such services are performed by a workforce that is employed directly, or indirectly through a motion picture payroll services company, by the owner or affiliate of the owner of the soundstage or lessee of the soundstage described in subclause (II) of clause (iii) of subparagraph (B) of paragraph (2) of this subdivision.
  - (ii) A skilled and trained workforce as defined in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code, if such services are provided by third-party vendors.
- (B) Each year following completion of construction or renovation of the soundstage or soundstages that a qualified motion picture is allocated a tax credit pursuant to this subdivision, the qualified taxpayer shall certify to the California Film Commission both of the following:
- (i) The total amount of payments to third-party vendors or qualified wages for operation, maintenance, and repair of the certified soundstage.



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

(C) If the percentage paid to workers in clause (i) of subparagraph (A) is certified to be 90 percent of the total amount under clause (i) of subparagraph (B) or greater, the qualified taxpayer shall be entitled to 100 percent of the applicable credit issued under this subdivision for the period. If the percentage paid to workers in clause (i) of subparagraph (A) is certified to be less than 90 percent of the total amount under clause (i) of subparagraph (B) but greater than or equal to 75 percent of the total amount under clause (i) of subparagraph (B), the qualified taxpayer shall be entitled to 50 percent of the applicable credit issued under this subdivision for the period. If the percentage paid to workers in clause (i) of subparagraph (A) is certified to be less than 75 percent of the total amount under clause (i) of subparagraph (B), the qualified taxpayer shall not be entitled to any credit issued under this subdivision for the applicable period.

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

SEC. 6. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 8. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.