

ACT No. 456

HOUSE BILL NO. 936

BY REPRESENTATIVES TOWNSEND, ALEXANDER, ANSARDI, ARNOLD, BADON, BALDONE, BARROW, BAUDOIN, BAYLOR, BOWLER, BRUCE, BURNS, BURRELL, K. CARTER, CAZAYOUX, CRANE, CROWE, CURTIS, DAMICO, DARTEZ, DOERGE, DORSEY, DOVE, DURAND, FARRAR, FAUCHEUX, FRITH, GRAY, GREENE, ELBERT GUILLORY, ELCIE GUILLORY, MICKEY GUILLORY, HEATON, HEBERT, HILL, HONEY, HUNTER, HUTTER, JACKSON, JEFFERSON, KENNEY, LABRUZZO, LAFLEUR, LAFONTA, LAMBERT, LANCASTER, LORUSSO, MARCHAND, MONTGOMERY, MORRELL, MORRIS, ODINET, PIERRE, PINAC, M. POWELL, T. POWELL, QUEZAIRE, RITCHIE, ROMERO, SALTER, SCALISE, GARY SMITH, JANE SMITH, JOHN SMITH, ST. GERMAIN, THOMPSON, TRAHAN, WADDELL, WALKER, WHITE, WILLIAMS, WINSTON, AND WOOTON

1 AN ACT

2 To amend and reenact R.S. 36:107(A) and 109(J) and R.S. 47:1123(10), 1125(C)(3), and
3 6007, relative to motion picture investor tax credits; to provide for various changes
4 and modifications of the credit; to provide for administrators of the tax credit; to
5 provide for time limits for the tax credits; to provide for a cap for certain tax credits;
6 to provide for application of the Act to certain projects; to dedicate certain fees; and
7 to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 36:107(A) and 109(J) are hereby amended and reenacted to read as
10 follows:

11 §107. Assistant secretaries

12 A. Each office within the Department of Economic Development, except the
13 office of management and finance and the ~~governor's office of film and television~~
14 ~~development~~ office of entertainment industry development, shall be under the
15 immediate supervision and direction of an assistant secretary. The assistant secretary
16 of each such office shall be appointed by the governor with the consent of the Senate.
17 Each shall serve at the pleasure of the governor and shall be paid a salary which shall
18 be fixed by the governor, which salary shall not exceed the amount approved for
19 such position by the legislature while in session.

20 * * *

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

2 (1) "Base investment" shall mean the actual investment made and expended
 3 by:

4 (a) A state-certified production in the state as production expenditures
 5 incurred in this state that are directly used in a state-certified production or
 6 productions.

7 (b) A person in the development of a state-certified infrastructure project.

8 (2) "Division" means the division of administration of the office of the
 9 governor.

10 ~~(2)~~(3) "Expended in the state" in the case of tangible property shall mean
 11 property which is acquired from a source within the state and, in the case of services,
 12 shall mean services procured and performed in the state.

13 ~~(3)~~(4) "Headquartered in Louisiana" shall mean a corporation incorporated
 14 in Louisiana or a partnership, limited liability company, or other business entity
 15 domiciled and headquartered in Louisiana for the purpose of producing nationally
 16 distributed motion pictures as defined in this Section.

17 ~~(4)~~(5) "Motion picture" means a nationally distributed feature-length film,
 18 video, television series, or commercial made in Louisiana, in whole or in part, for
 19 theatrical or television viewing or as a television pilot. The term "motion picture"
 20 shall not include the production of television coverage of news and athletic events.

21 ~~(5)~~(6) "Motion picture production company" shall mean a company engaged
 22 in the business of producing nationally distributed motion pictures as defined in this
 23 Section. Motion picture production company shall not mean or include any company
 24 owned, affiliated, or controlled, in whole or in part, by any company or person which
 25 is in default on a loan made by the state or a loan guaranteed by the state, nor with
 26 any company or person who has ever declared bankruptcy under which an obligation
 27 of the company or person to pay or repay public funds or monies was discharged as
 28 a part of such bankruptcy.

29 (7) "Office" means the Governor's Office of Film and Television
 30 Development until August 15, 2006; thereafter, the term "office" means the office

1 of entertainment industry development in the Department of Economic Development
2 provided for in R.S. 51:938.1.

3 ~~(6)~~(8) "Payroll" shall include all salary, wages, and other compensation,
4 including related benefits sourced or apportioned to Louisiana.

5 ~~(7)~~(9)"Production expenditures" means preproduction, production, and
6 postproduction expenditures directly incurred in this state that are directly used in
7 a state-certified production, including without limitation the following: set
8 construction and operation; wardrobes, make-up, accessories, and related services;
9 costs associated with photography and sound synchronization, lighting, and related
10 services and materials; editing and related services; rental of facilities and
11 equipment; leasing of vehicles; costs of food and lodging; digital or tape editing, film
12 processing, transfer of film to tape or digital format, sound mixing, special and visual
13 effects; total aggregate payroll; music, if performed, composed, or recorded by a
14 Louisiana musician, or released or published by a Louisiana-domiciled and
15 headquartered company; airfare, if purchased through a Louisiana-based travel
16 agency or travel company; insurance costs or bonding, if purchased through a
17 Louisiana-based insurance agency; or other similar production expenditures as
18 determined by rule. This term shall not include postproduction expenditures for
19 marketing and distribution, any indirect costs, any amounts that are later reimbursed,
20 any costs related to the transfer of tax credits, or any amounts that are paid to persons
21 or entities as a result of their participation in profits from the exploitation of the
22 production.

23 ~~(8)~~(10) "Resident" or "resident of Louisiana" means a natural person and, for
24 the purpose of determining eligibility for the tax incentives provided by this Chapter,
25 any person domiciled in the state of Louisiana and any other person who maintains
26 a permanent place of abode within the state and spends in the aggregate more than
27 six months of each year within the state.

28 (11) "Secretary" means the secretary of the Department of Economic
29 Development.

1 ~~(9)~~(12) "State-certified infrastructure project" shall mean ~~an~~ a film, video,
 2 television, and digital production and postproduction facility infrastructure project,
 3 and movable and immovable property and equipment related thereto, or any other
 4 facility which supports and is a necessary component of such proposed state-certified
 5 infrastructure project, all as determined and approved by the ~~Governor's Office of~~
 6 ~~Film and Television Development and~~ office, the secretary of the Department of
 7 Economic Development, and the division of administration under such terms and
 8 conditions as are authorized by this Section. The term "infrastructure project" shall
 9 not include movie theaters or other commercial exhibition facilities.

10 ~~(10)~~(13) "State-certified production" shall mean a production approved by
 11 the ~~Governor's Office of Film and Television Development~~ office and the secretary
 12 of the Department of Economic Development produced by a motion picture
 13 production company domiciled and headquartered in Louisiana which has a viable
 14 multi-market commercial distribution plan.

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

16 (1) There is hereby authorized a tax credit against state income tax for
 17 Louisiana taxpayers for state-certified productions, other than motion picture
 18 production companies. The tax credit shall be earned by investors at the time
 19 expenditures are made by a motion picture production company in a state-certified
 20 production. However, credits cannot be applied against a tax or transferred until the
 21 expenditures are certified by the ~~Governor's Office of Film and Television~~
 22 ~~Development~~ office and the secretary of the Department of Economic Development.
 23 For state-certified productions, expenditures shall be certified no more than twice
 24 during the duration of a state-certified production unless the motion picture
 25 production company agrees to reimburse the ~~Governor's Office of Film and~~
 26 ~~Television Development and the Department of Economic Development~~ office for
 27 the costs of any additional certifications. The tax credit shall be calculated as a
 28 percentage of the total base investment dollars certified per project.

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

1 (a) For state-certified productions approved by the ~~Governor's Office of Film~~
2 ~~and Television Development, office and the secretary~~ on or after January 1, 2004, but
3 before January 1, 2006:

4 (i) If the total base investment is greater than three hundred thousand dollars
5 and less than or equal to eight million dollars, each taxpayer shall be allowed a tax
6 credit of ten percent of the actual investment made by that taxpayer.

7 (ii) If the total base investment is greater than eight million dollars, each
8 taxpayer shall be allowed a tax credit of fifteen percent of the actual investment
9 made by that taxpayer.

10 (iii) The initial certification shall be effective for a period twelve months
11 prior to and twelve months after the date of initial certification, unless the production
12 has commenced, in which case the initial certification shall be valid until the
13 production is completed.

14 (b) For state-certified productions approved by the ~~Governor's Office of Film~~
15 ~~and Television Development, office and the secretary~~ on or after January 1, 2006, but
16 before July 1, 2010, and for state-certified infrastructure projects approved by the
17 ~~Governor's Office of Film and Television Development, on or after July 1, 2005:~~

18 (i) If the total base investment is greater than three hundred thousand dollars,
19 each investor shall be allowed a tax credit of twenty-five percent of the base
20 investment made by that investor.

21 (ii) To the extent that base investment is expended on payroll for Louisiana
22 residents employed in connection with a state-certified production, each investor
23 shall be allowed an additional tax credit of ten percent of such payroll. However, if
24 the payroll to any one person exceeds one million dollars, this additional credit shall
25 exclude any salary for that person that exceeds one million dollars.

26 (iii) The initial certification shall be effective for a period twelve months
27 prior to and twelve months after the date of initial certification, unless the production
28 has commenced, in which case the initial certification shall be valid until the
29 production is completed.

1 ~~(iii) Until January 1, 2008, if the total base investment is greater than three~~
2 ~~hundred thousand dollars, each taxpayer shall be allowed a tax credit of fifteen~~
3 ~~percent of the base investment made by that taxpayer that is expended in this state~~
4 ~~on a state-certified infrastructure project as certified by the Governor's Office of Film~~
5 ~~and Television Development, the Department of Economic Development, and~~
6 ~~approved by the division of administration.~~

7 (c) For state-certified productions approved by the ~~Governor's Office of Film~~
8 ~~and Television Development and the Department of Economic Development,~~ office
9 and the secretary on or after July 1, 2010, but before July 1, 2012:

10 (i) If the total base investment is greater than three hundred thousand dollars,
11 each investor shall be allowed a tax credit of twenty percent of the base investment
12 made by that investor.

13 (ii) To the extent that base investment is expended on payroll for Louisiana
14 residents employed in connection with a state-certified production, each investor
15 shall be allowed an additional tax credit of ten percent of such payroll. However, if
16 the payroll to any one person exceeds one million dollars, this additional credit shall
17 exclude any salary for that person that exceeds one million dollars.

18 (iii) The initial certification shall be effective for a period twelve months
19 prior to and twelve months after the date of initial certification, unless the production
20 has commenced, in which case the initial certification shall be valid until the
21 production is completed.

22 (d) For state-certified productions approved by the ~~Governor's Office of Film~~
23 ~~and Television Development and the Department of Economic Development,~~ office
24 and the secretary on or after July 1, 2012:

25 (i) If the total base investment is greater than three hundred thousand dollars,
26 each investor shall be allowed a tax credit of fifteen percent of the base investment
27 made by that investor.

28 (ii) To the extent that base investment is expended on payroll for Louisiana
29 residents employed in connection with a state-certified production, each investor
30 shall be allowed an additional tax credit of ten percent of such payroll. However, if

1 the payroll to any one person exceeds one million dollars, this additional credit shall
2 exclude any salary for that person that exceeds one million dollars.

3 (iii) The initial certification shall be effective for a period twelve months
4 prior to and twelve months after the date of initial certification, unless the production
5 has commenced, in which case the initial certification shall be valid until the
6 production is completed.

7 (e) Motion picture investor tax credits associated with a state-certified
8 production shall never exceed the total base investment in that production.

9 (2)(a) Beginning July 1, 2005, and ending on January 1, 2009, there shall be
10 allowed a credit against state income tax for state-certified infrastructure projects
11 which meet the criteria provided for in this Paragraph and which are approved by the
12 office, the secretary of the Department of Economic Development, and the division
13 of administration. The tax credit shall be equal to forty percent of the base
14 investment expended in this state on such project which is in excess of three hundred
15 thousand dollars. The total tax credit allowed for any state-certified infrastructure
16 project shall not exceed twenty-five million dollars, and the tax credit shall be earned
17 and may be structured as provided for in this Paragraph.

18 (b)(i) An infrastructure project shall be approved if it is a film, video,
19 television, or digital production or postproduction facility.

20 (ii) However, if all or a portion of an infrastructure project is a facility which
21 may be used for other purposes unrelated to production or postproduction activities,
22 then the project shall be approved only if a determination is made that the multiple-
23 use facility will support and will be necessary to secure production or postproduction
24 activity for the production and postproduction facility and the applicant provides
25 sufficient contractual assurances that:

26 (aa) The facility will be used as a state-of-the-art production or
27 postproduction facility, or as a support and component thereof, for the useful life of
28 the facility.

29 (bb) No tax credits shall be earned on such multiple-use facilities until the
30 production or postproduction facility is complete.

1 (c) Tax credits for infrastructure projects shall be earned only as follows:

2 (i) Construction of the infrastructure project shall begin within six months of
3 the initial certification provided for in Subparagraph (D)(2)(c) of this Section.

4 (ii) Expenditures shall be certified by the office, the secretary, and the
5 division as provided for in Paragraph (D)(2) of this Section, and credits are not
6 earned until such certification.

7 (iii) Twenty-five percent of the total base investment provided for in the
8 initial certification of an infrastructure project pursuant to Subparagraph (D)(2)(d)
9 of this Section shall be certified as expended before any credits may be earned.

10 (iv) No tax credit shall be allowed for expenditures made for any
11 infrastructure project after December 31, 2008, unless fifty percent of total base
12 investment provided for in the initial certification of the project pursuant to
13 Subparagraph (D)(2)(d) of this Section has been expended prior to that date. The
14 expenditures may be finally certified at a later date.

15 (v) For purposes of allowing tax credits against state income tax liability and
16 transferability of the tax credits, the tax credits shall be deemed earned at the time
17 the expenditures are made, provided that all requirements of this Subsection have
18 been met and after the tax credits have been certified.

19 (d) The office, the secretary, and the division may require the tax credits to
20 be taken and/or transferred in the tax period in which the credit is earned or may
21 structure the tax credit in the initial certification of the project to provide that only
22 a portion of the tax credit be taken over the course of two or more tax years.

23 (3) The credit shall be allowed against the income tax for the taxable period
24 in which the credit is earned or for the taxable period in which initial certification
25 authorizes the credit to be taken. If the tax credit allowed pursuant to this Section
26 exceeds the amount of such taxes due for such tax period, then any unused credit
27 may be carried forward as a credit against subsequent tax liability for a period not
28 to exceed ten years.

29 ~~(3)~~(4) Application of the credit.

1 (a) All entities taxed as corporations for Louisiana income tax purposes shall
 2 claim any credit allowed under this Section on their corporation income tax return.

3 (b) Individuals, estates, and trusts shall claim any credit allowed under this
 4 Section on their income tax return.

5 (c) Entities not taxed as corporations shall claim any credit allowed under this
 6 Section on the returns of the partners or members as follows:

7 (i) Corporate partners or members shall claim their share of the credit on their
 8 corporation income tax returns.

9 (ii) Individual partners or members shall claim their share of the credit on
 10 their individual income tax returns.

11 (iii) Partners or members that are estates or trusts shall claim their share of
 12 the credit on their fiduciary income tax returns.

13 ~~(4)~~(5) Transferability of the credit. Any motion picture tax credits not
 14 previously claimed by any taxpayer against its income tax may be transferred or sold
 15 to another Louisiana taxpayer or to the ~~Governor's Office of Film and Television~~
 16 ~~Development~~ office, subject to the following conditions:

17 (a) A single transfer or sale may involve one or more transferees. The
 18 transferee of the tax credits may transfer or sell such tax credits subject to the
 19 conditions of this Subsection.

20 (b) Transferors and transferees shall submit to the ~~Governor's Office of Film~~
 21 ~~and Television Development~~ office, and to the Department of Revenue in writing,
 22 a notification of any transfer or sale of tax credits within thirty days after the transfer
 23 or sale of such tax credits. The notification shall include the transferor's tax credit
 24 balance prior to transfer, a copy of any tax credit certification letter(s) issued by the
 25 ~~Governor's Office of Film and Television Development and the Department of~~
 26 ~~Economic Development~~ office and the secretary of the Department of Economic
 27 Development and, in the case of an infrastructure project, to the office, the secretary,
 28 and the division of administration, the name of the state-certified production or
 29 infrastructure project, the transferor's remaining tax credit balance after transfer, all
 30 tax identification numbers for both transferor and transferee, the date of transfer, the

1 amount transferred, a copy of the credit certificate, price paid by the transferee to the
2 transferor, in the case when the transferor is a state-certified production or state-
3 certified infrastructure project, for the tax credits, and any other information required
4 by the ~~Governor's Office of Film and Television Development~~, office or the
5 Department of Revenue. For the purpose of reporting transfer prices, the term
6 "transfer" shall include allocations pursuant to ~~R.S. 47:6007(C)~~ Paragraph (3) of this
7 Subsection as provided by rule. The ~~Governor's Office of Film and Television~~
8 ~~Development~~ office may post on its ~~website~~ web site an average tax credit transfer
9 value, as determined by the ~~Governor's Office of Film and Television Development~~
10 office and the secretary of the Department of Economic Development to reflect
11 adequately the current average tax credit transfer value. The tax credit transfer value
12 means the percentage as determined by the price paid by the transferee to the
13 transferor divided by the dollar value of the tax credits that were transferred in
14 return. The notification submitted to the ~~Governor's Office of Film and Television~~
15 ~~Development~~ office shall include a processing fee of up to two hundred dollars per
16 transferee, and any pricing information submitted by a transferor or transferee shall
17 be treated by the ~~Governor's Office of Film and Television Development~~, office and
18 the Department of Revenue as proprietary to the entity reporting such information
19 and therefore confidential. However, this shall not prevent the publication of
20 summary data that includes no fewer than three transactions.

21 (c) Failure to comply with this Paragraph will result in the disallowance of
22 the tax credit until the taxpayers are in full compliance.

23 (d) The transfer or sale of this credit does not extend the time in which the
24 credit can be used. The ~~carry forward~~ carryforward period for credit that is
25 transferred or sold begins on the date on which the credit was originally earned or,
26 in the case of a structured infrastructure credit, the date upon which the credit is
27 allowed to be taken.

28 (e) To the extent that the transferor did not have rights to claim or use the
29 credit at the time of the transfer, the Department of Revenue shall either disallow the
30 credit claimed by the transferee or recapture the credit from the transferee through

1 any collection method authorized by R.S. 47:1561. The transferee's recourse is
2 against the transferor.

3 (f) Beginning on and after January 1, 2007, the investor who earned the
4 motion picture investor tax credits may transfer the credits to the ~~Governor's Office~~
5 ~~of Film and Television Development~~ office for seventy-two percent of the face value
6 of the credits. Beginning January 1, 2009, and every second year thereafter, the
7 percent of the face value of the tax credits allowed for transferring credits to the
8 ~~Governor's Office of Film and Television Development~~ office shall increase two
9 percent until the percentage reaches eighty percent. Upon the transfer, the
10 Department of Economic Development shall notify the Department of Revenue and
11 shall provide it with a copy of the transfer documentation. The Department of
12 Revenue may require the transferor to submit such additional information as may be
13 necessary to administer the provisions of this Section. The secretary of the
14 Department of Revenue shall make payment to the investor in the amount to which
15 he is entitled from the current collections of the taxes collected pursuant to Chapter
16 1 of ~~such~~ Subtitle II, provided such credits are transferred to the ~~Governor's Office~~
17 ~~of Film and Television Development~~ office within one calendar year of certification.

18 ~~(5)~~(6) The transferee shall apply such credits in the same manner and against
19 the same taxes as the taxpayer originally awarded the credit.

20 ~~(6)~~(7) Notwithstanding any other provision of law, on or after January 1,
21 2006, a state-certified production which receives tax credits pursuant to the
22 provisions of this Chapter shall not be eligible to receive the rebates provided for in
23 R.S. 51:2451 through 2461 in connection with the activity for which the tax credits
24 were received.

25 D. Certification and administration.

26 (1)(a) The secretary of the Department of Economic Development and the
27 ~~Governor's Office of Film and Television Development~~ office shall determine
28 through the promulgation of rules ~~what projects and expenses, including amounts~~
29 ~~expended in this state on stat-certified~~ the minimum criteria that a project must meet
30 in order to infrastructure projects qualify according to this Section. The secretary, the

1 office, and the division of administration shall determine through the promulgation
 2 of rules the minimum criteria that a project must meet in order to qualify according
 3 to this Section.

4 (b) The secretary, the office, and the division of administration shall
 5 determine, through the promulgation of rules, an appeals process in the event that an
 6 application for or the certification of motion picture production or infrastructure tax
 7 credits is denied. The office shall promptly provide written notice of such denial to
 8 the Senate Committee on Revenue and Fiscal Affairs and the House Committee on
 9 Ways and Means.

10 (c) Prior to adoption, these rules shall be approved by the House Committee
 11 on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.

12 (d) When determining ~~what~~ which productions and infrastructure projects
 13 qualify, the ~~Governor's Office of Film and Television Development~~ office and the
 14 secretary of the Department of Economic Development and, in the case of
 15 infrastructure projects, also the division of administration shall take the following
 16 factors into consideration:

17 ~~(a)~~ (i) The impact of the production or infrastructure project on the immediate
 18 and long-term objectives of this Section.

19 ~~(b)~~ (ii) The impact of the production or infrastructure project on the
 20 employment of Louisiana residents.

21 ~~(c)~~ (iii) The impact of the production or infrastructure project on the overall
 22 economy of the state.

23 (2)(a) Application. An applicant for the motion picture investor credit shall
 24 submit an application for initial certification to the ~~Governor's Office of Film and~~
 25 ~~Television Development~~ office and the secretary of the Department of Economic
 26 Development and, in the case of infrastructure projects, to the office, the secretary,
 27 and the division of administration that includes the following information:

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

29 (aa) The distribution plan.

1 (bb) A preliminary budget including estimated Louisiana payroll and
2 estimated base investment.

3 (cc) The script, including a synopsis.

4 (dd) A list of the principal creative elements, including the cast, producer,
5 and director.

6 (ee) A statement that the production will qualify as a state-certified
7 production.

8 (ff) Estimated start and completion dates.

9 (ii) For state-certified infrastructure projects the application shall include:

10 (aa) A detailed description of the infrastructure project.

11 (bb) A preliminary budget.

12 (cc) ~~A statement that the project meets the definition of state-certified~~
13 ~~infrastructure project.~~ A complete detailed business plan and market analysis.

14 (dd) Estimated start and completion dates.

15 (b) If the application is incomplete, additional information may be requested
16 prior to further action by the ~~Governor's Office of Film and Television Development~~
17 ~~office and or the secretary of the~~ Department of Economic Development or, in the
18 case of infrastructure projects, the office, the secretary, and the division of
19 administration. An application fee shall be submitted with the application based on
20 the following:

21 (i) 0.2 percent times the estimated total incentive tax credits.

22 (ii) The minimum application fee is two hundred dollars, and the maximum
23 application fee is five thousand dollars.

24 (c) ~~The Governor's Office of Film and Television Development office and the~~
25 ~~secretary and, in the case of infrastructure projects, the division~~ shall submit its their
26 initial certification of a project as a state-certified production or infrastructure project
27 to investors and to the secretary of the Department of Revenue indicating the total
28 base investment which shall be expended in the state on the state-certified production
29 or state-certified infrastructure project and, in the case of state-certified infrastructure

1 projects, when such tax credits may be taken or transferred. The initial certification
2 shall include a unique identifying number for each state-certified production.

3 (d)(~~i~~) Prior to any final certification of the state-certified production or
4 infrastructure project, the motion picture production company or applicant for the
5 infrastructure project shall submit to the office and the secretary and, in the case of
6 infrastructure projects, to the office, the secretary, and the division, a cost report of
7 production or infrastructure project expenditures audited and certified by an
8 independent certified public accountant as determined by rule. The office and the
9 secretary and, in the case of infrastructure projects, the office, the secretary, and the
10 division shall review the production or infrastructure project expenses and will issue
11 a final tax credit certification letter indicating the amount of tax credits certified for
12 the state-certified production or state-certified infrastructure project to the investors.

13 The rules required by this Subparagraph, shall, at a minimum, require that:

14 (i) The auditor shall be a Certified Public Accountant licensed in the state of
15 Louisiana and shall be an independent third party, not related to the producer.

16 (ii) The auditor's opinion shall be addressed to the party which has engaged
17 the auditor (e.g., directors of the production company, producer of the production).

18 (iii) The auditor's name, address, and telephone number shall be evident on
19 the report.

20 (iv) The auditor's opinion shall be dated as of the completion of the audit
21 fieldwork.

22 (v) The audit shall be performed in accordance with auditing standards
23 generally accepted in the United States of America and the auditor shall have
24 sufficient knowledge of accounting principles and practices generally recognized in
25 the film and television industry.

26 (3) The secretary of the Department of Revenue, in consultation with the
27 office and the secretary of the Department of Economic Development ~~and the~~
28 ~~director of the Governor's Office of Film and Television Development~~ and, in the
29 case of infrastructure projects, also the division of administration, shall promulgate

1 such rules and regulations as are necessary to carry out the intent and purposes of
2 this Section in accordance with the general guidelines provided herein.

3 (4)(i) Any taxpayer applying for the credit shall be required to reimburse the
4 ~~Governor's Office of Film and Television Development and the Department of~~
5 ~~Economic Development~~ office for any audits required in relation to granting the
6 credit.

7 (ii)(aa) The production or infrastructure project application fee provided for
8 in Subparagraph (2)(b) of this Subsection received by the office shall be deposited
9 upon receipt in the state treasury. After compliance with the requirements of Article
10 VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and
11 Redemption Fund and prior to any money being placed into the general fund or any
12 other fund, an amount equal to that deposited as required by this Item shall be
13 credited by the treasurer to a special fund hereby created in the state treasury to be
14 known as the Entertainment Promotion and Marketing Fund. The money in the fund
15 shall be appropriated by the legislature to be used solely for promotion and
16 marketing of Louisiana's entertainment industry.

17 (bb) The money in the fund shall be invested by the treasurer in the same
18 manner as money in the state general fund and interest earned on the investment of
19 the money shall be credited to the fund after compliance with the requirements of
20 Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond
21 Security and Redemption Fund. All unexpended and unencumbered money in the
22 fund at the end of the year shall remain in the fund.

23 (5) A motion picture production company applying for the additional credit
24 for the employment of Louisiana residents must remit a schedule to the Department
25 of Revenue, in a machine-sensible format approved by the secretary of the
26 Department of Revenue, that includes the following information: the names of all
27 persons who received salary, wages, or other compensation for services performed
28 in Louisiana in connection with the state-certified production, and the address,
29 taxpayer identification number, permanent address of, and the amount of
30 compensation for services performed in Louisiana received by each such person.

1 (6) With input from the Legislative Fiscal Office, the ~~Governor's Office of~~
 2 ~~Film and Television Development and the Department of Economic Development~~
 3 office shall prepare a written report to be submitted to the Senate Committee on
 4 Revenue and Fiscal Affairs and the House of Representatives Committee on Ways
 5 and Means no less than sixty days prior to the start of the Regular Session of the
 6 Legislature in 2007, and every second year thereafter. The report shall include the
 7 overall impact of the tax credits, the amount of the tax credits issued, the number of
 8 net new jobs created, the amount of Louisiana payroll created, the economic impact
 9 of the tax credits and film industry, the amount of new infrastructure that has been
 10 developed in the state, and any other factors that describe the impact of the program.

11 (7) Either the Department of Economic Development or the Department of
 12 Revenue may audit the cost report submitted by the motion picture production
 13 company.

14 E. Recapture of credits. If the ~~Governor's Office of Film and Television~~
 15 ~~Development and the Department of Economic Development find~~ office finds that
 16 funds monies for which an investor received tax credits according to this Section are
 17 not invested in and expended with respect to a state-certified production within
 18 twenty-four months of the date that such credits are earned, and with respect to a
 19 state-certified infrastructure project also within the time provided for in Paragraph
 20 (C)(2) of this Section, then the investor's state income tax for such taxable period
 21 shall be increased by such amount necessary for the recapture of credit provided by
 22 this Section.

23 F. Recovery of credits by Department of Revenue. (1) Credits previously
 24 granted to a taxpayer, but later disallowed, may be recovered by the secretary of the
 25 Department of Revenue through any collection remedy authorized by R.S. 47:1561
 26 and initiated within three years from December thirty-first of the year in which the
 27 twenty-four-month investment period specified in ~~R.S. 47:6007(E)~~ Subsection E of
 28 this Section ends.

29 (2) The only interest that may be assessed and collected on recovered credits
 30 is interest at a rate three percentage points above the rate provided in ~~Civil Code~~

1 ~~Article 2924(B)(1)~~ R.S. 9:3500(B)(1), which shall be computed from the original due
 2 date of the return on which the credit was taken.

3 (3) The provisions of this Subsection are in addition to and shall not limit the
 4 authority of the secretary of the Department of Revenue to assess or to collect under
 5 any other provision of law.

6 Section 3.(A) The office of entertainment industry development created in the
 7 Department of Economic Development by Act No. 346 of the 2006 Regular Session of the
 8 Legislature shall be the successor to the Governor's Office of Film and Television
 9 Development for purposes of the motion picture investor tax credit in R.S. 47:6007 as of
 10 August 15, 2006, and all the acts of such office as such successor with regards to such tax
 11 credit are hereby ratified.

12 (B) It is the intention of this Act that the approvals provided for in this Act and the
 13 requirements for state-certified infrastructure projects in R.S. 47:6007(C)(2) as amended and
 14 reenacted in this Act shall be required for any state-certified infrastructure project which has
 15 not applied for initial certification or pre-certification prior to August 1, 2007.

16 (C) An application for an infrastructure project filed on or before August 1, 2007,
 17 shall have twenty-four months from the date of approval of the rules or January 1, 2008,
 18 whichever is earlier, in which to qualify for the forty percent tax credits earned on
 19 expenditures. Tax credits on infrastructure projects shall be considered earned in the year
 20 in which expenditures are made, provided that a minimum of twenty percent or ten million
 21 dollars of the total base investment provided for in the initial certification that is unique to
 22 film production infrastructure shall be expended before infrastructure tax credits can be
 23 earned on expenditures. The payment of tax credits may extend beyond or be made after the
 24 year expenditures are made.

25 Section 4. It was the intent of the legislature, in enacting the provisions of Act No.
 26 456 of the 2005 Regular Session, that the motion picture tax credits authorized according to
 27 the provisions of R.S. 47:6007 for state-certified infrastructure projects shall only apply to
 28 infrastructure projects directly related to the acquisition and construction of a film, video,
 29 television, or video production or postproduction facility and shall not apply to any
 30 infrastructure project such as a hotel or lodging facility, golf course, or retail shopping

1 facility or other facility which the division of administration and the Department of
2 Economic Development deems unrelated to the acquisition and construction of a film, video,
3 television, or video production or postproduction facility.

4 Section 5. This Act shall become effective on July 1, 2007.