

October 1, 2018

RE: Motion Picture Production Tax Credit Program - Summary Report

To Whom It May Concern:

The Department of Economic Development hereby announces its plan to proceed with rule-making by finalizing the Motion Picture Production Tax Credit Program Rules published as a Notice of Intent in the November 2017 *Louisiana Register* on pages 2207-2210.

Two public hearings were held to discuss and receive comments on the proposed rules. The first hearing was held on January 3, 2018 and attended by several film industry representatives, including those from the following: Deep South Studios, Baton Rouge Film Commission, Baton Rouge Area Chamber ("BRAC") and Create Louisiana. Overall the feedback from the hearing was positive. No written comments were received.

Upon further consideration, the department subsequently determined that minor revisions were warranted, which resulted in the following non-technical, substantive changes: 1) the addition of a definition for approved rehire employees, 2) a revision to the definition of baseline jobs and 3) procedural changes relating to the administration of the program. The revised rule was published as a Potpourri in the August 2018 *Louisiana Register* on pages 1558-1560.

A second hearing was conducted on September 20, 2018 and attended by representatives from the following: Louisiana Film and Entertainment Association ("LFEA") and New Orleans Video Access Center ("NOVAC"). Again, the feedback was positive. No written comments were received.

No changes have been made to the proposed rule since publication as a Potpourri.

Subject to legislative oversight by the House or Senate Committees on Commerce, the House Committee on Ways and Means or the Senate Committee on Revenue and Fiscal Affairs, the Department intends to submit for final publication as a Rule in the November 2018 *Louisiana Register*.

As always, we welcome your consideration and I can be reached at ph.# (225) 342-5406 with any questions.

Sincerely,



Stephanie Le Grange
Staff Attorney

cc: Senate, Committee on Commerce, Consumer Protection, and International Affairs
Senate, Revenue & Fiscal Affairs Committee
House of Representatives, Ways & Means Committee
House of Representatives, Committee on Commerce

RULE
~~Potpourri~~

RULE
~~POTPOURRI~~

Department of Economic Development
Office of Entertainment Industry Development

Motion Picture Production Tax Credit Program—Qualified
Entertainment Company Payroll Tax Credit Program
(LAC 61:I.1623-1628)

hereby
In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development published a Notice of Intent in the November 20, 2017 edition of the *Louisiana Register* (LR 42:2207-2210) to amend the Rules for the Motion Picture Production Tax Credit Program (LA R.S. 47: 6007). This Notice of Intent proposed to provide guidance for the newly created qualified entertainment company payroll tax credit provided by Act 309 of the 2017 Regular Session of the Louisiana Legislature.

The department conducted a public hearing on this Notice of Intent on January 3, 2018, to solicit comments and testimony of the proposed Rule. Upon further consideration, the department subsequently determined that revisions were necessary, which resulted in the following non-technical, substantive changes: 1) the addition of a definition for approved rehire employees, 2) a revision to the baseline jobs definition and 3) procedural changes relating to administration of the program.

Taken together, these proposed revisions will better align the proposed Rule with the department's original intent and the concerns brought forth by public comment. No fiscal or economic impact will result from the amendments proposed in this notice.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the
Secretary of Revenue

Chapter 16. Louisiana Entertainment Industry Tax
Credit Programs

Subchapter E. Motion Picture Production Tax Credit
Program—Qualified Entertainment
Company Payroll Tax Credit Program

§1623 General

A. Purpose. The purpose of this sub-chapter is to implement the Qualified Entertainment Company Payroll Tax Credit Program as established by Act 309 of the 2017 Regular Session of the legislature, contained within the Motion Picture Production Tax Credit Program, pursuant to the provisions of R.S. 47:6007.

B. Program Description. The Qualified Entertainment Company Payroll Tax Credit Program provides payroll tax credits as an inducement for qualified entertainment companies ("QEC"s) to permanently locate new or expand existing operations in Louisiana.

C. No other LED incentives for QEC payroll expenditures. A QEC shall not receive any other incentive administered by LED that is based directly upon any QEC

Payroll, for which the QEC is obligated or has received benefits under the QEC Contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development LR 44:

§1624 Definitions

A. Terms not otherwise defined in this sub-chapter shall have the same meaning given to them in R.S. 47:6007, unless the context clearly requires otherwise.

B. In this sub-chapter, the following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

Affiliate—

a. any business entity that is:

i. controlled by the QEC;

ii. a controlling owner of the QEC; or

iii. controlled by an entity described in

Subparagraph a or b;

b. control, for purposes of this definition, means owning either directly or indirectly through control of or by another business entity:

i. a majority of the voting stock or other voting interest of such business entity or the QEC; or

ii. stock or other interest whose value is a majority of the total value of such business entity or the QEC;

c. a controlled or controlling business entity will be deemed a non-affiliate (not an affiliate) if the department determines that neither the QEC nor any of its controlling owners exercise authority over the management, business policies and operations of the business entity.

Approved Rehire Employees—a former employee who was previously on the payroll of the QEC, or QEC parent entity, subsidiary, or affiliate in Louisiana, but has been off such payroll for a period of at least four months, may be considered a new job if rehired into a position that is not part of the baseline jobs. When determining New Job qualification, at the discretion of LED, LED shall consider all relevant factors including but not limited to: ES4's, W2's and QEC re-hiring practices, and the intent of the QEC payroll tax credit program to permanently locate new or expand existing operations in Louisiana.

Baseline Jobs—the number of employees of a QEC, including affiliates, working an average of 30 hours per week, during the payroll period including the twelfth of the month, in the month completed prior to the contract effective date, as verified on the applicable ES-4 form or equivalent filing form. Baseline jobs must be maintained in any year for which the QEC requests tax credits.

Baseline Job Payroll—W-2, Box 1 wages for baseline jobs.

Contract Effective Date—the date the application and application fee are received by LED, or a later contract effective date as agreed to between the parties. The contract effective date cannot be earlier than the date the application and application fee are received by LED.

Department—Louisiana Department of Economic Development, also known as “LED”

LDR—Louisiana Department of Revenue

Minimum Payroll Threshold—a minimum QEC Payroll of \$45,000 per New Job, or for a partial year employee, shall mean \$3,750 per month for each month from the date of initial employment.

New Jobs—

a. full-time employment in Louisiana, working an average of 30 hours or more per week;

b. filled by Louisiana residents;

c. at the project site; and

d. with the exception of Approved Rehire Employees, who were not previously on the QEC’s Louisiana payroll, nor previously on the payroll of the QEC’s parent entity, subsidiary, or affiliate in Louisiana, or previously on the payroll of any business whose physical location and employees are substantially the same as those of the QEC in Louisiana, as confirmed by an independent CPA in an annual expenditure verification report submitted to LED for review, and approved by the secretary. New Jobs shall not mean:

i. baseline jobs existing one month prior to contract effective date; or

ii. jobs located at facilities other than the approved Project Site.

Office—Office of Entertainment Industry Development, also known as “OEID”

Program Issuance Cap—for applications submitted on or after July 1, 2017, the office may issue no more than \$150,000,000 in tax credits (“total cap”) in any fiscal year, with \$7,500,000 reserved for qualified entertainment companies (“QEC cap”), \$7,500,000 reserved for Louisiana screenplay productions (“LA screenplay cap”), \$15,000,000 reserved for independent film productions (“independent film cap”), with the remaining \$120,000,000 available for general allocation to any state certified production (“general cap”).

Project Site—the facility name and street address, as stated in the QEC contract.

QEC Payroll—W-2, Box 1 wages. For a partial year employee, the minimum payroll threshold may be met if the payroll for the partial year employee meets or exceeds \$3,750.00 per month for each month from the date of initial employment.

QEC Payroll Tax Credits—a tax credit for expenditures related to QEC payroll, authorized by the Motion Picture Production Tax Credit Program, R.S. 47:6007.

Resident—a natural person who is required to file a Louisiana resident individual income tax return, as verified by independent CPA’s on the annual verification report.

Secretary—Secretary of the Department of Economic Development

Total Jobs—the number of baseline jobs plus new jobs.

Total Payroll—the amount of baseline jobs payroll plus new jobs payroll.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development LR 44:

§1625 QEC Application and Application Fee

A. Application

1. A QEC application form shall be submitted to the office, via registered mail or if available, submitted electronically, to include;

a. a detailed company description, explaining how the business is directly or indirectly engaged in the development of audio, visual, or both audio-visual entertainment products for public consumption;

b. number of current and proposed new employees, with payroll estimates and average hours worked per week;

c. disclosure of affiliates;

d. most recent ES-4 tax form;

e. any other additional information as requested by the office or the secretary.

B. Application Fee

1. A non-refundable application fee of 0.5 percent of the estimated total tax credits, with a minimum fee of \$500, and a maximum fee of \$15,000, shall be submitted with the QEC application, payable to the office, as required by R.S. 36:104.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development LR 44:

§1626 QEC Application Review and Qualification Determination

A. Application Review

1. When determining which applicants may qualify, the office and the secretary shall consider a number of discretionary factors, including but not limited to:

a. entertainment business type:

i. eligible business types- may include but not be limited to;

(a). visual effect companies;

(b). entertainment business back-office support

ii. ineligible business types- may include but not be limited to:

(a). telecommunication;

b. number and payroll of current and proposed new jobs;

c. location of facility that will be the project site;

d. number and location of similar entertainment business facilities in Louisiana;

e. business history, i.e. start-up company or track record of established business;

f. the impact of the business on the overall economy of the state;

g. conviction for a criminal offense related to obtaining or attempting to obtain tax credits;

h. availability of tax credits in any given year.

B. Qualification Determination

1. Upon a determination of qualification, LED will contact applicant to discuss contract terms and to request an expenditure verification report fee advance deposit of \$7,500.

2. Upon a determination of non-qualification, the office and the secretary shall issue a denial letter to the applicant indicating the reason for denial, and the Office shall provide written notice to the Senate Committee on

Revenue and Fiscal Affairs and the House Committee on Ways and Means. The denial letter shall be the final agency decision of LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development LR 44:

§1627 QEC Contract

A. Upon a determination of qualification, and receipt of the \$7,500 expenditure verification report fee advance deposit, the office and the secretary may enter into a QEC contract with an applicant, which shall include but not be limited to:

1. job and payroll estimates, per calendar year;
2. tax credit reservation schedule, per fiscal year;
3. expenditure verification report fees;
4. procedure for requesting final certification of tax credits;
5. requirements for eligibility to receive final certification of tax credits, including but not limited to retention of baseline jobs, establishment of new jobs and attainment of minimum payroll threshold;
6. term for a period of up to five years, as may be offered by the office and the secretary;
7. designation of a single project site in Louisiana—the QEC payroll tax credits the applicant shall receive will be based upon the operations at the project site;

B. A fee of \$250 shall be filed with a request for any contract amendment, including but not limited to, a revision to the tax credit reservation schedule, a change in ownership, a change in name or a change in location.

C. An applicant may have multiple QEC contracts covering multiple locations. The eligibility of each location shall be determined separately;

D. For each QEC contract, LED shall certify that the applicant has a net overall increase in employment statewide for each new job;

E. A QEC contract may, with the written approval of the office and the secretary, be transferred to a business entity purchasing or continuing the operation of a project site. Upon such transfer, the employment baseline shall be that of the transferee or purchaser during the 45 day period prior to the transfer or purchase;

F. The QEC contract may be renewed at the discretion of the office and the secretary, for an additional five years, if the applicant has complied with the terms of the QEC contract and has not performed any act, nor failed to perform any act, which would have made the applicant liable for suspension, and has otherwise complied with the provisions of R.S. 47:6007. The same approval process as used for the original application and QEC contract will be followed for renewal QEC contracts, including additional application and expenditure verification report advance deposit fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development LR 44:

§1628 QEC Final Certification Procedures

A. By March 1 of every year, QEC's may request final certification of credits by filing its employee W-2's with the office and its assigned CPA, and any other additional information as requested by LED to verify conformance with statutory requirements.

B. An expenditure verification report shall then be completed by an independent certified public accountant, licensed in the state of Louisiana and assigned by LED. Failure to submit W-2's by March 1 may result in credit issuance being delayed into the next available fiscal year.

C. After receipt and review of the expenditure verification report, and any other supporting documentation, the office and the secretary shall issue a final tax credit certification letter to the QEC indicating the type, credit rate and amount of credits granted, in accordance with the provisional allocations and amounts set forth in the tax credit reservation schedule, or a written denial.

1. In the event that less than the reserved amount of tax credits has been verified, any unused credits will be released and made available for issuance by the office.

2. In the event that more than the reserved amount of tax credits has been verified, the office shall preliminarily issue tax credits in an amount not to exceed the total set forth in the tax credit reservation schedule, but may at its discretion, subsequently issue a supplemental tax credit for any excess expenditures, subject to availability of credits in any given fiscal year.

D. Tax credits shall be issued on a first come, first serve basis, until the QEC or total cap have been met, in accordance with program rules.

E. If the total amount of credits applied for in any particular year exceeds the total or QEC cap for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

F. After review of the expenditure verification report, final tax credit certification letter (if any), and any other pertinent factors, including but not limited to availability of tax credits in any given year, future year tax credit reservations may be revised, by amending the tax credit reservation schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development LR 44:

Public Comments

Interested persons should submit written comments on the proposed Rules to Chris Stelly through the close of business on Wednesday, September 19, 2018 at 617 North Third Street, 11th Floor, Baton Rouge, LA 70802 or via email to Chris.Stelly@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 10 a.m. on Thursday, September 20, 2018 at the La Salle Building, Department of Economic Development, 617 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

1808#033

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through December 27, 2017 to Sammy Guillory, Deputy Assistant Secretary of Family Support, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804.

Public Hearing

A public hearing on the proposed Rule will be held on December 27, 2017 at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Markela Garner Walters
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Public Assistance Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

As a result of the rule change, the Department of Children and Family Service (DCFS) anticipates spending \$50,000 to make programming changes to its computer systems. Additionally, DCFS will incur \$6,177 in the expenses associated with the publication of this proposed rule change.

The proposed rule change makes technical updates and clarifies that Family Independence Temporary Assistance Program (FITAP) benefits will be reduced or terminated effective the month following the reporting of changes in a recipient's eligibility status. The rule also: (1) amends Louisiana Administrative Code (LAC), Title 67, Part III Economic Stability to remove references to the Child Care Assistance Program (CCAP), given that this program is now administered by the Louisiana Department of Education, (2) removes the one year ban on individuals convicted of a drug-related felony from receiving Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP) benefits in accordance with Act 365 of the 2017 Regular Session, and (3) amends FITAP eligibility income requirements to allow a dependent care deduction for any child who is not receiving CCAP.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Due to the removal of the one year ban on individuals convicted of a drug-related felony from receiving TANF, the proposed rule change is anticipated to increase federal revenue collections for DCFS given that these individuals will be eligible for benefits for which they were not previously eligible. The amount of the increase in federal revenue collections is indeterminable at this time and is dependent on the number of new applicants.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will have an economic benefit to persons that were previously ineligible for TANF and SNAP benefits due to prior drug convictions. Due to the removal of the one-year ban, these individuals will not be denied benefits due to drug-related felony convictions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change does not affect competition and/or employment.

Sammy Guillory
Deputy Assistant Secretary
1711M48

Evan Brasseaux
Staff Director
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Office of Entertainment Industry Development

Motion Picture Production Tax Credit Program Qualified Entertainment Company Payroll Tax Credit Program (LAC 61:1.Chapter 16)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Economic Development proposes to amend the Rules for the Motion Picture Production Tax Credit Program (R.S. 47:6007) to provide guidance for the newly created qualified entertainment company payroll tax credit provided by Act 309 of the 2017 Regular Session of the Louisiana Legislature.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 16. Louisiana Entertainment Industry Tax Credit Programs

Subchapter B. Motion Picture Investor Tax Credit Program

§1623. General

A. Purpose. The purpose of this sub-chapter is to implement the Qualified Entertainment Company Payroll Tax Credit Program as established by Act 309 of the 2017 Regular Session of the legislature, contained within the Motion Picture Production Tax Credit Program, pursuant to the provisions of R.S. 47:6007.

B. Program Description. The Qualified Entertainment Company Payroll Tax Credit Program provides payroll tax credits as an inducement for qualified entertainment companies ("QEC"s) to permanently locate new or expand existing operations in Louisiana.

C. No other LED incentives for QEC payroll expenditures. A QEC shall not receive any other incentive administered by LED that is based directly upon any QEC payroll, for which the QEC is obligated or has received benefits under the QEC Contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 44:

§1624. Definitions

A. Terms not otherwise defined in this subchapter shall have the same meaning given to them in R.S. 47:6007, unless the context clearly requires otherwise.

B. In this Subchapter, the following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

Affiliate—

- a. any business entity that is:
 - i. controlled by the QEC;
 - ii. a controlling owner of the QEC; or
 - iii. controlled by an entity described in

Subparagraph a or b;

b. control, for purposes of this definition, means owning either directly or indirectly through control of or by another business entity:

- i. a majority of the voting stock or other voting interest of such business entity or the QEC; or
- ii. stock or other interest whose value is a majority of the total value of such business entity or the QEC;

c. a controlled or controlling business entity will be deemed a non-affiliate (not an affiliate) if the department determines that neither the QEC nor any of its controlling owners exercise authority over the management, business policies and operations of the business entity.

Baseline Jobs—the number of employees of a QEC, including affiliates, working an average of 30 hours per week, during the payroll period including the twelfth of the month, in the month completed prior to the application date, as verified on the applicable ES-4 form. Baseline jobs must be maintained in any year for which the QEC requests tax credits.

Baseline Job Payroll—W-2, Box 1 wages for baseline jobs.

Contract Effective Date—the date the application and application fee are received by LED, or a later contract effective date as agreed to between the parties. The contract effective date cannot be earlier than the date the application and application fee are received by LED.

Department—Louisiana Department of Economic Development, also known as “LED.”

LDR—Louisiana Department of Revenue.

Minimum Payroll Threshold—a minimum QEC payroll of \$45,000 per new job, or for a partial year employee, shall mean \$3,750 per month for each month from the date of initial employment.

New Jobs—

- a. full-time employment in Louisiana, working an average of 30 hours or more per week;
- b. filled by Louisiana residents;
- c. at the project site;
- d. who were not previously on the QEC's Louisiana payroll, nor previously on the payroll of the QEC's parent entity, subsidiary, or affiliate in Louisiana, or previously on the payroll of any business whose physical location and employees are substantially the same as those of the QEC in Louisiana, as confirmed by an independent CPA in an annual expenditure verification report submitted to LED for review, and approved by the secretary.

Office—Office of Entertainment Industry Development, also known as “OEID.”

Program Issuance Cap—for applications submitted on or after July 1, 2017, the office may issue no more than \$150,000,000 in tax credits (“total cap”) in any fiscal year, with \$7,500,000 reserved for qualified entertainment companies (“QEC cap”), \$7,500,000 reserved for Louisiana screenplay productions (“LA screenplay cap”), \$15,000,000 reserved for independent film productions (“independent film cap”), with the remaining \$120,000,000 available for general allocation to any state certified production (“general cap”).

Project Site—the facility name and street address, as stated in the QEC contract.

QEC Payroll—W-2, Box 1 wages. For a partial year employee, the minimum payroll threshold may be met if the payroll for the partial year employee meets or exceeds \$3,750 per month for each month from the date of initial employment.

QEC Payroll Tax Credits—a tax credit for expenditures related to QEC payroll, authorized by the Motion Picture Production Tax Credit Program, R.S. 47:6007.

Resident—a natural person who is required to file a Louisiana resident individual income tax return, as verified by independent CPA's on the annual verification report.

Secretary—secretary of the Department of Economic Development.

Total Jobs—the number of baseline jobs plus new jobs.

Total Payroll—the amount of baseline jobs payroll plus new jobs payroll.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 44:

§1625. QEC Application and Application Fee

A. Application

1. A QEC application form shall be submitted to the office, via registered mail or if available, submitted electronically, to include:

- a. a detailed company description, explaining how the business is directly or indirectly engaged in the development of audio, visual, or both audio-visual entertainment products for public consumption;
- b. number of current and proposed new employees, with payroll estimates and average hours worked per week;
- c. disclosure of affiliates;
- d. most recent ES-4 tax form;
- e. any other additional information as requested by the office or the secretary.

B. Application Fee

1. A non-refundable application fee of 0.5 percent of the estimated total tax credits, with a minimum fee of \$500, and a maximum fee of \$15,000, shall be submitted with the QEC application, payable to the office, as required by R.S. 36:104.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 44:

§1626. QEC Application Review and Qualification Determination

A. Application Review

1. When determining which applicants may qualify, the Office and the Secretary shall consider a number of discretionary factors, including but not limited to:

- a. entertainment business type:
 - i. eligible business types- may include but not be limited to:

- (a). visual effect companies;
- (b). entertainment business back-office support;
- ii. ineligible business types- may include but not be limited to:

- (a). telecommunication;

- b. number and payroll of current and proposed new jobs;
- c. location of facility that will be the project site;
- d. number and location of similar entertainment business facilities in Louisiana;
- e. business history, i.e. start-up company or track record of established business;
- f. the impact of the business on the overall economy of the state;
- g. conviction for a criminal offense related to obtaining or attempting to obtain tax credits;
- h. availability of tax credits in any given year.

B. Qualification Determination

1. Upon a determination of qualification, LED will contact applicant to discuss contract terms and to request an expenditure verification report fee advance deposit of \$7,500.

2. Upon a determination of non-qualification, the office and the secretary shall issue a denial letter to the applicant indicating the reason for denial, and the office shall provide written notice to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means. The denial letter shall be the final agency decision of LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 44:

§1627. QEC Contract

A. Upon a determination of qualification, and receipt of the \$7,500 expenditure verification report fee advance deposit, the office and the secretary may enter into a QEC contract with an applicant, which shall include but not be limited to:

- 1. job and payroll estimates, per calendar year;
- 2. tax credit reservation schedule, per fiscal year;
- 3. expenditure verification report fees;
- 4. procedure for requesting final certification of tax credits;

5. requirements for eligibility to receive final certification of tax credits, including but not limited to retention of baseline jobs, establishment of new jobs and attainment of minimum payroll threshold;

6. term for a period of up to five years, as may be offered by the office and the secretary;

- 7. designation of a single project site in Louisiana.

The QEC payroll tax credits the applicant shall receive will be based upon the operations at the project site.

B. A fee of \$250 shall be filed with a request for any contract amendment, including but not limited to, a revision to the tax credit reservation schedule, a change in ownership, a change in name or a change in location.

C. An applicant may have multiple QEC contracts covering multiple locations. The eligibility of each location shall be determined separately.

D. For each QEC contract, LED shall certify that the applicant has a net overall increase in employment statewide for each new job.

E. A QEC contract may, with the written approval of the office and the secretary, be transferred to a business entity purchasing or continuing the operation of a project site. Upon such transfer, the employment baseline shall be that of the transferee or purchaser during the 45-day period prior to the transfer or purchase.

F. The QEC contract may be renewed at the discretion of the office and the secretary, for an additional five years, if the applicant has complied with the terms of the QEC contract and has not performed any act, nor failed to perform any act, which would have made the applicant liable for suspension, and has otherwise complied with the provisions of R.S. 47:6007. The same approval process as used for the original application and QEC contract will be followed for renewal QEC contracts, including additional application and expenditure verification report advance deposit fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 44:

§1628. QEC Final Certification Procedures

A. By March 1 of every year, QEC's may request final certification of credits by filing its employee W-2's with the office and its assigned CPA, and any other additional information as requested by LED to verify conformance with statutory requirements.

B. An expenditure verification report shall then be completed by an independent certified public accountant, licensed in the state of Louisiana and assigned by LED. Failure to submit W2's by March 1 may result in credit issuance being delayed into the next available fiscal year.

C. After receipt and review of the expenditure verification report, and any other supporting documentation, the office and the secretary shall issue a final tax credit certification letter to the QEC indicating the type, credit rate and amount of credits granted, in accordance with the provisional allocations and amounts set forth in the tax credit reservation schedule, or a written denial.

1. In the event that less than the reserved amount of tax credits has been verified, any unused credits will be released and made available for issuance by the office.

2. In the event that more than the reserved amount of tax credits has been verified, the office shall preliminarily issue tax credits in an amount not to exceed the total set forth in the tax credit reservation schedule, but may at its discretion, subsequently issue a supplemental tax credit for any excess expenditures, subject to availability of credits in any given fiscal year.

D. Tax credits shall be issued on a first come, first serve basis, until the QEC or total cap have been met, in accordance with program rules.

E. If the total amount of credits applied for in any particular year exceeds the total or QEC cap for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

F. After review of the expenditure verification report, final tax credit certification letter (if any), and any other pertinent factors, including but not limited to availability of tax credits in any given year, future year tax credit reservations may be revised, by amending the tax credit reservation schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development. LR 44:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Interested persons should submit written comments on the proposed Rules to Chris Stelly through the close of business on Tuesday, January 2, 2018 at 617 North 3rd Street, 11th Floor, Baton Rouge, LA 70802 or via email to Chris.Stelly@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 10 a.m. on Wednesday, January 3, 2018 at the LaSalle Building, Department of Economic Development, 617 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Motion Picture Production Tax Credit Program—Qualified Entertainment Company Payroll Tax Credit Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will not result in any additional savings or expenditures for state or local governmental units, as they set

forth guidelines for the Qualified Entertainment Company ("QEC") Payroll Tax Credit created by portions of Act 309 of the 2017 Regular Session (See Part II). Any administrative duties brought about by the proposed rules will be carried out by existing departmental staff funded by the existing LED budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will not affect revenue collections for state or local governmental units. Act 309 of the 2017 Regular Session extends the \$180 M cap on credits that may be claimed in a fiscal year. All QEC Payroll Tax Credit activity must operate within the auspices of the \$180 M claim cap and \$150 M issuance cap outlined in Act 309.

Act 309 established the maximum amount of QEC payroll tax credit issuance by LED at 5% of the \$150 M credit Motion Picture Production Tax Credit Program issuance limit (\$7.5 M) per fiscal year for productions applying on or after July 1, 2017. The proposed rules further state that QECs receiving payroll tax credits shall not receive any other LED-administered incentives based upon a QEC's payroll. As a result, QECs statewide are limited to receiving \$7.5 M in payroll benefits annually under the \$150 M issuance cap.

Furthermore, Act 309 extends the \$180 M cap on credits that firms may claim in a given fiscal year. As a result, QECs claiming the payroll credit must claim their credits prior to exhaustion of the \$180 M cap, or have their claims count against the ensuing fiscal year's \$180 M cap. Because the cap currently exists in statute, QEC Payroll Tax Credit activity will not affect revenue collections in the aggregate.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Firms who are eligible for QEC payroll tax credits may realize a reduction in tax liabilities to the extent they qualify for the credit. In the aggregate, the amount of benefits QECs may realize statewide is \$7.5 M annually.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will continue to gain competitively over companies that do not receive the program's benefits.

Anne G. Villa
Undersecretary
1711#034

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:X1.4503)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education (BESE) approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System: §4503, One Year Waiver for "Severe Impact" Schools and Districts*. The proposed revisions pertain to the 2016-2017 school year school performance scores and letter grades for schools that sustained significant damage as a result of federally-declared disaster DR-4277, Louisiana Severe Storms and Flooding.