rendered must also be established by submission of third-party contracts for similarly-sized projects and scope of work or other documents as approved by LED. While productions may enter into agreements with fees in excess of LED's approved benchmark, payments exceeding 12 percent will not be eligible to earn tax credits unless the benchmark is exceeded through expenditures (supported by a cost report or audit, when applicable, and documentation of services provided) under third-party contracts only with no related-party expenditures.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:38 (January 2016), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:885 (July 2019), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:

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 Statement

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

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.

Small Business Analysis

All entities requesting funding from this program must provide documents sufficient to show eligibility for and compliance with all requirements for funding. A handful of small businesses, mainly musicians and artists may be impacted, but the benefit from additional funding for their projects, at a nominal cost of some additional planning and paperwork associated with the application process, reports and invoices for reimbursement should provide a positive impact to any small businesses that choose to apply to the program.

Public Comments

Interested persons should submit written comments on the proposed Rules to Lacey Chataignier through the close of business on Friday, April 24, 2020 at Department of Economic Development, 617 North Third Street, 11th Floor, Baton Rouge, LA 70802 or via email to Lacey.Chataignier@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 1 p.m. on Monday, April 27, 2020 at the La Salle Building, La Belle Room, 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: Sound Recording Investor Tax Credit Program

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

There is no impact on expenditures of the Louisiana Department of Economic Development (LED) as a result of the proposed rule setting forth guidelines required by portions of Act 275 of 2017. Revisions align the rules with statutory provisions and administrative practices, including deleting provisions relating to the now sunset infrastructure program and reducing the costs of expenditure verification fees. Any administrative duties brought about by the proposed rule change will be carried out by utilizing existing staff and resources at LED.

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

There will be reductions in revenues to the State General Fund (Direct) to the extent that entities take advantage of this tax credit; any decrease is indeterminable at this time. All activity must operate within the auspices of the $2.16 M program cap and $100,000 project cap per calendar year.

The Sound Recording Investor Tax Credit Program, established in 2005, encourages development in Louisiana of a strong capital and infrastructure base for sound recording productions in order to achieve an independent, self-supporting sound recording industry. The current program cap is $2.16 M; however, LED has never issued the maximum amount of credits allowed per year. The total credits certified per year for 2017-2020 are as follows: FY 2017 $57,343; FY 2018 $41,672l; FY 19 $43,278; FY 20 $74,166.

The proposed rule change will not affect local governmental units.

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

There will be reduced costs for businesses as a result of reduced expenditure verification report fees. These fees are held in escrow and used by LED for payment of the expenditure verification report; any remaining balance is later refunded to the entity.

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
2002#017

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Economic Development
Office of Entertainment Industry Development

Sound Recording Investor Tax Credit Program
Qualified Music Company Payroll Tax Credit Program
(LAC 61:I.Chapter 71)

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 rules for the Sound Recording Investor Tax Credit Program (R.S. 47:6023) to provide guidance for the newly created Qualified Music Company Payroll Tax Credit provided by Act 275 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 71. Sound Recording Investor Tax Credit Program—Qualified Music Company Payroll Tax Credit Program

§7101. General

A. Purpose. The purpose of this chapter is to implement the Qualified Music Company Payroll Tax Credit Program as established by Act 275 of the 2017 Regular Session of the legislature, contained within the Sound Recording Investor Tax Credit Program, pursuant to the provisions of R.S. 47:6023.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:

§7103. Definitions

A. Terms not otherwise defined in this Subchapter shall have the same meaning given to them in R.S. 47:6023, unless the context clearly requires otherwise.

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

Affiliate—

1. any business entity that is:
   a. controlled by the QMC;
   b a controlling owner of the QMC; or
   c. controlled by an entity described in Subparagraph a or b;
2. control, for purposes of this definition, means owning either directly or indirectly through control of or by another business entity:
   a. a majority of the voting stock or other voting interest of such business entity or the QMC; or
   b. stock or other interest whose value is a majority of the total value of such business entity or the QMC;
3. a controlled or controlling business entity will be deemed a non-affiliate (not an affiliate) if the department determines that neither the QMC 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 QMC, 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, quarterly wage report or any other documentation requested by the office to confirm baseline jobs. Baseline Jobs must be maintained in any year for which the QMC 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 QMC payroll of $35,000 per new job, or for a partial year employee, shall mean $2,917 per month for each month from the date of initial employment.

New Jobs—

1. full-time employment in Louisiana, working an average of 30 hours or more per week,
2. filled by Louisiana residents,
3. at the project site,
4. who were not previously on the QMC's Louisiana payroll, nor previously on the payroll of the QMC'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 QMC 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"

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

QMC 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 $2,917 per month for each month from the date of initial employment.

QMC Payroll Tax Credits—a tax credit for expenditures related to QMC Payroll, authorized by the Sound Recording Investor Tax Credit Program, R.S. 47:6023.

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 46:

§7105. QMC Application and Application Fee

A. Application

1. A QMC 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 production, distribution and promotion of music;

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 form, quarterly wage report or other wage and tax reporting documentation as requested by the office;

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 QMC application, payable to the office, as required by R.S. 36:104.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:

§7107. QMC 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. type of music business;

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 music 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. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:

§7109. QMC 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 QMC 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 QMC 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 QMC contracts covering multiple locations. The eligibility of each location shall be determined separately;

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

E. A QMC 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 QMC 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 QMC 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. 47:6023. The same approval process as used for the original application and QMC contract will be followed for renewal QMC contracts, including additional application and expenditure verification report advance deposit fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:

§7111. QMC Final Certification Procedures

A. By March 1 of every year, QMC's may request final certification of credits by filing its employee W-2s 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-2s 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 QMC 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.

a. 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.

b. 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 QMC 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 QMC 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. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:

§7113. Application of QMC Payroll Tax Credits

A. The QMC payroll tax credit can be used to offset taxes, penalties and interest.

B. Notwithstanding the amount of the credit earned by the investor and issued by LED, application of tax credits earned and claimed against an investor's income tax liability shall never reduce the investor's income tax liability below 50 percent of the amount of the liability prior to application of the credit.

C. Any excess credit may be carried forward for up to five years and shall be applied against the subsequent income tax liability of the taxpayer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:

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 Statement

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

Small Business Analysis

All entities requesting funding from this program must provide documents sufficient to show eligibility for and compliance with all requirements for funding. A handful of small businesses, mainly musicians and artists may be impacted, but the benefit from additional funding for their projects, at a nominal cost of some additional planning and paperwork associated with the application process, reports and invoices for reimbursement should provide a positive impact to any small businesses that choose to apply to the program.

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 Rule to Lacey Chataignier through the close of business on Friday, April 24, 2020 at Department of Economic Development, 617 North Third Street, Floor 11, Baton Rouge, LA 70802 or via email to Lacey.Chataignier@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 2 p.m. on Monday, April 27, 2020 at the La Salle Building, La Belle Room, 617 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Sound Recording Investor Tax Credit Program—Qualified Music Company Payroll Tax Credit Program

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

There is no impact on expenditures of the Department of Economic Development (LED) as a result of the proposed rules establishing guidelines for the Qualified Music Company (QMC) Payroll Tax Credit created by Act 275 of 2017. These encourage development in Louisiana of a strong capital base for sound recording productions by developing a tax and capital infrastructure which encourages private investment. Administration of the tax credits will be carried out utilizing existing staff and resources at LED.

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

There will be reductions in revenues to the State General Fund (Direct) to the extent that entities take advantage of this tax credit. The QMC Payroll Tax Credit is capped at $2.16 M and $100,000 project cap, per calendar year.

There will be a benefit to state and local governmental units to the extent that an expansion of an existing business and/or new business is established in their municipality and/or parish. The state and local governmental units will benefit from new job creation and the increase in tax revenue as a result of those new jobs. The extent of the impact will be determined by the size and location of the new entities.

The proposed rules further state that QMCs receiving payroll tax credits shall not receive any other LED-administered incentives based upon a QMC's payroll.

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

All entities requesting funding from this program must provide documents sufficient to show eligibility for and compliance with all requirements for funding. A handful of small businesses, mainly musicians and artists may be impacted, but the benefit from additional funding for their projects, at a nominal cost of some additional planning and paperwork associated with the application process, expenditure verification reports, and invoices for reimbursement should provide a positive impact to any small businesses that choose to apply to the program.

Firms who are eligible for QMC payroll tax credits may realize a reduction in tax liabilities to the extent they qualify for the credit.

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	Evan Brasseaux
Undersecretary	Staff Director
2003#016	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools—Charter School Renewals and Virtual Charter School Attendance (LAC 28:CXXXIX.1505 and 3709)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education proposes to amend LAC 28:CXXXIX (Bulletin 126). Proposed amendments in §1505 clarify renewal criteria for BESE-authorized charter schools and ensure that the state superintendent of education considers student performance and/or growth data of neighboring and comparable schools when making a recommendation. Additionally, proposed amendments in §3709 outline student attendance policy requirements for state-authorized virtual charter schools, in accordance with Act 398 of the 2019 Regular Legislative Session.

Title 28
EDUCATION
Part CXXXIX. Bulletin 126—Charter Schools
Chapter 15. Charter Renewal
§1505. Eligibility for Renewal of BESE-Authorized Charter Schools (Formerly §1503.B)

A. - B.2.b.i. …

C. When a charter school does not meet the criteria for renewal in the initial or subsequent charter term, BESE may renew the charter based upon the recommendation of the state superintendent. Such renewal may include conditions to be incorporated in the charter school contract and may require the charter operator to phase out operation of the school over the course of the renewal term. Prior to recommending such renewal, the following must be considered:

1. nonrenewal may require students to attend lower-performing schools;
2. available academic data, including student performance data and/or student growth data of neighboring and comparable schools, has been reviewed; and
3. efforts to find a new, high-quality operator for the charter school have failed.

D. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:3981, and 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:479 (March 2010), amended LR 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3119 (December 2012), LR 39:1436 (June 2013), LR 39:3066 (November 2013), LR 40:1323 (July 2014), LR 41:1264 (July 2015), LR 44:238 (February 2018), LR 46:

Chapter 37. Virtual Charter Schools
§3709. Virtual Charter School Attendance

A. State-authorized virtual charter schools are required to enforce student attendance and address cases of student truancy and unexcused absences.

B. Virtual charter school operators must annually submit attendance policies to the department for approval to ensure compliance with applicable laws and regulations. The state superintendent will set forth the process for attendance policy submission.

C. Attendance policies for virtual schools must include:

1. a definition of the method in which attendance is measured for students enrolled at the school including, but not limited to, minimum expectations regarding active class participation, time spent connected online, and/or completion and submission of assignments;
2. a plan regarding the method in which student attendance will be recorded and enforced; and
3. a plan for providing orientation including the school attendance policy to enrolled students and parents or legal custodians, with such orientation occurring upon enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No
3. Will the proposed Rule affect the functioning of the family? No
4. Will the proposed Rule affect family earning and family budget? No
5. Will the proposed Rule affect the behavior and personal responsibility of children? No
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.