

Regular Session, 2005

HOUSE BILL NO. 603

BY REPRESENTATIVE SCALISE

TAX CREDITS: Provides for a digital interactive media production investor tax credit

1 AN ACT

2 To enact R.S. 47:6020, relative to the Louisiana digital interactive media production investor
3 tax credit; to provide for a sunset date; to limit the credit so that it will not exceed
4 Louisiana expenditures of the production; to authorize a carry forward of tax credits;
5 to provide for administrative procedures and fees for the credit; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:6020 is hereby enacted to read as follows:

9 §6020. Digital interactive media production investor tax credit

10 A. Purpose. The primary objective of this Section is to encourage
11 development in Louisiana of a strong capital base for the production of digital
12 interactive media in order to achieve a more independent, self-supporting industry.
13 This objective is divided into immediate and long-term objectives as follows:

14 (1) Immediate objectives are to:

15 (a) Attract private investment for the production of digital interactive media
16 which contain substantial Louisiana content as defined herein.

17 (b) Develop a tax infrastructure which encourages private investment. This
18 infrastructure will provide for state participation in the form of tax credits to
19 encourage investment in state-certified productions.

1 (c) Develop a tax infrastructure utilizing tax credits which encourage
2 investments in multiple state-certified production projects.

3 (2) Long-term objectives are to:

4 (a) Encourage increased employment opportunities within this sector and
5 increased competition with other states in fully developing economic development
6 options within digital interactive media production.

7 (b) Encourage new education curricula in order to provide a labor force
8 trained in all aspects of digital interactive media production.

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

10 (1) "Base investment" shall mean the actual investment made and expended
11 by a state-certified production in the state as production-related costs.

12 (2) "Component parts" with respect to digital interactive media products
13 shall mean all elements that are integral to the functioning or development of such
14 products.

15 (3) "Digital interactive media" means products that are intended for
16 commercial use or distribution and that are produced on electronic media, controlled
17 by software that allows interactivity, and includes an appreciable quantity of three
18 of the following four types of data: text, sound, fixed images, and animated images.
19 Digital interactive media shall not include, however, products that are essentially
20 interpersonal communication services, such as videoconferencing and text-based
21 channels and chat rooms. In addition, film and video projects qualifying for tax
22 credits under either R.S. 47:1125.1 or 6007 shall not be included in the definition of
23 digital interactive media.

24 (4) "Director" means the entertainment industry director of the Department
25 of Economic Development.

26 (5) "State-certified production" shall mean a digital interactive media
27 production or a component part thereof approved by the director.

28 C. Investor tax credit: specific projects. There is hereby authorized a tax
29 credit against state income tax for taxpayers domiciled in the state-certified

1 production. The tax credit shall be earned by investors at the time of such
2 investment in such state-certified productions and calculated as a percentage of the
3 total investment made by such investor according to the total base investment dollars
4 certified per project.

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

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

11 (3) Digital interactive media production investor tax credits associated with
12 a state-certified production shall never exceed the total base investment in that
13 production.

14 (4) The credit shall be allowed against the income tax for the taxable period
15 in which the credit is earned as well as the immediately preceding period. If the tax
16 credit allowed pursuant to this Section exceeds the amount of such taxes due, then
17 any unused credit may be carried forward as a credit against subsequent tax liability
18 for a period not to exceed ten years.

19 (5) Application of the credit.

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

22 (b) Individuals shall claim any credit allowed under this Section on their
23 individual income tax return.

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

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

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

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

3 (6) Transferability of the credit. Any investor tax credits with respect to a
4 state-certified production allocated to a person and not previously claimed by any
5 taxpayer against its income tax may be transferred or sold by such person to another
6 Louisiana taxpayer, subject to the following conditions:

7 (a) A single transfer or sale may involve one or more transferees. The
8 transferee of the investor tax credits may transfer or sell such investor tax credits
9 subject to the conditions of this Subsection.

10 (b) Transferors and transferees shall submit to the director in writing, a
11 notification of any transfer or sale of tax credits within thirty days after the transfer
12 or sale of such tax credits. The notification shall include the transferor's tax credit
13 balance prior to transfer, the state-certified production number, the name of the state-
14 certified production, the transferor's remaining tax credit balance after transfer, all
15 tax identification numbers for both transferor and transferee, the date of transfer, the
16 amount transferred, a copy of the credit certificate, and any other information
17 required by the director or the Department of Revenue. The notification submitted
18 to the Department of Revenue shall include a processing fee of two hundred dollars
19 per transferee.

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

22 (d) The transfer or sale of this credit does not extend the time in which the
23 credit can be used. The carry forward period for credit that is transferred or sold
24 begins on the date on which the credit was originally earned.

25 (e) To the extent that the transferor did not have rights to claim or use the
26 credit at the time of the transfer, the Department of Revenue shall either disallow the
27 credit claimed by the transferee or recapture the credit from the transferee through
28 any collection method authorized by R.S. 47:1561. The transferee's recourse is
29 against the transferor.

1 (7) The transferee shall apply such credits in the same manner and against
2 the same taxes as the taxpayer originally awarded the credit.

3 D. Certification and administration.

4 (1) The secretary of the Department of Revenue and the director shall
5 determine through the promulgation of rules what projects qualify for state-certified
6 productions according to this Section. Prior to adoption, these rules shall be
7 approved by the House Committee on Ways and Means and the Senate Committee
8 on Revenue and Fiscal Affairs.

9 (2)(a) The director shall submit its initial certification of a project as a state-
10 certified production to investors and to the secretary of the Department of Revenue.
11 The initial certification shall include a unique identifying number for each state-
12 certified production.

13 (b) Upon completion of all or a portion of a state-certified production, the
14 director shall review the production expenses and will issue a credit certification
15 letter to the investors. The certification letter shall include the identifying number
16 assigned to that state-certified production in the initial certification.

17 (3) Any taxpayer applying for the credit shall be required to reimburse the
18 Department of Revenue for any audits required in relation to granting the credit.

19 E. Recapture of credits. If the director finds that funds for which an investor
20 received credits according to this Section are not invested in and expended in
21 Louisiana or paid to Louisiana residents with respect to a state-certified production
22 within twenty-four months of the date that such credits are earned, then the investor's
23 state income tax for such taxable period shall be increased by such amount necessary
24 for the recapture of credit provided by this Section.

25 F. Recovery of credits by Department of Revenue.

26 (1) Credits previously granted to a taxpayer, but later disallowed, may be
27 recovered by the secretary of the Department of Revenue through any collection
28 remedy authorized by R.S. 47:1561 and initiated within three years from December

1 thirty-first of the year in which the twenty-four-month investment period specified
2 in Subsection (E) of this Section ends.

3 (2) The only interest that may be assessed and collected on recovered credits
4 is interest at a rate of three percentage points above the rate provided in Civil Code
5 Article 2924(B)(1), which shall be computed from the original due date of the return
6 on which the credit was taken.

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

10 G. The provisions of this Section shall be effective until January 1, 2010.

11 Section 2. This Act shall become effective upon signature of the governor or, if not
12 signed by the governor, upon expiration of the time for bills to become law without signature
13 by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If
14 vetoed by the governor and subsequently approved by the legislature, this Act shall become
15 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Scalise

HB No.

Abstract: Provides for a digital interactive media production investor tax credit.

Proposed law provides for a digital interactive media production investor tax credit to attract private investment for the production of digital interactive media with certain substantial Louisiana content.

Proposed law provides that the credits shall be effective until Jan. 1, 2010.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:6020)