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Bullock  
4/14/11

**HOUSE CS FOR CS FOR SENATE BILL NO. 23( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SEVENTH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): SENATORS ELLIS, McGuire, French, Davis, Wielechowski, Kookesh, Meyer, Menard, Egan, Stedman**

**REPRESENTATIVES Petersen, Herron, Tuck**

**A BILL**

**FOR AN ACT ENTITLED**

**"An Act relating to transferable film production tax credits and film production tax credit certificates; requiring the legislative audit division to audit the Alaska film production incentive program; and providing for an effective date by amending the effective dates of secs. 3 and 4, ch. 63, SLA 2008."**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

**\* Section 1.** AS 24.20.271 is amended to read:

**Sec. 24.20.271. Powers and duties.** The legislative audit division shall

(1) conduct a performance post-audit of boards and commissions designated in AS 44.66.010 and of those programs and activities of agencies subject to termination as determined in the manner set out in AS 44.66.020 and 44.66.030, and make the audit, together with a written report, available to the legislature not later than the first day of the regular session of the legislature convening in each year set out with reference to boards, commissions, or agency programs whose activities are subject to termination as prescribed in AS 44.66; the division shall notify the legislature that the audit and report are available;

(2) audit at least once every three years the books and accounts of all custodians of public funds and all disbursing officers of the state;

(3) at the direction of the Legislative Budget and Audit Committee, conduct performance post-audits on any agency of state government;

(4) cooperate with state agencies by offering advice and assistance as requested in establishing or improving the accounting systems used by state agencies;

(5) require the assistance and cooperation of all state officials and other state employees in the inspection, examination, and audit of state agency books and accounts;

(6) have access at all times to the books, accounts, reports, or other records, whether confidential or not, of every state agency;

(7) ascertain, as necessary for audit verification, the amount of agency funds on deposit in any bank as shown on the books of the bank; no bank may be held liable for making information required under this paragraph available to the legislative audit division;

(8) complete studies and prepare reports, memoranda, or other materials as directed by the Legislative Budget and Audit Committee;

(9) have direct access to any information related to the management of the University of Alaska and have the same right of access as exists with respect to every other state agency;

(10) conduct an audit every two years of information found in the annual reports required under AS 42.05.211 and AS 42.06.220 regarding compliance by the Regulatory Commission of Alaska with the requirements of AS 42.05.175(a) - (e) and of the timeline extensions made by the commission under AS 42.05.175(f), and of other performance measures adopted by the commission;

**(11) conduct audits of the Alaska film production incentive program (AS 44.33.231 - 44.33.239) and make the audits available to the legislature on the first day of the regular session of the legislature in 2013, 2017, and 2021.**

\* Sec. 2. AS 43.98.030(a) is amended to read:

(a) In cooperation with the film office in the Department of Commerce,

Community, and Economic Development, the department shall provide a transferable film production tax credit **certificate** to a producer, as defined in AS 44.33.239, for qualified production expenditures under AS 44.33.231 - 44.33.239.

\* **Sec. 3.** AS 43.98.030(b) is amended to read:

(b) A tax credit **certificate** provided under (a) of this section may be sold, assigned, exchanged, conveyed, or otherwise transferred in whole or in part.

\* **Sec. 4.** AS 43.98.030(c) is amended to read:

(c) A taxpayer acquiring a transferable **tax** credit **certificate** may use the credit or a portion of the credit to offset taxes imposed under **AS 21.09.210, AS 21.66.110, AS 43.20, AS 43.55, AS 43.56, and AS 43.65. Except as provided in (e) of this section, any** [AS 43.20 (ALASKA NET INCOME TAX ACT). ANY] portion of the credit not used may be used at a later period or transferred under (b) of this section.

\* **Sec. 5.** AS 43.98.030(e) is amended to read:

(e) A **transferable film production tax** credit **certificate** provided under (a) of this section, whether sold, assigned, exchanged, conveyed, or otherwise transferred, in whole or in part, must be used within **six** [THREE] years after being provided by the department.

\* **Sec. 6.** AS 43.98.030(f) is amended to read:

(f) The **total amount** [NUMBER] of tax credits provided [IN THE AGGREGATE] under this section may not exceed **\$200,000,000** [\$100,000,000].

\* **Sec. 7.** AS 43.98.030 is amended by adding new subsections to read:

(g) The total amount of tax credits for a single production may not exceed 44 percent of the qualified production expenditures.

(h) A person acquiring two or more film production tax credit certificates provided under (a) of this section may combine the unused amounts of the credits for sale, assignment, exchange, conveyance, or other transfer. At the request of a person holding a film production tax credit, the department shall replace a certificate that represents the full amount of tax credit available with multiple certificates that each represent a portion of the total tax credit available for the purpose of sale, assignment, exchange, conveyance, or other transfer under this subsection, or, on request, shall

provide one tax credit certificate that represents the combined value of multiple tax credit certificates. A tax credit certificate provided by the department under this subsection must state the expiration date and the amount of each credit that is included in the certificate. Combining or splitting unused amounts of credits under this subsection does not change or extend the time period in which each credit that is included in the combination or split must be used.

\* **Sec. 8.** AS 44.33.231(b) is amended to read:

(b) The film office shall make available to the legislature, within 30 days after the start of each regular session, a report of the activities conducted by the film office under AS 43.33.231 - 43.33.239. The report must include

(1) the number of applications received under AS 44.33.234;  
(2) the number of applications approved by the film office; [AND]  
(3) the number of, and amount of, tax credits disbursed under AS 44.33.232;

**(4) the total amount of expenditures that were paid by productions qualifying for the film production tax credit that were not qualified expenditures;**

**(5) the total amount of qualified expenditures that were paid by productions qualifying for the film production tax credit to Alaska businesses; and**

**(6) the total amount of qualified expenditures that were paid by productions qualifying for the film production tax credit to Alaska residents as wages.**

\* **Sec. 9.** AS 44.33.231 is amended by adding a new subsection to read:

(d) The film office shall design a logo that represents the film office and must be included in a film qualifying for a film production tax credit under AS 44.33.231 - 44.33.239.

\* **Sec. 10.** AS 44.33.233(a) is amended to read:

(a) A film production is eligible for a tax credit under AS 43.98.030, if the

(1) producer has \$100,000 or more in qualified expenditures in a consecutive **36-month** [24-MONTH] period under AS 44.33.236;

(2) film office determines that the production is not contrary to the best

interests of the state; and

(3) production is approved by the film office.

\* **Sec. 11.** AS 44.33.233(b) is amended to read:

(b) In determining under (a) of this section whether a production is not contrary to the best interests of the state, the film office may consider

[(1)] the effect of the production on

(1) both the immediate and long-term prospects for the film industry in Alaska;

(2) both the immediate and long-term prospects for [THE EFFECT OF THE PRODUCTION ON] the employment of Alaska residents; [AND]

(3) both the immediate and long-term prospects for [THE EFFECT OF THE PRODUCTION ON] the economy of the state; and

(4) the public perception of state policy on the utilization and development of the natural resources of the state.

\* **Sec. 12.** AS 44.33.234 is amended by adding a new subsection to read:

(c) Information submitted in an application under (a) of this section is confidential and is not subject to inspection or copying under AS 40.25.110 - 40.25.125.

\* **Sec. 13.** AS 44.33.235(a) is amended to read:

(a) Subject to AS 43.98.030(f) and (i) of this section, the film office, in cooperation with the Department of Revenue, shall determine the amount of the tax credit under AS 43.98.030 available to a producer who has obtained a notice of qualification under AS 43.33.234(b), based on the qualified expenditures of the production under AS 44.33.236.

\* **Sec. 14.** AS 44.33.235(b) is amended to read:

(b) The base amount of a tax credit awarded under this section is equal to 30 percent of the qualified expenditures of a [THE] production other than a nonfiction production produced for television and 20 percent of the qualified expenditures for a nonfiction production produced for television.

\* **Sec. 15.** AS 44.33.235(c) is amended to read:

(c) In determining the amount of the tax credit, the applicable percentage

provided by (b) of this section shall be increased by the film office based on the following criteria:

(1) an additional 10 percent of qualified expenditures that are wages paid to Alaska residents;

(2) an additional six [TWO] percent of qualified expenditures made in a rural area; and

(3) an additional two percent of qualified expenditures made in the state between October 1 and March 30.

\* **Sec. 16.** AS 44.33.235(d) is amended to read:

(d) After completion of the production, the producer shall provide the film office with a production cost report detailing the qualified expenditures of the production, with verification by an independent certified public accountant, licensed in the state and approved by the film office, that the costs claimed in the report are qualified expenditures under AS 44.33.236 and that there is no outstanding balance for a qualified expenditure that is due to a person in the state.

\* **Sec. 17.** AS 44.33.235 is amended by adding a new subsection to read:

(i) To qualify for the tax credit under AS 43.98.030, a producer shall include,

(1) in the end credits of each qualified film, the film office logo designed under AS 44.33.231(d) and the words, "Filmed in Alaska with the Support of the State of Alaska and the Film Office, Alaska Department of Commerce, Community, and Economic Development"; or

(2) on each DVD or other media produced for distribution, a short Alaska promotional video or advertisement approved by the film office.

\* **Sec. 18.** AS 44.33.236(a) is amended to read:

(a) Expenditures made by a production company licensed to do business in the state in connection with a film production approved by the film office that shall be considered qualified expenditures must be directly related to the production and be incurred in the state. Only expenditures that are ordinary, reasonable, and not in excess of fair market value and that are for real or tangible property, fees, services, or state or municipal taxes shall be considered. Expenditures may include

(1) costs of set construction and operation;

- (2) costs of wardrobes, make-up, accessories, and related services;
- (3) costs associated with photography and sound synchronization;
- (4) costs of lighting and related services and materials;
- (5) costs of editing and related services;
- (6) rental of facilities and equipment;
- (7) leasing of vehicles;
- (8) costs of food and lodging;
- (9) costs of digital or tape editing, film processing, transfer of film to tape or digital format, transfer of digital media to film or tape, sound mixing, and special and visual effects;
- (10) the total aggregate expenditures [PAYROLL] for services performed in Alaska, including all salaries, wages, compensation, and related benefits provided to producers, directors, writers, actors, and other personnel that are directly attributable to services performed in Alaska;
- (11) the costs of the use of an Alaska business for processing qualified payroll and related expenditures;
- (12) costs of music, if performed, composed, or recorded by an Alaska musician, or released or published by an Alaska business;
- (13) costs of intrastate travel, if provided by an Alaska business;
- (14) costs relating to the design, construction, improvement, or repair of a film, video, television, or digital production or postproduction facility or related property, infrastructure, or equipment, except commercial exhibition facilities, as determined by the film office;
- (15) costs of state or municipal taxes levied in Alaska on the lease or rental of passenger or recreational vehicles or the rental of rooms or other lodging; or
- (16) other similar production expenditures as determined by the film office in cooperation with the Department of Revenue.

\* **Sec. 19.** AS 44.33.237(b) is amended to read:

(b) Legal proceedings may not be brought under (a) of this section more than six years [ONE YEAR] after the date the tax credit was awarded under AS 44.33.235.

\* **Sec. 20.** AS 44.33.239(7) is amended to read:

(7) "rural area" means a community in the state with a population of 1,500 or less or a community with a population of 10,000 [5,500] or less that is not connected by road or rail to Anchorage or Fairbanks.

\* **Sec. 21.** The uncoded law of the state of Alaska enacted in sec. 5(a), ch. 63, SLA 2008, is amended to read:

(a) Subject to AS 43.98.030(f), enacted by sec. 1, ch. 63, SLA 2008 [OF THIS ACT], secs. 3 and 7, ch. 63, SLA 2008, [OF THIS ACT] do not prevent the film office from determining a film production's qualified expenditures, awarding a tax credit, or reviewing a tax credit under the provisions repealed by secs. 3 and 4, ch. 63, SLA 2008, [OF THIS ACT] to a film production that has received a notice of qualification under AS 44.33.234(b), enacted by sec. 2, ch. 63, SLA 2008 [OF THIS ACT], before July 1, 2023 [2013].

\* **Sec. 22.** The uncoded law of the state of Alaska enacted in sec. 6, ch. 63, SLA 2008, is amended to read:

Sec. 6. NOTIFICATION. When the amount [NUMBER] of tax credits provided under AS 43.98.030(f), enacted by sec. 1, ch. 63, SLA 2008 [OF THIS ACT], in the aggregate and the estimated amount of tax credits that could be claimed based on notices of qualification issued by the film office under AS 44.33.234(b), together equal \$200,000,000 [\$100,000,000], the commissioner shall notify the presiding officers of each house of the legislature and the revisor of statutes in writing.

\* **Sec. 23.** Section 7, ch. 63, SLA 2008, is amended to read:

Sec. 7. Section 3, ch. 63, SLA 2008, [OF THIS ACT] takes effect on the earlier of the following:

- (1) July 1, 2023 [2013]; or
- (2) the date of the commissioner of revenue's notification to the presiding officers of each house of the legislature and to the revisor of statutes under sec. 6, ch. 63, SLA 2008 [OF THIS ACT].

\* **Sec. 24.** Section 8, ch. 63, SLA 2008, is amended to read:

Sec. 8. Section 4 of this Act takes effect on the earlier of the following:

- (1) July 1, 2029 [2014]; or
- (2) six years [ONE YEAR] after the date of the commissioner of

1 revenue's notification to the legislature and to the revisor of statutes under sec. 6, ch.  
2 63, SLA 2008 [OF THIS ACT].