

Report Highlights

Departments of Economic Development and Revenue Motion Picture Tax Credits

April 2007

State law provides tax incentives to encourage development of an independent, self-supporting motion picture industry. The Governor's Office of Film and Television Development (GOFTD), within the Department of Economic Development (DED), and the Department of Revenue (LDR) administer motion picture tax credits.



Louisiana Legislative Auditor

Audit Results

How many dollars have been invested in Louisiana productions?

- ✓ Total investment in motion picture productions is \$1.78 billion from July 1, 2002, through June 30, 2006, as of September 11, 2006. This amount includes investments expended both in-state and out-of-state on the productions.
- ✓ We were not able to determine actual investment expenditures in Louisiana because of incomplete records at the GOFTD.
- ✓ We could not determine if credits were calculated correctly for some productions because of incomplete records at the GOFTD.

What amounts of investor tax credits and employment tax credits have been granted by the GOFTD?

- ✓ The GOFTD granted approximately \$287 million in tax credits from July 1, 2002, through June 30, 2006. These totals are as of September 11, 2006.
- ✓ In 2003, GOFTD granted one production approximately \$57,000 more in investor and employment tax credits than should have been granted.
- ✓ GOFTD used our suggestions to improve recordkeeping.
- ✓ GOFTD could not furnish us investor names for two productions.

What amount of tax credits have been taken by taxpayers since 2002?

- ✓ Based on known credits granted and taken, we estimate the state's potential liability to be \$119 million. The LDR was not able to inform us how much in tax credits were taken by taxpayers for 2002 and 2003.

Is the LDR providing oversight to make sure that taxpayers take the correct amount of credits?

- ✓ LDR's internal controls did not ensure that the proper amounts of credit have been taken by taxpayers. For example, employment tax credits (exceeding \$234,000) for one production were improperly transferred to taxpayers in 2003 and 2004. Some of these tax credits were claimed by taxpayers on tax returns.
- ✓ LDR and GOFTD should work together to ensure critical data are consistently provided to LDR to help strengthen LDR's controls.

Do motion picture tax credits affect dedicated revenue for certain funds or programs?

- ✓ Motion picture tax credits reduce the amount of revenue dedicated to certain funds or programs. Certain funding for the Louisiana Stadium and Exposition District is an example.

Steve J.
Theriot, CPA
Legislative
Auditor

HOW MANY DOLLARS HAVE BEEN INVESTED IN LOUISIANA PRODUCTIONS?

Total Investment in Motion Picture Productions Is \$1.78 Billion From July 1, 2002, Through June 30, 2006

- From July 1, 2002 until June 30, 2006, a total of \$1.78 billion was invested in motion picture productions, as of September 11, 2006. These investments were not all made in Louisiana. The term “total investment” includes investments expended both in-state and out-of-state on the productions.

Actual Investment Expenditures in Louisiana Are Unknown

- Base investment is defined as the actual investment made and expended in Louisiana by a state-certified production company for production-related costs, according to R.S. 47:6007(B)(1). To determine the total amount that has been invested in-state in connection with movie tax incentives, we attempted to obtain the base investment amount for each production. This information was not available in 56% of DED’s production files. However, we were able to find base investment amounts totaling \$463,971,469 for 37 productions.

We Could Not Determine if Credits Were Calculated Correctly for Some Productions

- The base investment has to exceed \$300,000 for investors and production companies to be entitled to tax credits. Before January 1, 2006, the base investment amount also determined whether investors earned tax credits at 10% or 15%. Since the GOFTD could not inform us of the base investment amounts for 48 productions, we could not determine if tax credits had been granted at the correct percentages or whether some productions qualified to earn tax credits.

Recommendation

- ✓ To determine how much has been invested in Louisiana, if certification was granted properly, and whether investor tax credit amounts were correctly calculated, the GOFTD should obtain and verify base investment amounts from expenditure reports for all movie productions certified since July 1, 2002.

WHAT AMOUNTS OF INVESTOR TAX CREDITS AND EMPLOYMENT TAX CREDITS HAVE BEEN GRANTED BY THE GOFTD?

\$287 Million in Tax Credits Granted From July 1, 2002, Through June 30, 2006

- The GOFTD has granted approximately \$265 million in investor tax credits and approximately \$22 million in employment tax credits since the legislature amended and enacted movie tax credit laws, effective July 1, 2002. These totals are as of September 11, 2006.

GOFTD Granted One Production Incorrect Amounts of Investor and Employment Tax Credits

- In 2003, the GOFTD granted one production approximately \$57,000 more in tax credits than should have been granted by calculating tax credit amounts at incorrect rates. However, since that time, the production had additional expenditures that will entitle it to earn tax credits at the higher rate the GOFTD initially used to calculate credits.



GOFTD Used Our Suggestions to Improve Recordkeeping

- For each movie production, staff of the GOFTD maintains records of the investor and employment tax credits granted and the amounts invested. We found some errors in the GOFTD’s records. We worked with the GOFTD staff, who compiled more accurate data for the productions.

Recommendation

- ✓ The GOFTD should develop and implement a methodology that accurately captures and reports the actual motion picture tax credit and investment amounts for each production.

GOFTD Needs to Obtain the Names of Investors

- The GOFTD could not provide us with the names of investors in two productions. If these names are not known, the LDR cannot easily know the names of the investors who are entitled to tax credits. This lack of information could cause inefficiencies in LDR's processing of tax returns containing motion picture credits. Also, the GOFTD needs this information to comply with state law.

Recommendation

- ✓ The GOFTD should determine the names of all investors in each production and include these names in its state-certification letters and in its files.

WHAT AMOUNT OF TAX CREDITS HAVE BEEN TAKEN BY TAXPAYERS SINCE 2002?

State's Actual Liability for Motion Picture Tax Credits Is Unknown

- The GOFTD granted approximately \$287 million in tax credits from July 1, 2002, through June 30, 2006. For calendar years 2004 and 2005, taxpayers took \$168 million in movie tax credits, according to the LDR. Thus, the state's potential liability for credits is \$119 million. The LDR did not have a mechanism in place to capture the amount of movie tax credits taken for 2002 and 2003. Therefore, the state's actual liability for movie tax credits is unknown.

Recommendation

- ✓ If resources allow, the LDR should determine the amount of motion picture tax credits that were taken by taxpayers for 2002 and 2003.

IS THE LDR PROVIDING OVERSIGHT TO MAKE SURE THAT TAXPAYERS TAKE THE CORRECT AMOUNT OF CREDITS?

LDR's Internal Controls Should Be Strengthened to Ensure That Proper Amounts of Credit Are Taken

- LDR's internal controls to track motion picture tax credits do not ensure that proper amounts of movie tax credit are taken by taxpayers. For example, we

found that employment tax credits in excess of \$234,000 for one production had been improperly transferred in calendar years 2003 and 2004. Taxpayers have improperly claimed at least a portion of this \$234,000 as credits on tax returns.

- Three taxpayers took \$152,975 in tax credits on their 2004 tax returns for a production. However, at that time, the GOFTD had not certified any tax credits for this production, so taxpayers were not entitled to take credits. The GOFTD subsequently issued a tax certification letter (in December 2006) that certified tax credits for this production. As a result, the taxpayers are entitled to the credits they took.

Recommendations

- ✓ LDR needs to improve their internal controls over the processing of motion picture tax credits. LDR should establish a database to track taxpayers claiming motion picture tax credits. Controls should be built in to prevent erroneous processing. At the least, the database should clearly present credits awarded, taken, and remaining.

- ✓ Hiring or appointing an additional person to process motion picture tax credits might improve controls. This person could help maintain a database, or help the present LDR employee if LDR continues to manually process motion picture tax credits.



- ✓ For the \$234,000 in employment tax credits that were improperly transferred in calendar years 2003 and 2004, LDR needs to recapture any tax credits that were improperly claimed by taxpayers.

LDR and GOFTD Should Work Together to Ensure Critical Data Are Consistently Provided to LDR

- LDR officials informed us that they did not always receive copies of certification letters from the GOFTD. Having this information could help the LDR more effectively keep track of tax credits. If the GOFTD consistently furnishes the LDR with accurate and complete information, they would help the LDR improve its internal controls for processing motion picture tax credits.

Recommendations

- ✓ GOFTD and LDR officials should meet and discuss their roles related to the oversight of motion picture tax credits. During the meeting(s), they should identify and agree upon strategies that will allow the agencies to administer motion picture tax credits in the most effective manner.
- ✓ GOFTD should send copies of all state-certification letters to LDR, as required by R.S. 47:6007(D)(2). This could be accomplished electronically.
- ✓ GOFTD should also timely send LDR copies of all tax credit certification letters as they are issued for each production. This could be accomplished electronically.
- ✓ GOFTD should furnish LDR with the names of investors in a production, if this information is not contained in the state-certification or tax-certification letter.

example of how this type of reduction occurs. R.S. 39:100.1(B) provides that income taxes collected attributable to the income of nonresident professional athletes and professional sports franchises that was earned in Louisiana shall be paid into the Sports Facility Assistance Fund (Fund). Monies in the Fund can be appropriated to the LSED for certain purposes. To the extent that nonresident professional athletes and sports franchises use motion picture tax credits, revenues that the Fund would otherwise receive are reduced.

- ➡ According to information obtained from the LDR, at least \$126,000 of motion picture tax credits were claimed in calendar year 2004 that decreased revenues to the Fund. Such reduction might not allow program administrators to carry out activities as initially budgeted.

Matters for Legislative Consideration

- ✓ The legislature may wish to clarify the law concerning whether motion picture tax credits can reduce income taxes on non-resident professional athletes and sports franchises that are designated to be paid into the Fund.
- ✓ The legislature should consider conducting a study of the impact of motion picture and other tax credits on programs funded by dedicated taxes.

Recommendation

- ✓ The LDR should seek a legal opinion from the Attorney General concerning whether motion picture tax credits should reduce income taxes designated to be paid into the Fund, pursuant to R.S. 39:100.1(B).

DO MOTION PICTURE TAX CREDITS AFFECT DEDICATED REVENUE FOR CERTAIN FUNDS OR PROGRAMS?

Motion Picture Tax Credits Reduce the Amount of Revenue Dedicated to Certain Funds or Programs

- ➡ Revenue dedicated for specific funds or programs is reduced by motion picture tax credits. Certain funding for the Louisiana Stadium and Exposition District (LSED) is an

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DEPARTMENTS OF ECONOMIC DEVELOPMENT
AND REVENUE
MOTION PICTURE TAX CREDITS



PERFORMANCE AUDIT

ISSUED APRIL 18, 2007

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April 18, 2007

The Honorable Donald E. Hines,
President of the Senate
The Honorable Joe R. Salter,
Speaker of the House of Representatives

Dear Senator Hines and Representative Salter:

This report provides the results of our performance audit of motion picture tax credits, which are administered by the Department of Revenue and the Governor's Office of Film and Television Development, which is within the Department of Economic Development. The audit was conducted under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended.

The report contains our conclusions and recommendations. Appendix C contains the response from the Department of Economic Development and Appendix D contains the response from the Department of Revenue. I hope this report will benefit you in your legislative decision-making process.

Sincerely,

Steve J. Theriot, CPA
Legislative Auditor

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MOTION PICTURE TAX CREDITS

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EXECUTIVE SUMMARY

State law provides tax incentives to encourage development of an independent, self-supporting motion picture industry. The Governor's Office of Film and Television Development (GOFTD), within the Department of Economic Development (DED), and the Department of Revenue (LDR) administer motion picture tax credits. The focus of this performance audit is to determine the amount of tax credits granted by GOFTD and the amount of credits that have been used by taxpayers. We also reviewed GOFTD and LDR oversight regarding the granting and usage of tax credits. Our results are summarized as follows:

Performance Audit Results**How many dollars have been invested in Louisiana productions?**

- **Total investment in motion picture productions is \$1.78 billion from July 1, 2002, through June 30, 2006.** This amount includes investments expended both in-state and out-of-state on the productions. This figure was compiled as of September 11, 2006. *(See pages 11-13.)*
- **Actual investment expenditures in Louisiana are unknown.** The investment made in Louisiana ("base investment amount") could not be determined because this information was not contained in GOFTD's files for 48 of 85 production companies. *(See page 14.)*
- **We could not determine if credits were calculated correctly for some productions.** Because the GOFTD could not inform us of the amount of base investment (expenditures within Louisiana) for 48 production companies, we could not determine if tax credits were calculated correctly for these productions. We also could not determine if base investment amounts for some productions exceeded \$300,000, which is the threshold amount required for investors to qualify for tax credits. *(See page 14.)*

What amounts of investor tax credits and employment tax credits have been granted by the GOFTD?

- **\$287 million in tax credits granted from July 1, 2002, through June 30, 2006.** The GOFTD has granted approximately \$265 million in investor tax credits and approximately \$22 million in employment tax credits since the legislature amended and enacted motion picture tax credit laws, effective July 1, 2002. These totals are as of September 11, 2006. *(See page 15.)*
- **GOFTD granted one production approximately \$57,000 more in investor and employment tax credits than should have been granted.** However, this production has since had additional expenditures. The GOFTD anticipates it will certify tax credits for these expenditures, which will entitle the investor to earn credits at the higher rate the GOFTD initially used to calculate credits. *(See page 15.)*

GOFTD used our suggestions to improve recordkeeping. GOFTD's motion picture records contained some inaccurate tax credit and investment amounts, but the GOFTD was extremely cooperative in making changes to its records based on our findings. *(See page 20.)*

- **GOFTD needs to obtain the names of investors.** The GOFTD could not provide us with the names of investors for two productions. If the names of investors are unknown, the LDR cannot definitely know the names of investors that are entitled to take tax credits. Thus, the LDR may spend more time than necessary to determine that a taxpayer that claims a credit is entitled to it. This lack of information could cause inefficiencies in LDR's processing of motion picture tax credits. *(See pages 20-21.)*

What amount of tax credits have been taken by taxpayers since 2002?

- **State's actual liability for motion picture tax credits is unknown.** The GOFTD has granted approximately \$287 million in tax credits from July 1, 2002, through June 30, 2006. For calendar years 2004 and 2005, taxpayers took \$168 million in motion picture tax credits, according to the LDR. The LDR did not have a mechanism in place to capture the amount of motion picture tax credits taken for 2002 and 2003. Therefore, the state's actual liability for motion picture tax credits is unknown. *(See page 23.)*

Is the LDR providing oversight to make sure that taxpayers take the correct amount of credits?

- **LDR's internal controls should be strengthened to ensure that proper amounts of credit are taken.** The LDR's internal controls to track motion picture tax credits do not ensure that proper amounts of motion picture tax credits are taken by taxpayers. For example, employment tax credits (exceeding \$234,000) for one production were improperly transferred to taxpayers in 2003 and 2004. In those years, such transfers were not allowed by law. Some taxpayers claimed tax credits on their tax returns to which they were not entitled. Obtaining additional staff and/or updating manual systems may help improve internal controls. *(See pages 25-26.)*
- **LDR and GOFTD should work together to ensure critical data are consistently provided to LDR.** If GOFTD furnished LDR with copies of all certification letters it issued, they would help LDR process motion picture tax credits more effectively. Communication between the two entities is critical. *(See pages 27-28.)*

Do motion picture tax credits affect dedicated revenue for certain funds or programs?

- **Motion picture tax credits reduce the amount of revenue dedicated to certain funds or programs.** This type of reduction might not allow program administrators to carry out activities as initially budgeted and planned. *(See pages 29-30.)*

DISCUSSION OF MOTION PICTURE TAX CREDIT TERMS

Base Investment. The actual investment made and expended in Louisiana by a state-certified production as production-related costs. “Expended in the state” includes property that is acquired from a source within the state, and services procured and performed in the state. The base investment spent on a production must be at least \$300,000 for investors and the motion picture production company to qualify for investor and employment tax credits, respectively.

Employment Tax Credit. If a motion picture company’s movie production received its state certification on or before December 31, 2005, the company was entitled to a tax credit for its employment of Louisiana residents in connection with the production. The credit was equal to 10% of the total aggregate payroll for residents, if the base investment in Louisiana equaled or exceeded \$300,000 but was less than \$1 million. If the base investment equaled or exceeded \$1 million, the credit was 20% of total aggregate payroll for residents. The Governor’s Office of Film and Television Development certified the amount of production costs incurred in Louisiana. This tax credit can be used against any income tax or corporate franchise tax liability of the motion picture production company.

The employment tax credit rules were amended by Act 456 of the 2005 Regular Session. For a state-certified production that receives its initial certification on or after January 1, 2006, investors in the production (instead of the motion picture production company) are entitled to an additional tax credit of 10% of payroll spent for Louisiana residents, if the total base investment for the production exceeds \$300,000. The additional tax credits for investors can be used against the income tax liability of investors in the production.

Governor’s Office of Film and Television Development (GOFTD). The GOFTD was placed within the Department of Economic Development (DED). The GOFTD promoted the development of the film, video, and television industries in Louisiana. It administered the Motion Picture Incentive Act (R.S. 47:1121 *et seq.*) and motion picture investor tax credits (R.S. 47:6007). The GOFTD was renamed the Office of Entertainment Industry Development, effective August 15, 2006, by Act No. 346 of the 2006 Regular Session. Throughout this report, we use the term “GOFTD” to refer to both the GOFTD and the Office of Entertainment Industry Development.

Investor Tax Credit. Investors in a state-certified production can earn tax credits to use against state income tax liability. For state-certified productions that received an initial certification date before January 1, 2006, the credit was either 10% or 15% of the total amount invested, depending upon the amount of total base investment certified by the GOFTD for the project.

The investor tax credit rules were amended by Act 456 of the 2005 Regular Session. For a state-certified production that receives its initial certification on or after January 1, 2006, an investor is allowed a credit of 25% of his base investment amount if the total base investment in the production exceeds \$300,000. The credits are earned by investors at the time that expenditures are made by a motion picture production company in a state-certified production. However, the credits cannot be applied against a tax liability or transferred until the GOFTD has

certified the expenditures in the production. The motion picture company must submit to the GOFTD a cost report of the production expenditures, audited by an independent certified public accountant, before DED/GOFTD issue a tax credit certification letter. On or after July 1, 2010, the investor tax credit rate will reduce to 20% and will reduce to 15% on or after July 1, 2012.

Motion Picture. A motion picture means a nationally distributed feature-length film, video, television series, or commercial made in Louisiana, in whole or in part. The term does not include the production of television coverage of news and athletic events.

Motion Picture Production Company. A company engaged in the business of producing motion pictures. For investors to qualify for tax credits, the company must be domiciled and headquartered in Louisiana.

Office of Entertainment Industry Development. This office is placed within the Department of Economic Development (DED). The office promotes the development of the digital media, music, film, and television industries within the state. It administers the Motion Picture Incentive Act and motion picture investor tax credits. This office was previously named the Governor's Office of Film and Television Development (GOFTD). Throughout this report, we use the term "GOFTD" to refer to both the GOFTD and the Office of Entertainment Industry Development.

State-Certified Production. A production made by a motion picture company that is domiciled and headquartered in the state. The motion picture company applies to the GOFTD for certification of the production. After certain requirements are met, the GOFTD and the DED issue a letter that approves the production as state-certified. Once state-certified, investors in the production are qualified to earn tax credits if certain requirements are met.

State-Certified Infrastructure Project. An infrastructure project is a building or facility that can be used by the motion picture industry for multiple productions. Examples of an infrastructure project could include a studio and training facility or a wave tank, according to the director of the GOFTD. Movie theaters or other commercial exhibition facilities do not qualify as infrastructure projects. The project must be approved by the GOFTD, the DED, and the Division of Administration. Beginning July 1, 2005, if the total base investment in a project is greater than \$300,000, a taxpayer shall be allowed a tax credit of 15% of the base investment expended on the infrastructure project. The tax credit for infrastructure projects will expire on January 1, 2008.

Certain state-certified infrastructure projects can also qualify for the 25% investor tax credit, according to Attorney General Opinion No. 06-0216. Thus, such projects could be entitled to an income tax credit totaling 40% of the amount of qualifying base investment expenditures.

INTRODUCTION

Audit Initiation and Objectives

The Legislative Audit Advisory Council approved a performance audit of the Department of Revenue (LDR) for fiscal year 2005. We chose to audit motion picture tax credits, and included the role of the Governor's Office of Film and Television Development (GOFTD), which is within the Department of Economic Development (DED), in administering these credits. The audit was postponed as a result of the Legislative Auditor's work in response to hurricanes Katrina and Rita. We began audit work again in May 2006. The audit covers the time period from July 1, 2002, until June 30, 2006. Certain information has been updated through February 2007.

We answered the following audit objectives/questions:

1. How many dollars have been invested in Louisiana productions?
2. What amounts of investor tax credits and employment tax credits have been granted by the GOFTD?
3. What amount of tax credits have been taken by taxpayers since 2002?
4. Is the LDR providing oversight to make sure that taxpayers take the correct amount of credits?
5. Do motion picture tax credits affect dedicated revenue for certain funds or programs?

Appendix A contains our audit scope and methodology; Appendix B contains a description of the legal requirements to obtain motion picture tax credits; and Appendices C and D contain agency responses.

Overview of Motion Picture Tax Credits

Purpose and Structure. Motion picture tax credits are one of several incentives and programs designed to encourage business activity within the state. Motion picture tax credits can be used by Louisiana taxpayers to offset certain types of tax liability. The primary purpose of the credits is to encourage development in Louisiana of a strong capital and infrastructure base for motion picture film, videotape, digital, and television program productions to achieve an independent, self-supporting industry.

MOTION PICTURE TAX CREDITS

Income tax credits are granted to investors in a motion picture production, if certain requirements are met. Investors can receive a tax credit of 25% of the expenditures made within the state on a production (known as the investor tax credit). In addition, investors can receive a tax credit of 10% of the total payroll for Louisiana residents employed in connection with the production. Before 2006, this latter incentive was known as the employment tax credit and was available to only the motion picture production company. However, for movie productions that receive their state-certification on or after January 1, 2006, this credit is available to investors in the motion picture production company.

The rules for entitlement to the tax credits have changed since July 1, 2002. These changes are summarized in Exhibit 1.

Exhibit 1 Summary of Rules for Employment and Investor Tax Credits (From July 1, 2002 to the Present)				
Dates	Investor Tax Credit	Recipient of Investor Tax Credit	Employment Tax Credit	Recipient of Employment Tax Credit
For state-certified productions approved by the GOFTD: From July 1, 2002, through December 31, 2003	10% of total investment, if base investment* exceeds \$300,000 and is equal to or less than \$1 million. 15% of total investment, if base investment* exceeds \$1 million.	Investor	10% of total aggregate payroll for residents when total in-state production costs equal or exceed \$300,000 but total less than \$1 million.	Motion Picture Production Company
For state-certified productions approved by the GOFTD: From January 1, 2004, through December 31, 2005	10% of total investment, if base investment* exceeds \$300,000 and is equal to or less than \$8 million. 15% of total investment, if base investment* exceeds \$8 million.	Investor	20% of total aggregate payroll for residents when total in-state production costs equal or exceed \$1 million.	
For state-certified productions approved by the GOFTD on or after January 1, 2006**	25% of base investment, if base investment exceeds \$300,000.	Investor	10% of amount expended on payroll for Louisiana residents if base investment exceeds \$300,000. This credit is no longer referred to as the "employment tax credit."	Investor
* Base investment is the actual investment made and expended in Louisiana by a state-certified production as production-related costs. ** For state-certified productions approved by the GOFTD on or after July 1, 2010, until July 1, 2012, the tax credit will be 20% of the base investment, if total base investment exceeds \$300,000. On or after July 1, 2012, the tax credit will be 15% of the base investment, if total base investment exceeds \$300,000. Source: Prepared by legislative auditor's staff using the Louisiana Revised Statutes of 1950, as amended.				

Role of the GOFTD. State law (R.S. 47:6007) provides that the GOFTD administers certain aspects of the motion picture tax credits. The GOFTD is placed within the DED. A motion picture production company applies to the GOFTD for its production to be state-certified. The GOFTD reviews the application to determine if certain requirements are met. Then, staff issue a letter to the company stating that the production is state-certified. Once state-certified, investors in the production are qualified to earn tax credits.

Beginning in January 2006, as the production company spends money on the production, it submits to the GOFTD a report of all of its expenditures after they have been audited and certified by an independent CPA. The production company requests the GOFTD to certify the amount of tax credits that have been earned as a result of the expenditures. The GOFTD and the DED together issue a tax certification letter that states the amount of tax credits to which investors are entitled. The GOFTD administers the program from the time that a production company makes its initial application for the production to be state-certified until the GOFTD issues the final letter that states how much in tax credits have been earned as a result of monies spent on the production. Effective August 15, 2006, the name of the GOFTD was changed to the Office of Entertainment Industry Development by Act No. 346 of the 2006 Regular Session. Throughout this report, we use the term “GOFTD” to refer to both the GOFTD and the Office of Entertainment Industry Development.

Starting on January 1, 2007, investors who earn investor tax credits may transfer their tax credits to the GOFTD for 72% of the face value of the credits. Beginning January 1, 2009, and every second year thereafter, the amount receivable by an investor who transfers credits to the GOFTD will increase 2% until the percentage reaches 80%. The GOFTD shall inform the LDR that a transfer took place and provide the LDR with transfer documentation.

Role of the LDR: The LDR administers taxpayers’ use of investor and employment tax credits by reviewing and processing tax returns that claim either one of these credits. The LDR keeps track of the amounts of credit used by taxpayers. Since the legislature amended and enacted motion picture tax credit laws, effective July 1, 2002, the LDR has provided guidance to the industry and potential investors by issuing private letter rulings explaining and defining different aspects of motion picture tax credits.

Starting on January 1, 2007, investors who earn investor tax credits may transfer their tax credits to the GOFTD for 72% of the face value of the credits. The LDR will make payment to the investor for the credits transferred to the GOFTD, provided that the investor transfers the credits to the GOFTD within one calendar year of their certification.

GOFTD’s study of economic impact to the state from the motion picture tax incentives. In early March 2007, the DED released a summary of an economic impact study of the movie industry it had commissioned. Some key findings from the report are as follows:

- Employment in Louisiana’s film industry has grown 23% since 2001.
- Total wages have increased more than 31% each year.
- In the United States, Louisiana ranks third in the number of films produced. This ranking is the result of the state’s incentive program geared to the industry.

We did not audit the information contained in this study.

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**HOW MANY DOLLARS HAVE BEEN INVESTED
IN LOUISIANA PRODUCTIONS?**

**Total Investment in Motion Picture Productions Is
\$1.78 Billion From July 1, 2002, Through June 30, 2006**

From July 1, 2002, until June 30, 2006, a total of \$1.78 billion was invested in state-certified motion picture productions. These investments were not all made in Louisiana. Exhibit 2 shows the total investment made in each motion picture production from July 1, 2002, through June 30, 2006.* The term “total investment” includes investments expended both in-state and out-of-state on the productions. The investment amounts shown in Exhibit 2 have not been audited. We only checked these numbers against documentation contained in GOFTD’s files.

Exhibit 2 Total Investment in Motion Picture Productions July 1, 2002, Through June 30, 2006 (as of September 11, 2006**)	
Name of Production	Investment Amount***
2002	
Evil Remains; 2 Music Videos; 2 Commercials	\$10, 515, 227
Total for 2002	\$10, 515, 227
2003	
Ray	\$45,687,144
The Football Network	6,021,513
Playmaker	2,158,529
Mr. 3000	42,511,575
Deacon John’s Jump Blues	1,714,964
A Love Song for Bobby Long	20,636,539
LIFT Music Videos (Break Beat)	11,733,333
LIFT (New Orleans Picture Show)	3,385,733
LIFT (Music Videos and Commercial)	19,800,065
Home Phobia plus Music Videos (2)	8,424,453
Sky Italia Launch Campaign	1,789,960
Runaway Jury	74,807,593
Gravediggers	416,000
Music Videos (5 videos)	1,985,464
Total for 2003	\$241,072,865

* Other expenditure reports will be filed with the GOFTD by production companies for this time period, so the total amount invested will increase.

MOTION PICTURE TAX CREDITS

Exhibit 2 (Continued) Total Investment in Motion Picture Productions July 1, 2002, Through June 30, 2006 (as of September 11, 2006**)	
Name of Production	Investment Amount***
2004	
Torn Apart	\$1,415,613
Quo Vadis	875,107
Because of Winn-Dixie	23,453,673
Jedakis Video	933,333
Growing Pains 2	7,394,698
Waiting	10,110,000
Flood of Fear	1,539,802
LIFT, LLC	17,571,024
Cash Money Music Videos (2)	420,700
Nikki & Nora	4,629,171
Infidelity	7,953,160
Stuck in Suburbs	4,316,065
Pop Rocks	3,967,948
Searching for David's Heart	3,688,377
Searching for the World's Greatest Kid Magician	4,532,345
Skeleton Key	56,609,730
Poolhall Prophets	9,660,301
Last Holiday	71,543,663
Glory Road	67,715,000
Miracle Run	2,619,230
Brook Ellison	15,549,004
Frankenstein	6,517,722
Dead Will Tell	8,448,047
Backwater	22,228,743
Dreamer	39,016,603
Canal Street Brothel	6,039,238
Heartless	6,243,000
Five Fingers	6,429,973
Odd Girl Out	4,985,970
Make it Funky/Southern Nights	3,158,825
AEG Festivals 2004 (VooDoo/Rehage)	3,040,946
Thief	5,092,691
Total for 2004	\$427,699,702
2005	
Morrison Commercials	\$931,399
Elvis	15,624,260
Lady Luck/Just My Luck	64,950,370
Pizza Wars	4,700,973
Dukes of Hazard	75,600,000
All the King's Men	86,334,731
Faith of My Fathers	6,749,967

INVESTMENT IN PRODUCTIONS

Exhibit 2 (Concluded)	
Total Investment in Motion Picture Productions	
July 1, 2002, Through June 30, 2006	
(as of September 11, 2006**)	
Name of Production	Investment Amount***
2005 (Cont.)	
Locusts	\$11,515,027
Retirement	12,035,963
Failure to Launch	70,144,383
Big Momma's House 2	62,000,000
For One Night	1,147,240
The Last Time	8,828,980
Stay Alive	20,000,000
Bug	6,443,286
Local Color	1,596,394
Vampire Bats	7,597,520
Miss Teen USA	3,419,649
The Reaping	69,000,000
Scarlett	17,546,053
Chlorine	2,318,780
Roadhouse 2	4,667,027
International Film Star Awards	360,526
Cash Money Music Videos (3)	365,231
Louisiana Outdoor Adventures	1,059,701
Deal	1,790,691
AEG Festivals 2005 (Voo Doo/Rehage)	9,039,026
LIFT, LLC	144,243,626
Total for 2005	\$710,010,803
January 1, 2006 through June 30, 2006	
Mammoth	\$2,775,897
déjà vu	175,000,000
DMG Holdings	599,643
Wonderland (Commercials)	592,680
The Guardsman	120,900,695
Factory Girl	6,427,580
Ruffian (Matchrace)	2,421,187
Hex (Not Like Everyone Else)	2,363,333
Premonition	21,500,000
PDR	5,636,900
Mr. Brooks	2,091,667
Season of the Tiger	754,584
LIFT, LLC	46,080,160
Total for 2006	\$387,144,326
Grand Total Since July 1, 2002	\$1,776,442,923
** These amounts were compiled as of September 11, 2006. Investment amounts are continually increasing as the GOFTD certifies expenditures for the productions and issues letters granting tax credits. *** The investment amounts shown in Exhibit 2 have not been audited. Source: Prepared by legislative auditor's staff using information obtained from GOFTD's files.	

Actual Investment Expenditures in Louisiana Are Unknown

Base investment is defined as the actual investment made and expended in Louisiana by a state-certified production company for production-related costs, according to R.S. 47:6007(B)(1). It would be informative to know how much in-state investment had been attracted by the movie industry tax incentives. The amount of in-state investment could then be compared to the amount of tax credits granted, to obtain an idea of the economic impact to the state from the incentives, for fiscal years 2003 through 2006. To determine the total amount that has been invested in Louisiana in connection with motion picture tax credit incentives, we attempted to obtain the base investment amount for each production. However, this information was not available in GOFTD's files for 48 of 85 (56%) production companies. For 37 productions, the base investment amount totaled \$463,971,469, according to GOFTD's records.

For taxable years beginning after December 31, 2005, the investor tax credit is to be calculated using the base investment amount, according to Act 456 of the 2005 Regular Session. As a result, the GOFTD should have information concerning in-state investment in its files for productions that receive state certification on or after January 1, 2006.

We Could Not Determine if Credits Were Calculated Correctly for Some Productions

The base investment amount in a production has to exceed \$300,000 for investors to be entitled to investor tax credits. Before January 1, 2006, whether investors received tax credits computed at a 10% or 15% rate of their total investment depended upon the amount of base investment. These rules are shown in more detail in Exhibit 1 on page 8. The GOFTD could not inform us of the base investment amounts for 48 production companies. As a result, we could not determine if the tax credits had been correctly granted at either 10% or 15 percent for investors in these productions. We also could not determine if base investment amount expenditures for some of these productions exceeded the \$300,000 threshold to entitle the investors to tax credits.

Recommendation 1: To determine how much has been invested in Louisiana, if certification was granted properly, and whether investor tax credit amounts were correctly calculated, the GOFTD should obtain and verify base investment amounts from expenditure reports for all movie productions certified since July 1, 2002.

Management's Response: GOFTD/DED agree with your findings and will initiate steps to calculate and verify the base investment amounts for those productions in which the information was missing.

**WHAT AMOUNTS OF INVESTOR TAX CREDITS
AND EMPLOYMENT TAX CREDITS HAVE BEEN GRANTED
BY THE GOFTD?**

**\$265 Million in Investor Tax Credits and \$22 Million in
Employment Tax Credits Granted From July 1, 2002,
Through June 30, 2006**

The GOFTD granted approximately \$265 million in investor tax credits and approximately \$22 million in employment tax credits since July 1, 2002. The investor and employment tax credits granted for each motion picture production are shown in Exhibit 3 on pages 16 through 19. The tax credit amounts presented in Exhibit 3 are based on documentation contained in GOFTD's files. Expenditure reports have not been completed by all production companies for the fiscal year ending June 30, 2006. Therefore, more credits may eventually be granted that are not included in this report. Tax credit amounts are constantly increasing as motion picture production companies turn in expenditure reports to the GOFTD, which will then certify, by letter, more tax credits as being earned.

**GOFTD Granted One Production Incorrect Amounts of
Investor and Employment Tax Credits**

The GOFTD calculated tax credit amounts at incorrect rates and granted one production, "Quo Vadis," approximately \$57,000 more in tax credits than should have been granted. According to documentation in GOFTD's files, this production spent less than \$1 million in 2003, yet the GOFTD granted investor credits at 15% and employment credits at 20%. Because expenditures were less than \$1 million, the investor tax credits should have been computed using 10%, according to R.S. 47:6007(C)(1)(a). The employment tax credits should also have been computed using 10%, according to R.S. 47:1125.1(A).

We discussed this error with an official of the GOFTD. On December 20, 2006, the GOFTD official gave us a copy of a letter from the production company indicating that the company had spent additional monies on the production in 2004 and 2005, resulting in a total of more than \$1 million being expended. The company has also had its additional production expenditures audited and furnished this audit report to the GOFTD. The GOFTD informed us that it anticipates certifying all the additional expenditures. Therefore, the investor will be entitled to earn tax credits at the higher 15% rate the GOFTD initially used to calculate credits.

MOTION PICTURE TAX CREDITS

Exhibit 3				
Investor and Employment Tax Credits (as of September 11, 2006*)				
July 1, 2002, Through June 30, 2006				
Name of Production	Investor**	Production Company	Investor Tax Credits	Employment Tax Credits
2002				
Evil Remains; 2 Music Videos; 2 Commercials	***LIFT, LLC & Trespass, LLC	LIFT, LLC; Trespass, LLC; & Evil Remains, LLC	\$1,577,284	\$14,982
Totals for 2002			\$1,577,284	\$14,982
2003				
Ray	Crusader Louisiana	Unchain My Heart Louisiana, LLC	\$6,853,072	\$832,806
The Football Network (2003)	TFN Louisiana Investments, LLC	TFN Louisiana Productions, LLC	659,665	167,717
The Football Network (2004)	TFN Louisiana Investments, LLC	TFN Louisiana Productions, LLC	243,623	67,016
Playmaker	Baron L. Davis	Playmakers of New Orleans, LLC	323,780	0
Mr. 3000	Beignet Productions, LLC	Pastime Productions, LLC	6,376,736	272,418
Deacon John's Jump Blues	Cyril E. Vetter	Vetter Communications Corporation	257,245	270,142
A Love Song for Bobby Long	Bobby Long Investments, LLC	Bobby Long Productions, LLC	3,095,482	766,577
LIFT Music Videos (Break Beat)	LIFT, LLC/Break Beat, LLC	LIFT, LLC/Break Beat, LLC	1,760,000	195,464
LIFT (New Orleans Picture Show)	New Orleans Picture Show, LLC	LIFT, LLC/New Orleans Picture Show, LLC	507,860	52,026
Home of Phobia	Home of Phobia, LLC	LIFT, LLC/Home of Phobia, LLC	1,263,669	77,660
LIFT Music Videos (Music Videos & Commercials)	Break Beat, LLC	LIFT, LLC	2,970,010	7,203
Sky Italia Launch Campaign		SI Productions, LLC	268,494	0
Runaway Jury	Jury Productions Louisiana, LLC	RJ Productions, LLC	11,221,139	905,990
Gravediggers	Harlequin Films, LLC	Gravediggers, LLC	41,600	16,000
Music Videos (5)	Cash Money Films, LLC; Cash Money Production, Inc.; Ronald Williams; Bryan Williams	Cash Money Records, Inc.	297,820	184,917
Totals for 2003			\$36,140,195	\$3,815,936
2004				
Torn Apart	The Outsider Production, LLC	The Outsider Production One, LLC	\$212,342	\$69,356
Quo Vadis	Frank Schroeder	LA Entertainment Group, Inc.	131,266	27,253
Because of Winn-Dixie	WDL Productions, LLC	Winn Productions, LLC	3,518,051	529,811
Jedakis Video	LIFT, LLC	LIFT, LLC	140,000	N/A
Growing Pains 2	Louisiana Motion Picture Tax Credit Fund, LLC	Wallet-Size Pictures LA, LLC	1,109,205	140,134
Waiting	Waiting, LLC	LIFT, LLC/Waiting, LLC	1,516,500	0
Flood of Fear	Kill Me Again Investments, LLC	Kill Me Again Productions, LLC	230,970	80,536
LIFT, LLC	LIFT, LLC	LIFT, LLC	2,635,653	0
LIFT Payroll	LIFT, LLC	LIFT, LLC	N/A	1,571,504

(Continued)

Exhibit 3
Investor and Employment Tax Credits (as of September 11, 2006*)
July 1, 2002, Through June 30, 2006

Name of Production	Investor**	Production Company	Investor Tax Credits	Employment Tax Credits
2004 (Cont.)				
Cash Money Music Videos (2)	Cash Money Films, LLC; Cash Money Production, Inc.; Ronald Williams; Bryan Williams	Cash Money Records, Inc.	\$42,070	\$14,703
Nikki & Nora	N&N Films, LLC	N&N Pictures, LLC	694,376	119,379
Infidelity	LIFT, LLC	LIFT, LLC	1,192,974	143,909
Stuck in Suburbs	Chicory Investments, LLC	GWave Productions, LLC	647,410	314,554
Pop Rocks	Chicory Investments, LLC	GWave Productions, LLC	595,192	269,050
Searching for David's Heart	Chicory Investments, LLC	GWave Productions, LLC	553,257	240,438
Search for the World's Greatest Kid Magician	Chicory Investments, LLC	GWave Productions, LLC	679,852	338,684
Skeleton Key	Brick Dust Investments, LLC	Brick Dust Productions, LLC	8,491,460	254,494
Poolhall Prophets	Pool Hall Productions, LLC	Pool Hall Pictures, LLC	1,449,045	452,119
Last Holiday	Paramount Pictures Louisiana Production Investments, LLC	Last Holiday Productions, LLC	10,731,549	326,310
Glory Road	Cole Field Productions, LLC	Glory Road Productions, LLC	10,157,250	1,620,358
Miracle Run	Miracle Run, LLC	LIFT, LLC	392,885	0
Brooke Ellison	Brooke Ellison, LLC	LIFT, LLC/Brooke Ellison, LLC	2,332,351	0
Frankenstein	Frankenstein, LLC	LIFT, LLC	977,658	0
Dead Will Tell	Dead Will Tell, LLC	LIFT, LLC	1,267,206	0
Backwater	Backwater Investments, LLC	Backwater Productions, LLC	3,334,311	747,590
Dreamer	SKG Louisiana, LLC	SKG Productions, LLC	5,852,490	102,840
Canal Street Brothel	Canal Street Pictures, LLC	LIFT, LLC/Canal Street Pictures, LLC	905,886	0
Heartless	Heartless, LLC	LIFT, LLC/Heartless, LLC	936,450	0
Five Fingers	Five Fingers, LLC	LIFT, LLC/Five Fingers, LLC	964,496	0
Odd Girl Out	Odd Girl Out, LLC	LIFT, LLC/Odd Girl Out, LLC	747,896	0
AEG Festivals 2004 (Voo/Doo Rehage)	LIFT, LLC/AEG Louisiana Finance, LLC	LIFT, LLC/AEG Louisiana Production, LLC	456,141	24,881
Make it Funky	Louisiana Motion Picture Tax Credit Fund, LLC; Bottom of the Ninth Productions, LLC	Bottom of the Ninth Productions II, LLC	473,823	117,634
Thief	Thief, LLC	Thief Productions, LLC	763,904	182,969
Totals for 2004			\$64,133,919	\$7,688,506

(Continued)

MOTION PICTURE TAX CREDITS

Exhibit 3 Investor and Employment Tax Credits (as of September 11, 2006*) July 1, 2002, Through June 30, 2006				
Name of Production	Investor**	Production Company	Investor Tax Credits	Employment Tax Credits
2005				
Morrison Commercials	Morrison II, LLC	Morrison, LLC	\$93,140	\$24,523
Elvis	Elvis, LLC	LIFT, LLC/ Elvis, LLC	2,343,639	0
Lady Luck	LA Luck Investments, LLC	LA Luck Productions, LLC	9,742,556	355,584
Pizza Wars	Chicory Investments, LLC	GWave Productions, LLC	705,146	284,187
Dukes of Hazard	Hazardous Films, LLC	Hazardous Productions, LLC	11,340,000	575,535
All the King's Men	AKM Investments, LLC	AKM Productions, LLC	12,950,210	1,828,833
Faith of My Fathers	Faith of My Fathers, LLC	LIFT, LLC	1,012,495	0
Locusts	VZS Productions II, LLC/VZS, LLC	LIFT, LLC	1,727,253	0
Retirement	Corner Stone Pictures Investment Company, LLC	Retirement Productions, LLC	1,805,394	50,342
Failure to Launch	Paramount Pictures Louisiana Production Investments II, LLC	Failure to Launch Productions, LLC	10,521,657	930,169
Big Momma's House 2	Big LouMomma Investments, LLC	Big LouHouse Productions, LLC	9,300,000	467,092
For One Night	VZS Productions II, LLC	LIFT, LLC	172,086	0
The Last Time	The Last Time, LLC	LIFT, LLC	1,324,347	0
Stay Alive	Stay Alive Investments, LLC	Stay Alive Productions, LLC	2,000,000	293,236
Bug	Bug, LLC	LIFT, LLC	966,493	0
Local Color	Local Color Investments, LLC	Local Color Productions, LLC	159,639	29,987
Vampire Bats	VZS Productions III, LLC	LIFT, LLC	1,139,628	0
Miss Teen USA		Miss Universe Productions, LLC	341,965	35,197
The Reaping	Chime Films, LLC	Chime Productions, LLC	10,350,000	640,319
Scarlett	Scarlett, LLC	LIFT, LLC	2,631,908	0
Chlorine	Chlorine Investments, LLC	Chlorine Productions, LLC	347,817	0
Roadhouse 2	Roadhouse II, LLC	LIFT, LLC	700,054	0
International Film Star Awards	Michele LeBlanc	Topaz Productions LA, LLC	36,053	17,900
Cash Money Music Videos (3)	Cash Money Films, LLC;, Cash Money Production, Inc.; Ronald Williams; Bryan Williams	Cash Money Records, Inc.	36,523	17,829
Louisiana Outdoor Adventures	Louisiana Outdoor Adventures, LLC/ Total Vision HD, LLC	Total Vision HD, LLC/ Louisiana Outdoor Adventures, LLC	105,970	58,461
Deal	Deal Investments, LLC	Deal Productions, LLC	268,604	0
AEG Festivals 2005 (Voo Doo/Rehage)	LIFT, LLC/AEG Louisiana Finance, LLC	LIFT, LLC/AEG Louisiana Production, LLC	1,355,854	621,649
LIFT Payroll	LIFT, LLC	LIFT, LLC	N/A	1,283,630
LIFT, LLC	LIFT, LLC	LIFT, LLC	21,636,544	N/A
Totals for 2005			\$105,114,975	\$7,514,473

(Continued)

Exhibit 3 Investor and Employment Tax Credits (as of September 11, 2006*) July 1, 2002, Through June 30, 2006				
Name of Production	Investor**	Production Company	Investor Tax Credits	Employment Tax Credits
January 1, 2006, through June 30, 2006				
Mammoth	Louisiana Motion Picture Fund 1, LLC and Pelican Cinema Investors, LLC	Louisiana Motion Picture Fund 1, LLC/ Mammoth Productions Louisiana, LLC	\$277,590	\$41,374
Déjà vu	4 Days Ago Productions, LLC	Already Seen Productions, LLC	26,250,000	0
DMG Holdings	David Garcia, Daniel Garcia and Maddeson Garcia	DMG Holdings, LLC	59,964	9,528
Wonderland (Commercials)	Wonderland Finance, LLC	Wonderland Films, LLC	59,261	10,998
The Guardsman	Squid Bar Productions, LLC	"A" School Productions, LLC	18,135,104	1,276,424
Factory Girl	Factory Girl, LLC	LIFT, LLC	964,137	0
Ruffian (Matchrace)	Ruffian, LLC	LIFT, LLC	363,178	0
Hex (Not Like Everyone Else)	Hex, LLC	LIFT, LLC	354,500	0
Premonition	Premonition Investments, LLC	LIFT, LLC	3,225,000	0
PDR	Connected Project, LLC	PDR, LLC	845,535	0
Mr. Brooks	Mr. Brooks, LLC	LIFT, LLC	313,750	0
Season of the Tiger	Daft Films Investments, LLC	Daft Films, LLC	75,458	1,751
LIFT Payroll	LIFT, LLC	LIFT, LLC	N/A	1,461,011
LIFT, LLC	LIFT, LLC	LIFT, LLC	6,912,024	0
Totals for 2006			\$57,835,501	\$2,801,086
Total Since July 1, 2002			\$264,801,874	\$21,834,983
<p>* These amounts were compiled as of September 11, 2006. Investor and employment tax credit amounts are continually increasing as additional expenditures are made by investors and production companies, and the GOFTD issues letters granting tax credits. The amounts shown in Exhibit 3 have not been audited.</p> <p>** There may be more than one investor in a production; we used the name of the investor found in GOFTD's files or furnished by the GOFTD staff. Also, the name of the investor was not always available in GOFTD's files.</p> <p>***LIFT is a Louisiana based film and television production studio that finances motion pictures, television shows, music videos, and commercials. In addition, LIFT provides production services such as warehouse space and a salaried production crew.</p> <p>Source: Prepared by legislative auditor's staff from information provided by the GOFTD.</p>				

(Concluded)

GOFTD Used Our Suggestions to Improve Recordkeeping

To verify the amount of investor and employment tax credits issued during fiscal years 2003 through 2006, we took a random sample of 39 of GOFTD's production files. Of the sample, the tax credit amounts for four files (10%) had errors and could not be verified by information contained in the files. We discussed the errors we found with the GOFTD staff and they corrected the errors in their records.

We also found errors in the investment amounts for productions (i.e., how much money was actually invested in a movie). After reviewing GOFTD's files for 85 production companies, we provided the GOFTD staff with a list of 15 productions (18%) with investment amounts that we thought needed to be changed. We also found one production that had been omitted from GOFTD's records. A GOFTD staff person was extremely cooperative in meeting with us and making our suggested changes to their records. Working together, we compiled more accurate investment and tax credit amounts.

Recommendation 2: The GOFTD should develop and implement a methodology that accurately captures and reports, at the least, the actual motion picture tax credit and investment amounts for each production.

Management's Response: GOFTD/DED agree with your findings and as a result of Act 456 of the 2005 Regular Session of the Louisiana Legislature already track these amounts. Since tax credits are now issued on direct Louisiana spending, we feel that this and the first recommendation have been fulfilled.

Legislative Auditor's Response to GOFTD/DED's Management's Response:

Act 456 of the 2005 Regular Session provides that investors earn tax credit upon the base investment amount (referred to in GOFTD's response as "direct Louisiana spend") made in state-certified productions approved by the GOFTD on or after January 1, 2006. We agree that Act 456 makes it easier for the GOFTD to track base investment amounts for each production state-certified after January 1, 2006. However, for productions of 48 production companies that were state-certified before January 1, 2006, the base investment amounts are unknown.

Recommendation 1 addresses this lack of information. Also, Recommendation 2 is concerned with developing a system of effective recordkeeping. Act 456 does not reduce the department's responsibility to address Recommendations 1 and 2.

GOFTD Needs to Obtain the Names of Investors

The GOFTD could not provide us with the names of investors for two productions. When we finished review of GOFTD's files, we could not determine the names of investors for 13 productions that the GOFTD had certified. The GOFTD staff took several days to research and obtain the names of investors for 11 of the 13 productions. If the names of investors in a production are unknown, the LDR cannot definitely know the names of investors that are entitled to take tax credits. In other words, if the LDR processes a tax return claiming motion picture tax credits and wants to verify with the GOFTD that the taxpayer is the investor, the GOFTD will

not be able to assist the LDR. Thus, the LDR may spend more time than necessary to determine that a taxpayer who claims a credit is entitled to it. This lack of information could cause inefficiencies in LDR's processing of tax returns containing motion picture tax credits. We found one case where the LDR had to write a letter to a production company to obtain information that should have been maintained by the GOFTD (such as the investor's name).

R.S. 47:6007(D)(2) provides that the GOFTD shall submit to the investors and the secretary of LDR its initial certification of a project as a state-certified production. The GOFTD needs to know the investors in each production to comply with this statute. Therefore, the GOFTD should always obtain the names of investors and furnish this information to the LDR to assist in processing tax credits. Obtaining such information is discussed in more detail on page 27 of this report.

Recommendation 3: The GOFTD should determine the names of all investors in each production and include these names in its state-certification letters and in its files.

Management's Response: GOFTD/DED disagree with this finding as there may be numerous investors in any given project. There may also be difficulty in determining such information as confidentiality issues may arise as to individual investors wishing to remain anonymous. Finally, since the "investor" in a project is a legal entity domiciled in Louisiana and oftentimes set up as an LLC, the actual investor (real person) oftentimes doesn't earn the credit directly.

Legislative Auditor's Response to GOFTD/DED's Management's Response: We acknowledge that there may be numerous investors in a given project and that some investors may wish to remain anonymous. We also acknowledge that many individual investors earn tax credits as a result of being members of an LLC (or other legal entity). However, we recommend that GOFTD/DED obtain the name of the legal entity formed to invest in the motion picture production company. Furthermore, if no legal entity is formed to be the original investor, then GOFTD/DED should obtain the name(s) of the person(s) who are the original investors in the motion picture production company.

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WHAT AMOUNT OF TAX CREDITS HAVE BEEN TAKEN BY TAXPAYERS SINCE 2002?

State's Actual Liability for Motion Picture Tax Credits Is Unknown

From July 1, 2002, through June 30, 2006, the GOFTD has granted more than \$286.6 million in tax credits.* For calendar years 2004 and 2005, \$167.6 million in motion picture tax credits were taken by taxpayers, according to the LDR. Thus, the state's potential liability for motion picture tax credits is approximately \$119 million (\$286.6 million – \$167.6 million used). However, the amount of credit taken by taxpayers for 2002 and 2003 needs to be included to determine how many issued credits have not been claimed by taxpayers. The LDR did not have a mechanism in place to capture the amount of motion picture tax credits taken on 2002 and 2003 tax returns. Accordingly, the state's actual liability for motion picture tax credits is unknown. Exhibit 4 shows details concerning the amounts of tax credits granted and used.

Exhibit 4 Summary of Motion Picture Tax Credits Granted and Used July 1, 2002, Through June 30, 2006	
Amount of Tax Credits Granted**	\$286,636,856
Less: Amount of Tax Credits Used***	(<u>\$167,567,406</u>)
Potential Liability	\$119,069,450
** As of September 11, 2006. *** Excluding 2002 and 2003. Source: Prepared by legislative auditor's staff using information obtained from the LDR and the GOFTD.	

Recommendation 4: If resources allow, the LDR should determine the amount of motion picture tax credits that were taken by taxpayers for 2002 and 2003.

Management's Response: The Department of Revenue agrees with the recommendation of the Legislative Auditor and will take steps to determine the amount of motion picture tax credits taken by taxpayers for 2002 and 2003 as Departmental resources allow.

* This total is as of September 11, 2006. Other expenditure reports will be filed for this time period with the GOFTD, so the total amount of tax credits granted will increase.

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IS THE LDR PROVIDING OVERSIGHT TO MAKE SURE THAT TAXPAYERS TAKE THE CORRECT AMOUNT OF CREDITS?

LDR's Internal Controls Should Be Strengthened to Ensure That Proper Amounts of Credit Are Taken

The internal controls at the LDR for processing motion picture tax credits do not ensure that the proper amounts of credit have been taken by taxpayers. For example, employment tax credits (exceeding \$234,000) for one production, "The Football Network," were improperly transferred to other taxpayers in calendar years 2003 and 2004. The LDR personnel confirmed that at least some of these employment tax credits had been improperly claimed by taxpayers on tax returns. Transfers of employment credits in 2003 and 2004 were not authorized by law. (Act 456 of the 2005 Regular Session authorized transferability of employment tax credits, effective January 1, 2006). LDR's system for keeping track of motion picture tax credits did not prevent these transfers of employment tax credits from occurring.

In another case, the GOFTD issued a state certification letter dated December 19, 2002, for the production, "Anything for Love." At that time, the GOFTD had not certified any tax credits for the production. However, we found that three taxpayers associated with the production company took motion picture tax credits on their 2004 tax returns totaling \$152,975. Again, LDR's system for keeping track of motion picture tax credits did not prevent taxpayers from taking tax credits to which they were not entitled. The GOFTD subsequently issued a tax certification letter (in December 2006) that certified \$468,750 of tax credits for this production. As a result, taxpayers were entitled to the \$152,975 of tax credits they took in 2004.

We took a sample of 41 tax returns (claiming motion picture tax credits) to review LDR's manual tracking system. We found errors for three returns (7%). For two returns, an LDR employee did not initial on her worksheet that the taxpayers had used all the credit to which they were entitled. As a result, on LDR's records, the taxpayer did not have a \$0 balance. This inaccuracy could result in the taxpayer using the credits again on a subsequent year's tax return. For the third return, the taxpayer did not use all the credit shown on his return. However, the LDR worksheet contained the LDR employee's initials to indicate this taxpayer had used all the credits he owned. This taxpayer actually had credits to carry forward for use in subsequent years.

One reason for these problems could be that the LDR has a manual system to process motion picture tax credits. When a taxpayer claims motion picture tax credits on a tax return, the return is forwarded to the Post Processing Services Division of the LDR. One LDR employee checks the information on the tax return against her files. If there is insufficient information to verify that the credit amount is proper, this employee requests more information from the taxpayer or from the GOFTD. On her tracking worksheets, she manually keeps track of the credits claimed against the credits "owned" by the taxpayer. She puts her initials and dates beside the taxpayer's name to designate her approval of the credits claimed. No other LDR staff reviews the work done by this person. Human error will occur in a manual tracking system,

especially if the work of the person doing the tracking is not reviewed by others. In addition, fraud and abuse are more likely to occur when controls are weak.

Recommendation 5: LDR needs to improve their internal controls over the processing of motion picture tax credits. LDR should establish a database to track taxpayers claiming motion picture tax credits. Controls should be built in to prevent erroneous processing. At the least, the database should clearly present credits awarded, taken, and remaining.

Management's Response: The Department of Revenue partially agrees with this recommendation. We agree that the creation of a database will enhance our ability to more accurately account for credits awarded, taken and remaining. However, with respect to the processing of motion picture tax credits, improvements in internal controls will enhance but not eliminate processing errors. This is due to the fact that credits taken on the returns are based on information the taxpayer has and it may be different from data LDR has received from the GOFTD. In most cases, LDR staff is using the most recent information obtained from the GOFTD in approving the credit taken per the return.

Recommendation 6: Hiring or appointing an additional person to process motion picture tax credits might improve controls. This person could help maintain a database or help the present LDR employee if LDR continues to manually process motion picture tax credits.

Management's Response: The Department of Revenue partially agrees with the recommendation to hire or appoint an additional person to process returns where motion picture tax credits are claimed. It is our position that as the awarding and claiming of the motion picture tax credits has increased, the Department has devoted additional resources in an effort to properly account for the credits utilized. As is the case with all credits allowed by statute and claimed on tax returns, the Department is committed to dedicating a level of resources that will allow for the most effective review and control given the resource constraints under which we operate. We agree that adding personnel to the process will improve the processing time on returns where a motion picture credit is claimed; however, enhancing the approval process is the only way to improve controls.

Recommendation 7: For the \$234,000 in employment tax credits that were improperly transferred in calendar years 2003 and 2004, LDR needs to recapture any tax credits that were improperly claimed by taxpayers.

Management's Response: The Department of Revenue agrees with this recommendation and is in the process of recapturing the \$234,000 of employment tax credits erroneously transferred in calendar years 2003 and 2004.

LDR and GOFTD Should Work Together to Ensure Critical Data Are Consistently Provided to LDR

The GOFTD is required to send the LDR a copy of each state-certification letter issued, according to R.S. 47:6007(D)(2)(a). LDR officials informed us that they do not always receive these letters. Consistent receipt of such letters would alert the LDR to the names of new productions that had been state-certified, and that tax credits for the new productions could be granted by GOFTD at some future date. This information would assist LDR in improving its internal controls for processing motion picture tax credits.

LDR officials informed us that it would be helpful if they automatically received a copy of each tax credit certification letter. Furthermore, this could be done electronically. With this information, the LDR could more effectively maintain the total amount of tax credits that have been granted for each production. Some tax certification letters do not contain the name(s) of the investor(s) entitled to the credits. When this lack of information occurs, the GOFTD needs to furnish the name(s) of the investor(s) to the LDR so that the LDR will know what entity/individuals are entitled to the credits.

There is another reason for the GOFTD and the LDR to improve communications. Act 456 of the 2005 Regular Session provides that, beginning on January 1, 2007, an investor who earns investor tax credits may transfer the credits to the GOFTD for 72% of the face value of the credits. The GOFTD shall notify the LDR of the transfer and provide staff with a copy of the transfer documentation. Act 456 provides that the LDR shall make payment to the investor for the credits transferred to the GOFTD, provided that the investor transfers the credits to the GOFTD within one calendar year of their certification. Implementing this credit redemption mechanism of Act 456 will take planning and cooperation between the GOFTD and the LDR. In order for LDR to make payment to an investor for the tax credits transferred to the GOFTD, the LDR will have to know that the credits were transferred within one calendar year of their certification.

Recommendation 8: GOFTD and LDR officials should meet and discuss their roles related to the oversight of motion picture tax credits. During the meeting(s), they should identify and agree upon strategies that will allow the agencies to administer motion picture tax credits in the most effective manner possible.

Management's Response: GOFTD/DED agree with your findings and have ongoing communications with the Louisiana Department of Revenue (LDR).

Management's Response: The Department of Revenue agrees with this recommendation and will meet with the appropriate counterparts at GOFTD to discuss our respective roles related to the oversight of motion picture tax credits and to develop strategies to allow the most effective administration possible.

Recommendation 9: GOFTD should send copies of all state-certification letters to LDR, as required by R.S. 47:6007(D)(2). This could be accomplished electronically.

Management's Response: GOFTD/DED agree with your findings and will begin sending all pre-certification letters to LDR electronically.

Recommendation 10: GOFTD should also timely send LDR copies of all tax credit certification letters as they are issued for each production. This could be accomplished electronically.

Management's Response: GOFTD/DED agree with your findings and are sending tax credit certification letters electronically within days of certification.

Recommendation 11: GOFTD should furnish LDR with the names of investors in a production, if this information is not contained in the state certification or tax certification letter.

Management's Response: GOFTD/DED disagree with your findings based on our response to Recommendation 3. However, if an investor is made known to us, then we will certainly send LDR that information.

DO MOTION PICTURE TAX CREDITS AFFECT DEDICATED REVENUE FOR CERTAIN FUNDS OR PROGRAMS?

Motion Picture Tax Credits Reduce the Amount of Revenue Dedicated to Certain Funds or Programs

Revenue dedicated for specific funds or programs is reduced by motion picture tax credits. Whenever state income taxes or corporate franchise taxes are dedicated to fund a certain program or activity, motion picture tax credits taken to offset tax liability reduce the amount of funding available for the program or activities.

Certain funding for the Louisiana Stadium and Exposition District (LSED) is an example of how this type of reduction occurs. R.S. 39:100.1(B) provides that income taxes collected by the state attributable to the income of nonresident professional athletes and professional sports franchises that was earned in Louisiana shall be paid into the Sports Facility Assistance Fund (Fund). R.S. 39:100.1 specifies how monies in the Fund will be appropriated. Monies in the Fund can be appropriated to the LSED for purposes such as renovation of the Superdome, stadium development, and other specified purposes.

According to the LDR, since the revenues dedicated to the Fund are based on income taxes collected, "collected" means monies remaining after tax credits have been used to offset income tax liability. To the extent that nonresident professional athletes and professional sports franchises use motion picture tax credits to offset their Louisiana income tax liability, revenues that the Fund would otherwise receive are reduced. According to information obtained from the LDR, at least \$126,000 in motion picture tax credits were claimed in calendar year 2004 that decreased revenues to the Fund. Such reduction might not allow program administrators to carry out activities as initially planned and budgeted. The LDR has not finished processing all 2005 income tax returns, and dedicated tax revenues have not yet been transferred into the Fund.

According to a SMG official, it was not the legislature's intent for motion picture tax credits to reduce income taxes designated to be paid into the Fund. Since the motion picture tax credits are marketable to individuals who did not earn the credits, the credits could be considered to represent a payment toward the tax liability of a taxpayer instead of a reduction of a tax liability.

Matter for Legislative Consideration 1: The legislature may wish to clarify the law concerning whether motion picture tax credits can reduce income taxes on nonresident professional athletes and sports franchises that are designated to be paid into the Fund.

Recommendation 12: The LDR should seek a legal opinion from the Attorney General concerning whether motion picture tax credits should reduce income taxes designated to be paid into the Fund, pursuant to R.S. 39:100.1(B).

MOTION PICTURE TAX CREDITS

Management’s Response: The Department of Revenue respectfully disagrees with your recommendation that an Attorney General’s Opinion is needed regarding “whether motion picture tax credits should reduce income taxes designated to be paid into the Sports Facility Assistance Fund (SFAF), pursuant to R.S. 39:100.1(B).” It is our position that the statute is very clear in that “income taxes collected” from nonresident athletes should be placed in the SFAF. R.S. 39:100.1 does not contain any language that could be construed as having the effect of defining income taxes collected in any manner other than the tax liability after credits have been applied.

In addition to motion picture tax credits, other types of transferable tax credits could impact funds dedicated to a program. Other types of transferable credits are shown in Exhibit 5.

Exhibit 5 Transferable Tax Credits	
Name of Tax Credit	Legal Citation for Transferability
Louisiana Capital Company (CAPCO)	R.S. 51:1924(F)
Research and Development	R.S. 47:6015(C)(5)
Rehabilitation of Historic Structures	R.S. 47:6019(A)(3)(b)(i)
Digital Interactive Media	R.S. 47:6022(D)(7)
Louisiana Community Development Financial Institution Investment	R.S. 51:3085(A)
Source: Prepared by legislative auditor’s staff based on information furnished by the LDR.	

Matter for Legislative Consideration 2: The legislature should consider conducting a study of the impact of motion picture and other tax credits on programs funded by dedicated taxes.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

We conducted this performance audit under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. We followed the applicable generally accepted government auditing standards as promulgated by the Comptroller General of the United States.

Audit Scope

This audit focused on motion picture tax credits. More specifically, we focused our efforts on investment and employment tax incentives. The Governor's Office of Film and Television Development (GOFTD) within the Department of Economic Development (DED) and the Department of Revenue (LDR) administer these credits. The audit covered the period July 1, 2002, through June 30, 2006. We updated certain information through December 2006. Our audit objectives were to answer the following questions:

- How many dollars have been invested in Louisiana productions?
- What amounts of investor tax credits and employment tax credits have been granted by the GOFTD?
- What amount of tax credits have been taken by taxpayers since 2002?
- Is the LDR providing oversight to make sure that taxpayers take the correct amount of credits?
- Do motion picture tax credits affect dedicated revenue for certain funds or programs?

We did not audit any infrastructure projects because no such project had been finally approved when we concluded our audit procedures, according to the director of the GOFTD. Also, we did no audit work on a state sales tax exemption that was available to production companies that obtained state certification for their productions before January 1, 2006. We did no work on the state sales tax exemption because a GOFTD official informed us that the cost of this incentive was small in comparison to the investor and employment tax credit amounts.

Methodology

To accomplish our objectives, we performed the following:

- Interviewed appropriate GOFTD and LDR officials
- Researched and reviewed relevant state laws and LDR private letter rulings

MOTION PICTURE TAX CREDITS

- Reviewed files and documentation provided by the GOFTD and the LDR, such as GOFTD's files for movie productions and notices of tax credit transfers, and tax returns maintained by LDR
- Reconciled GOFTD's records for tax credit and total investment amounts with information contained in GOFTD's files
- Toured production facilities (the Robert E. Nims Center) in Harahan
- Researched possible effect of tax credits on other funds or programs

APPENDIX B: REQUIREMENTS FOR ENTITLEMENT TO MOTION PICTURE TAX CREDITS

In 2002, the legislature amended and enacted tax incentives to encourage development of a strong capital base for motion picture film, videotape, and television program productions to achieve a more independent, self-supporting industry. The legislature amended R.S. 47:6007 and certain provisions of the Louisiana Motion Picture Incentive Act (R.S. 47:1121 *et seq.*) and enacted R.S. 47:1125.1. The Governor's Office of Film and Television Development (GOFTD) within the Department of Economic Development (DED) grants income tax credits to investors who invest in a production filmed and produced in Louisiana. The GOFTD also grants employment tax credits that are based on the payroll of Louisiana residents employed in a state-certified production.

The GOFTD was renamed the Office of Entertainment Industry Development, effective August 15, 2006. Requirements for motion picture tax credits were amended by Act 456 of the 2005 Regular Session, generally effective for taxable years beginning after December 31, 2005. In the sections that follow, rules in effect before 2006 are first discussed, followed by an explanation of the major changes made by Act 456. We use the term "GOFTD" to refer to both the GOFTD and the Office of Entertainment Industry Development.

How a Production Qualifies for Tax Incentives. To obtain tax incentives for itself and its investors, a motion picture production company, planning to make a production, files an application with the GOFTD. This application contains identifying information for the production company, such as the title of the project, and estimates of expenditures and payroll in Louisiana. To qualify for the program, the production company must be headquartered and domiciled in Louisiana, according to R.S. 47:6007(B)(5). The GOFTD determines which projects qualify for tax incentives. After review and approval of the application, the GOFTD issues a letter to the production company stating that the production is "state-certified." This letter must also be issued to investors in the production company and the secretary of the LDR, according to R.S. 47:6007(D)(2). The letter typically states that the production qualifies for investor and employment tax credits.

Investor Tax Credit. Beginning July 1, 2002, investors in a production company making a state-certified production could earn tax credits to use against state income tax liability. The credit was either 10% or 15% of the total amount invested by an investor, depending upon the amount of total "base investment" certified for the project by the GOFTD. Base investment is defined as the actual investment made and expended in Louisiana by a state-certified production as production-related costs. The base investment had to exceed \$300,000 for investors to qualify for tax credits.

From January 1, 2004, until January 1, 2006, if the base investment exceeded \$300,000 and was equal to or less than \$8 million, an investor would be allowed a tax credit of 10% of the total investment. The tax credit percentage was taken using an investor's total investment in the production, not just against the amount of base (in-state) investment. From January 1, 2004,

MOTION PICTURE TAX CREDITS

until January 1, 2006, if the base investment exceeded \$8 million, an investor would be allowed a tax credit of 15% of his or her total investment. Until January 1, 2006, the investors earned the credit at the time of investment in the production company. Any unused credit could be carried forward 10 years. These rules were amended by Act 456 of the 2005 Regular Session (Act 456).

For taxable years beginning after December 31, 2005, if the total base investment exceeds \$300,000, an investor is allowed a credit of 25% of his or her base investment amount, according to Act 456. The credit is now based only on expenditures made in-state and not on the total investment in the production. Under Act 456, the credits are earned by investors at the time that expenditures are made by a motion picture production company in a state-certified production. On or after July 1, 2010, the credit percentage rate will reduce to 20% of the base investment, and the percentage will reduce to 15% on or after July 1, 2012.

Employment Tax Credit. Beginning July 1, 2002, a motion picture production company could earn employment tax credits to use against state income or corporate franchise tax liability. The credit is based on the total payroll of Louisiana residents employed in connection with the production. The credit is 10% of the payroll if the base investment equals or exceeds \$300,000 but is less than \$1 million. If the base investment equals or exceeds \$1 million, the credit is 20% of the payroll. The salary of any employee whose salary was equal to or exceeds \$1 million could not be included in the total payroll for the purpose of calculating the credit. Any unused credit could be carried forward 10 years from the date the credit was earned.

For state-certified productions approved by the GOFTD after December 31, 2005, Act 456 provides that the production company no longer earns the employment tax credit. Instead, this credit is now earned by investors as part of the investor tax credit. If the total base investment exceeds \$300,000, an investor is allowed a credit of 10% of the amount spent on payroll for Louisiana residents employed in connection with the production. If the payroll to any person exceeds \$1 million, calculation of the credit amount will exclude any payroll amount for that person that exceeds \$1 million.

Transferability. When motion picture tax credits were enacted in 2002, tax credits could not be transferred. Beginning July 1, 2003, unused investor tax credits could be transferred to other taxpayers. The transferor and transferee of credits must notify both the LDR and the GOFTD of the transfer and provide certain information as set forth by law [R.S. 47:6007(C)(4)]. Employment tax credits were not transferable until enactment of Act 456, which provides that employment tax credits are now transferable in the same manner and subject to the same conditions and procedures as provided with investor tax credits.

Starting on January 1, 2007, investors who earn investor tax credits may transfer their tax credits to the GOFTD for 72% of the face value of the credits. Beginning January 1, 2009, and every second year thereafter, the amount receivable by an investor who transfers credits will increase 2% until the percentage reaches 80%. The DED and the GOFTD shall inform the LDR that a transfer did take place and provide the LDR with transfer documentation.

Independent Audit of Production Expenditures. For taxable years beginning after December 31, 2005, Act 456 provides that before the GOFTD issues a tax credit certification letter, the production company's expenditures and/or infrastructure expenditures are to be audited by an independent certified public accountant. The motion picture company must submit to the GOFTD an audited cost report of the production or infrastructure expenditures.

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**APPENDIX C: RESPONSE FROM THE
DEPARTMENT OF ECONOMIC DEVELOPMENT**

State of Louisiana



Kathleen Babineaux Blanco
Governor

LOUISIANA ECONOMIC DEVELOPMENT

RECEIVED
LEGISLATIVE AUDIT
2007 APR -5 PM 3: 00
Michael J. Olivier
Secretary

April 5, 2007

Mr. Steve J. Theriot, CPA
Legislative Auditor
1600 North 3rd Street
Baton Rouge, Louisiana 70804-9397

Dear Mr. Theriot:

We have received your performance audit report and have responded in kind to your recommendations as they relate to the Department of Economic Development and the Office of Entertainment Industry Development's portion of this audit report.

Recommendation 1. We agree with your findings and will initiate steps to calculate and verify the base investment amounts for those productions in which the information was missing.

Recommendation 2. We agree with your findings and as a result of Act 456 of the 2005 Regular Session of the Louisiana Legislature already track these amounts. Since tax credits are now issued on direct Louisiana spend, we feel that this and the first recommendation have been fulfilled.

Recommendation 3. We disagree with this finding as there may be numerous investors in any given project. There may also be difficulty in determining such information as confidentiality issues may arise as to individual investors wishing to remain anonymous. Finally, since the "investor" in a project is a legal entity domiciled in Louisiana and oftentimes set up as an LLC, the actual investor (real person) oftentimes doesn't earn the credit directly.

Recommendation 8. We agree with your findings and have ongoing communications with the Louisiana Department of Revenue (LDR).

Recommendation 9. We agree with your findings and will begin sending all pre-certification letters to LDR electronically.

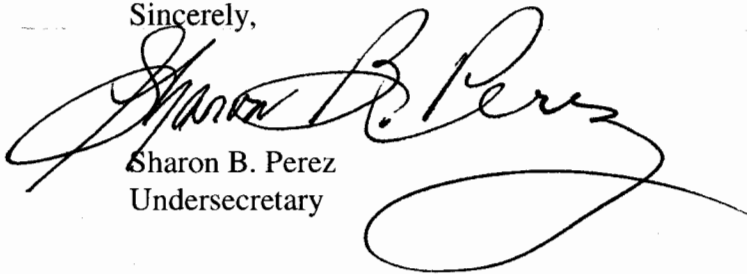
April 5, 2007
Page 2

Recommendation 10. We agree with your findings and are sending tax credit certification letters electronically within days of certification.

Recommendation 11. We disagree with your findings based upon our response to Recommendation 3. However, if an investor is made known to us, then we will certainly send LDR that information.

If you have further questions or comments, please do not hesitate to contact our office directly.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Sharon B. Perez". The signature is written over the typed name and title.

Sharon B. Perez
Undersecretary

SBP/AS/cs

cc: Sherri McConnell
Alex Schott
Chris Stelly

**APPENDIX D: RESPONSE FROM THE
DEPARTMENT OF REVENUE**



Kathleen Babineaux Blanco
Governor

Cynthia Bridges
Secretary

April 10, 2007

Mr. David K. Greer, CPA, CFE
Assistant Legislative Auditor and
Director of Performance Audit
Office of the Legislative Auditor
P. O. Box 94397
Baton Rouge, Louisiana 70804-9397

RE: Performance Audit Report on Motion Picture Tax Credits

Dear Mr. Greer:

The Louisiana Department of Revenue (LDR) has received and reviewed the performance audit report on motion picture tax credits. Below are our responses to the specific audit recommendations:

Recommendation 4: The Department of Revenue agrees with the recommendation of the Legislative Auditor and will take steps to determine the amount of motion picture tax credits taken by taxpayers for 2002 and 2003 as Departmental resources allow.

Recommendation 5: The Department of Revenue partially agrees with this recommendation. We agree that the creation of a database will enhance our ability to more accurately account for credits awarded, taken and remaining. However, with respect to the processing of motion picture tax credits, improvements in internal controls will enhance but not eliminate processing errors. This is due to the fact that credits taken on the returns are based on information the taxpayer has and it may be different from data LDR has received from the GOFTD. In most cases, LDR staff is using the most recent information obtained from the GOFTD in approving the credit taken per the return.

Recommendations 6: The Department of Revenue partially agrees with the recommendation to hire or appoint an additional person to process returns where motion picture tax credits are claimed. It is our position that as the awarding and claiming of the motion picture tax credits has increased, the Department has devoted additional resources in an effort to properly account for the credits utilized. As is the case with all credits allowed by statute and claimed on tax returns, the Department is committed to dedicating a level of resources that will allow for the most effective review and control given the resource constraints under which we operate. We agree that adding personnel to the process will improve the processing time on returns where a motion picture credit is claimed; however, enhancing the approval process is the only way to improve controls.

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TDD: 225-219-2114 www.revenue.louisiana.gov

Contributing to a better quality of life.

Mr. David K. Greer
April 10, 2007
Page 2 of 2

Recommendation 7: The Department of Revenue agrees with this recommendation and is in the process of recapturing the \$234,000 of employment tax credits erroneously transferred in calendar years 2003 and 2004.

Recommendation 8: The Department of Revenue agrees with this recommendation and will meet with the appropriate counterparts at GOFTD to discuss our respective roles related to the oversight of motion picture tax credits and to develop strategies to allow the most effective administration possible.


The contact person responsible for the corrective actions above is Barbara Roe, Director of the Post Processing Services Division.

Recommendation 12: The Department of Revenue respectfully disagrees with your recommendation that an Attorney General's Opinion is needed regarding "whether motion picture tax credits should reduce income taxes designated to be paid into the Sports Facility Assistance Fund (SFAF), pursuant to R.S. 39:100.1(B)." It is our position that the statute is very clear in that "income taxes collected" from nonresident athletes should be placed in the SFAF. R.S. 39:100.1 does not contain any language that could be construed as having the effect of defining income taxes collected in any manner other than the tax liability after credits have been applied.

Our responses are based upon the Legislative Auditor's probable presumption that all reductions of income, reductions of tax liability or credits taken by taxpayers must be verified. The federal and states taxing schemes are based upon and rely primarily on voluntary compliance. The Department of Revenue does not audit each and every taxpayer, nor should it strive to do so. Nor does the Department of Revenue receive the resources necessary to review every tax credit. We expend the resources we are allotted in a manner that encourages the highest level of voluntary compliance. Our strategies include, but are not limited to, random audit selection and return review, as well as providing general information and specific educational programs.

We appreciate the courtesy extended to us by your audit team. Please call me at 219-2710 or Beth Heim, Internal Audit, at 219-2011, if you have any questions or require additional information.

Sincerely,



Clarence J. Lyman, CPA
Undersecretary

CL/kb

C: Cynthia Bridges
Courtney Shepler
Phyllis Perry
Mike Pearson
Barbara Roe



Louisiana Legislative Auditor
Performance Audit Division

Checklist for Audit Recommendations

Instructions to Audited Agency: Please check the appropriate box below for each recommendation. A summary of your response for each recommendation will be included in the body of the report. The entire text of your response will be included as an appendix to the audit report.

RECOMMENDATION(S)	AGREE	PARTIALLY AGREE	DISAGREE
Recommendation 4: If resources allow, the LDR should determine the amount of motion picture tax credits that were taken by taxpayers for 2002 and 2003.	X		
Recommendation 5: LDR needs to improve their internal controls over the processing of motion picture tax credits. LDR should establish a database to track taxpayers claiming motion picture tax credits. Controls should be built in to prevent erroneous processing. At the least, the database should clearly present credits awarded, taken, and remaining.		X	
Recommendation 6: Hiring or appointing an additional person to process motion picture tax credits might improve controls. This person could help maintain a database, or help the present LDR employee if LDR continues to manually process motion picture tax credits.		X	
Recommendation 7: For the \$234,000 in employment tax credits that were improperly transferred in calendar years 2003 and 2004, LDR needs to recapture any tax credits that were improperly claimed by taxpayers.	X		

<p>Recommendation 8: GOFTD and LDR officials should meet and discuss their roles related to the oversight of motion picture tax credits. During the meeting(s), they should identify and agree upon strategies that will allow the agencies to administer motion picture tax credits in the most effective manner possible.</p>	<p>X</p>		
<p>Recommendation 12: The LDR should seek a legal opinion from the Attorney General concerning whether motion picture tax credits should reduce income taxes designated to be paid into the Sports Facility Assistance Fund, pursuant to R.S. 39:100.1(B).</p>			<p>X</p>