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MEMORANDUM

To: Members of the House Committee on Taxation

From: Adam Siebers, Assistant Revisor

Date: March 15, 2023

Subject: Senate Bill No. 91

Summary

Senate Bill No. 91 creates the Kansas Film and Digital Media Production Development Act. This Act provides tax incentives to production companies and grants and loans to further educational programs, workforce development and for direct financial support to businesses for the purpose of developing the film and digital media industry in Kansas. The Act is administered by the Secretary of Commerce with the assistance of the Kansas Creative Arts Industries Commission. Projects must be approved by the Secretary of Commerce. The Act would commence July 1 and discontinue in 2033.

The Kansas Film and Digital Media Production Development Act provides:

- (1) Income tax credit for production companies based on a percentage of production on postproduction expenditures in Kansas as approved by the Secretary of Commerce.
- (2) Sales tax exemption for production or post-production expenditures.
- (3) Grants for educational institutions for industry-related educational programs.
- (4) Grants for workforce development in connection with a project by educational institutions (not-for-profit universities or colleges, community colleges or technical colleges with a main campus or principal operations in Kansas) or for employee training by a production company.
- (5) Direct investments in Kansas production companies or vendors seeking to engage in or engaged in a project.

Tax Credit and Sales Tax Exemption for Production Companies

- (1) The income tax credit is based on the amount of production or post-production expenditures made in Kansas by the production company that are approved by the Secretary of Commerce. Must be directly used in the production and not include expenditures for which another taxpayer claims the tax credit. The income tax credits are based on certain percentages of “qualified expenditures.”
- (2) Tax credit is applied against the production company’s income tax liability for the taxable year in which the qualified expenditures were made. All qualified production expenditures incurred during the taxable year to be submitted for credit as part of same return.
- (3) **Unused credits may be carried over for next succeeding 10 taxy years. HB 2182 had credit as a refundable tax credit. Unused credits may continue to be transferred.**
(Sec. 4(k))
- (4) Claim to be made within a year of the date of the last eligible expenditure. **A production company may request for an extension of time up to 6 months to submit a claim to the Secretary of Revenue.**
- (5) Income tax credits are limited to an aggregate total of \$10,000,000 in a tax year. 10% of the total is to be designated for Kansas-based production companies. (Sec. 3(b))
- (6) Basic credit is 30% of:
 - a. Qualified production expenditures; or
 - b. qualified postproduction expenditures if no production expenditures.
- (7) Credit available for up to additional 5% of qualified production expenditures for multi-film deal, television series, high-impact production or of contributions to film-related infrastructure or workforce development.
- (8) Credit available for up to additional 5% of qualified production expenditures if 50% or more of the crew or above-the-line personnel are Kansas residents; or
- (9) In addition to the above amounts, up to a further additional 5% of the amount of qualified production or postproduction expenditures for a certified project of a production company that has previously received an income tax credit under this act with respect to such certified project.

- (10) Special or additional nonrefundable credit of 25% for a Kansas-based production company if at least \$25,000 in qualified expenditures, including for production not intended for multimarket distribution. **Unused credits may be carried over for next succeeding 10 tax years.**
- (11) Sales tax exemption for production or post-production expenditures.

Grant Programs

Grants for educational purposes or programs (Section 7)

Purpose to develop Kansas educational programs directly relevant to development and support of the Kansas film and digital media industry.

May be awarded to not-for-profit postsecondary educational institutions with a main campus or principal operations in Kansas, including public or private four-year universities or colleges, community colleges or technical colleges.

Secretary of Commerce to select institutions engaged in or that seek to engage in educational programs or activities related to the film and digital media industry in Kansas.

Grants may be for:

- * Internships or apprenticeship programs.
- * Scholarships and loan forgiveness.
- * Curriculum development or staff.
- * Resources such as lab facilities or equipment.

Funding

- *Subject to appropriation acts, \$1,000,000 each fiscal year.

Workforce Training and Business Direct Investment Grant and Loan Program (Section 8)

Funding

- * Subject to appropriation acts, \$1,000,000 per fiscal year.

Workforce Training

Grants or loans to be awarded in connection with projects, for purposes of facilitating and supporting projects and developing Kansas film and digital media industry.

Grants may be made for:

- * Apprenticeship programs for Kansas residents.

- * Crew training for Kansas residents including training provided by not-for-profit Kansas educational institutions such as four-year public or private educational institutions, public community colleges or public technical schools.

- * Employee training provided by any production company or a Kansas company involved in the industry and engaged in a project.

- * Developing training models for use by Kansas educational institutions.

Direct Investments in Kansas Companies

- * For Kansas companies in the film and digital media production industry that will or seek to be engaged in certified projects, either as a production company or vendor.

- * Direct investment 80% loan and 20% grant.