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The original instrument was prepared by Leonore F. Heavey. The following digest, which does not constitute a part of the legislative instrument, was prepared by J. W. Wiley.

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DIGEST

SB 254 Reengrossed                      2017 Regular Session                      Morrell

Present law authorizes five types of tax credits for state-certified motion picture productions:

- (1) A base investment credit of 30% for projects in excess of \$300,000.
- (2) A base investment credit of 30% for projects between \$50,000 and \$300,000, meeting certain hiring criteria.
- (3) An additional base investment credit of 15% for projects meeting certain Louisiana screenplay criteria.
- (4) An additional credit of 10% for Louisiana resident payroll expenditures.
- (5) An additional credit of 15% for certain Louisiana music expenditures.

Proposed law authorizes five types of tax credits for state-certified productions:

- (1) A base investment credit of 25% for projects in excess of \$300,000, or if a production is a LA screenplay production.
- (2) An additional base investment credit of 5% for projects filmed outside the New Orleans Metro Zone, as delineated by the federal OM&B but not including St. John the Baptist Parish.
- (3) An additional base investment credit of 10% for certain expenditures equal to or greater than \$50,000 but no greater than \$5 million for projects meeting certain Louisiana screenplay criteria.
- (4) A 15% credit for Louisiana resident payroll expenditures.
- (5) A 5% credit for certain Louisiana-based visual effects expenditures meeting certain requirements.

Proposed law limits the maximum credit available for the combined base investment, the out-of-zone and Louisiana screenplay base investment enhancements, and the additional Louisiana payroll and visual effects credits to 40% of base investment.

Proposed law also creates a new payroll tax credit for qualified entertainment companies. The tax credit is 15% for Tier 1 new jobs with payroll between \$45,000 and \$66,000 per year, or 20% for Tier 2 new jobs with payroll between \$66,000 and \$200,000 per year.

Proposed law adds numerous definitions, eligibility criteria, and procedural requirements for new qualified entertainment company payroll credit.

Proposed law requires all state-certified productions participate in a career-based learning and training program approved by the office.

Present law specifies that state-certified productions may only seek one final certification of tax credits after the expiration of the initial certification period, except for state-certified productions with Louisiana post production activities.

Proposed law adds an exception for state-certified productions for scripted episodic content and qualified entertainment credits, which may request final certification of tax credits more than once.

Proposed law requires that catering and craft services be purchased from a Louisiana source to be eligible for the tax credit.

Proposed law defines "independent film production" and "Louisiana screenplay production".

Proposed law ends transfers of certain motion picture tax credits to third parties after 12/31/17.

Present law provides that motion picture production companies may transfer credits to the Department of Revenue for 85% of the face value.

Proposed law retains present law for projects with an application date before July 1, 2017.

Proposed law provides that projects with an application date on or after July 1, 2017, may transfer credits to the Department of Revenue for 90% of the face value.

Proposed law adds requirements to the application process that prevents stacking of film credits.

Proposed law makes the \$150 million annual credit granting cap permanent for applications submitted on or after July 1, 2017. Adds a 5% carve out of the front-end cap to qualified entertainment companies, a 5% carve out for Louisiana screenplay productions and a 10% carve out for independent film productions.

Present law provides that a single state-certified production shall not exceed \$30 million.

Proposed law provides that a single state-certified production shall not exceed \$20 million, except for state-certified productions for scripted episodic content which may grant up to \$25 million per season.

Present law requires the Senate Committee on Revenue and Fiscal Affairs and House Committee on Ways and Means to study this tax credit and make a recommendation regarding the tax credit by March 1, 2017.

Proposed law replaces the study and recommendation provision with a sunset provision that provides that no credits shall be authorized for applications received after July 1, 2025.

Present law specifies that for fiscal years 2015-2018, no more than \$180 million may be claimed on returns, and that there shall be no cap beginning in Fiscal Year 2018-2019.

Proposed law specifies that beginning July 1, 2017, no more than \$180 million of credits may be claimed on tax returns or transferred to the Department of Revenue per fiscal year.

Proposed law provides for a procedure for the transfer of legacy tax credits that have been recorded in the Louisiana Tax Credit Registry by July 1, 2017, to the Dept. of Revenue for 85% of face value.

Proposed law requires the Department of Revenue to subtract the face value of the credit from the remaining available cap when a credit or legacy credit is transferred to the Department of Revenue for completed transfer applications submitted to the Department of Revenue after July 1, 2017.

Present law contains several duplicate provisions of law that proposed law removes or merges.

Proposed law repeals amendments to R.S. 47:6007 contained in Act Nos. 129, 134, 141, 142, 143, 144, 412, 417, 425, and 452 of the 2015 Regular Session of the Legislature to the extent they conflict with proposed law.

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

(Amends R.S. 47:6007(B)(1), (8), (11) as amended by Acts 2015, No. 129, (14), (16) as amended by Acts 2015, No. 141, (17) as amended by Acts 2015, No. 129, (21), (24), R.S. 47:6007(C)(1), R.S. 47:6007(C)(1)(a) and (b), (C)(1)(c)(intro para) and (4)(intro para), and (C)(4)(f) as amended by Acts 2015, No. 129 and 134, R.S. 47:6007(D)(1)(a) and (2)(c)(i) as amended by Acts 2015, No. 141, (d), (D)(2)(e)(i) as amended by Acts 2015, No. 144, (D)(9)(b)(i), and (I); adds R.S. 47:6007(B)(28), (29), (30), (31), (32), (33), (34), and (C)(3)(d), (C)(4)(g), (D)(1)(d)(v) and (2)(a)(i)(gg) and (hh), (2)(a)(ii) and (e)(iv) and (J); repeals R.S. 47:6007(B)(4), (11) as amended by Acts 2015, Nos. 134 and 144, (16) as amended by Acts 2015, No. 134 and 412, (17)(c), (d), and (e) all as amended by Acts 2015, Nos. 134, 141, 142, 143, 144, and 412, (23), (C)(1)(d), (C)(4)(f) as amended by Acts 2015, No. 144, (D)(2)(c)(i) as amended by Acts 2015, No. 412, (D)(2)(e)(i) as amended by Acts 2015, Nos. 129, 141, and 412)

### Summary of Amendments Adopted by Senate

#### Senate Floor Amendments to engrossed bill

1. Requires a CPA to certify that all tax credits allocated to partners of a partnership or members of an L.L.C. conform with federal tax requirements.
2. Requires that catering and craft services purchased from a LA source be eligible for the tax credit.
3. Defines "independent film production" and "Louisiana screenplay production".
4. Reduces the base investment credit from 30% to 25%.
5. Changes boundaries of the additional base investment credit of 10%
6. Adds the payroll credit and the visual effects credits to the provision that limits the maximum credit rate a production can receive to 40% of the total base investment.
7. Ends transfers of tax credits to third parties after 12/31/17.
8. Changes the sunset date from 1/1/2023 to 7/1/2025.
9. Makes the \$150 million annual credit granting cap permanent.
10. Adds a 5% carve out of the front-end cap to qualified entertainment companies, a 5% carve out for Louisiana screenplay productions, and a 10% carve out for independent film productions.
11. Makes technical corrections.

### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the reengrossed bill:

1. Delete requirement that a production expenditure report contain an opinion from a qualified accountant regarding a disguised sale of credits.

2. Delete certain provisions regarding the transfer of tax credits from proposed law.
3. Excepts fringe benefits from the definition of payroll.
4. Change the date from Jan. 1, 2018, to July 1, 2017, for tax credits not previously claimed by a taxpayer from being transferred or sold to another taxpayer.
5. Increase the La. payroll tax credit from 10% to 15% for base investment expended on the payroll of La. residents.
6. Increase the Tier 1 payroll credit from 10% to 15% for new jobs with payroll between \$45,000 and \$66,000 per year.
7. Delete prohibition that a procurement company be considered a source within the state in favor of a requirement that procurement companies that meet the definition established by rule by the office be considered a source within the state.
8. Add criteria for the definition of "procurement company" for the office when promulgating the definition by administrative rule.