## HOUSE SUMMARY OF SENATE AMENDMENTS

**HB 829** **2015 Regular Session** **Robideaux**

TAX CREDITS: Provides relative to the motion picture investor tax credit

**Synopsis of Senate Amendments**

1. Reduces the limit on credit certifications from $200 million to $180 million and caps the payout amount of credits and transfers to LED at $180 million each fiscal year.

2. Reduces the additional "payroll" credit from 10% to 5% and expands the limitation of payroll to which the additional credit for employing Louisiana residents applies to include other compensation such as benefits paid to an individual for purposes of calculating the $1 million cap.

3. Deletes the additional tax credit of 15% for expenditures on music, the sound recording copyright or musical copyright of which is owned in whole or in part by a resident of Louisiana or a Louisiana company headquartered in the state with a majority ownership of residents of Louisiana.

4. Deletes the additional tax credit of 15% for productions in excess of $300,000 based on a screenplay, the copyright or the right of use of the copyright of which, is owned by a La. resident company or a La. company with its principal place of business in the state which employs a minimum of three full-time La. residents.

5. Limits the maximum amount of "marketing and promotion expenses" eligible for the credit to the lesser of $300,000 or 15% of the total state-certified credits for the production.

7. Requires eligible "motion pictures" to be nationally *and* internationally distributed and requires productions for any online digital platform viewing to be viewed with a paid subscription.

8. Defines "slate of productions" as an aggregation of projects with a combined total of qualified expenditures that exceed $300,000 for activities occurring in La. occurring over a maximum of 24 months.

9. Adds the Student Assessment for a Valuable Education (SAVE) Credit Program to the bill.

10. Provides that the credit is a transferable, nonrefundable credit against the tax liability of a student, or his parent or legal guardian, against income, sales and use, gasoline and special fuel taxes.

11. Requires the credit to be transferred to the Board of Regents for application as provided in proposed law.

### Digest of Bill as Finally Passed by Senate

Present law provides for an income tax credit for La. taxpayers for investment in state-certified productions earned at the time expenditures are made by a motion picture production company in a state-certified production. The amount of the credit is equal to 30% of the base investment made by the investor if the total base investment is more than $300,000. Additionally provides for a credit equal to 5% of base investment expended on payroll for La. residents employed in connection with a state-certified production. However, this credit does not apply to the payroll of any one person that exceeds $1 million. Present law further provides that the credit shall be allowed against the income tax for the taxable period in which the credit is earned or for the taxable period in which initial certification authorizes the credit to be taken.

Proposed law caps the maximum amount of credits which may be certified annually for the program by the office and the secretary at $180 million and beginning July 1, 2015, caps the amount of credits available for any single state-certified production at $30 million.

Proposed law caps claims against state income tax allowed beginning in FY15-16 on returns or transfers of tax credits to the office at $180 million each fiscal year. Credits shall be allowed on a first-come-first-served basis and if the amount of certified credits for a year exceeds the maximum amount of credits allowed for that year, the excess shall be treated as having been applied for on the first day of the subsequent year. Claims disallowed in any year may be used on a return filed in the next fiscal year or may be transferred to the office the next fiscal year. If less than $180 million in credits or transfers are allowed in a fiscal year, the remaining amount, plus any amounts remaining from previous fiscal years, shall be added to the cap amount in a subsequent fiscal year.

Present law limits "payroll" eligible for the additional 5% tax credit for Louisiana-residents to exclude any portion of an individual salary in excess of $1 million.

Proposed law excludes from "payroll" any portion of the salary, wages, and other compensation including benefits paid to an individual in excess of $1 million.

Present law defines "production expenditures" to include preproduction, production, and postproduction expenditures in this state directly relating to a state-certified production. However, the term specifically excludes expenditures for marketing and distribution.

Proposed law adds eligibility for "marketing and promotion expenses"; however, the amount of those expenses eligible for tax credits cannot exceed the lesser of $300,000 or 15% of the total state-certified tax credits for the production. "Marketing and promotion expenses" includes expenditures in a production budget made in this state for services performed in this state directly relating to the development of advertising and marketing campaigns for a state-certified production. Proposed law excludes media buys in marketing and promotion expenses except as established by rule for a fixed fee or commission payment made to a Louisiana company for services performed in the state in accordance with standard business practices.

Present law defines a "motion picture" to include nationally or internationally distributed feature-length film, video, television pilot, and television series made in La. The term "motion picture" shall not include the production of television coverage of news and athletic events.

Proposed law requires an eligible "motion picture" to be a nationally *and* internationally distributed feature length production and expands the definition to include animated short films, documentaries, and productions for any online digital platform viewing with a paid subscription approved by the office.

Proposed law grants a tax credit of 30% if the total base investment is greater than $50,000, but less than $300,000 for each production which has employed a director or directors who is a resident of this state and can prove Louisiana residency for a minimum of two years. However, each applicant must accept as a condition for earning this tax credit, that no less than 75% of the total amount of the applicant's expenditures for "above the line" services is expended on residents and that 75% or more of the total number of jobs in the production are jobs in which the applicant will employ residents. Failure to comply voids the certification and no tax credits shall be certified or earned by the applicant.

Proposed law defines "above the line services" as services of a producer, executive producer, line producer, co-producer, assistant producer, actor, director, casting director, screenwriter, and other services performed by personnel of the production that are associated with the creative or financial control of a production and customarily considered above the line services in the film and television industry.

Present law defines a "resident" as a person who maintains a permanent place of abode within the state and spends in the aggregate more than six months of each year within the state shall be presumed to be domiciled in the state.

Proposed law requires a "resident" to be a legal resident and maintain a permanent place of abode in this state for no less than 12 consecutive months.

Proposed law defines "slate of productions" as an aggregation of motion picture production projects with a combined total of expenditures that exceed $300,000 for activities occurring within the state over a maximum of 24 months, not including more than three state-certified productions with no production in the slate exceeding $300,000.

Proposed law defines a "Louisiana resident company" as a company licensed to conduct business in this state, with its principle place of business in this state which is owned 100% by a natural person who is a legal resident and who has been domiciled in this state and has maintained a permanent home in this state for no less than 12 consecutive months. A Louisiana resident company is required to file a La. income tax return and maintain a physical location in the state.

Proposed law defines "principal place of business" as the state where the administrative or management activities of a business are conducted. A company claiming that its principal place of business is in La. must be headquartered in La., and shall not have any fixed locations outside of this state in which administrative or management activities are conducted, and the company shall be required to maintain a physical location in the state. Furthermore, the company shall be licensed to conduct business in this state, shall be required to file a La. income tax return.

Present law requires an application fee to be submitted with a tax credit application. The amount of the fee shall be based on two-tenths of 1% multiplied by the estimated total of the credit. The minimum amount of the fee shall be $200 and the maximum amount of the fee shall be $5,000. Further requires the application fee to be deposited into the Entertainment Promotion and Marketing Fund to be used solely for promotion and marketing of entertainment industry in this state.

Proposed law changes present law by providing that the monies deposited into the Entertainment Promotion and Marketing Fund can be used for costs associated with the administration of the motion picture investor tax credit program.

Proposed law establishes the Student Assessment for a Valuable Education (SAVE) Credit Program.

Proposed law requires the Board of Regents (the board) to implement a Student Assessment for a Valuable Education (SAVE) Credit Program for each student enrolling at a public institution of higher education. Each student assessed shall be granted a SAVE credit against income, sales and use, gasoline and special fuel taxes equal to the individual amount of a SAVE assessment. The amount of each credit shall not exceed the average household tax liability in La. for the total of such taxes as determined and published by the Dept. of Revenue (DOR) no later than June 30th of each fiscal year.

Proposed law provides that the SAVE credit is a transferable, nonrefundable credit against the tax liability of a student, or his parent or legal guardian. Requires the credit to be transferred to the board and used solely as provided in proposed law for each student enrolled in a public institution of higher education on and after July 1, 2015.

Proposed law requires DOR to distribute student eligibility determination criteria to the board to be used for requesting the credit for student assessments from the department. Student eligibility is to be based on the tax liability set forth above paid to the state by all of the students and their parents or legal guardians in the prior year as determined by DOR.

No later than June 30th of each fiscal year, the board is required to certify to DOR the total headcount enrollment at public institutions of higher education in the previous fall. DOR must then determine the total amount of the credit and shall transfer that amount from the current collections of taxes to the treasurer. Upon receipt of the funds, the treasurer is authorized and directed to transfer or deposit the funds into the Higher Education Initiatives Fund. The secretary of DOR and the treasurer shall report their action to the commissioner of administration and the Joint Legislative Committee on the Budget. In no event can the credit or assessment exceed the amount appropriated by the legislature from the Higher Education Initiatives Fund each fiscal year. For FY15-16, the total allowable amount available for transfer shall be designated in the supplementary section of Schedule 19-671 Board of Regents in the Act that originated as HB No. 1 of the 2015 R.S. of the Legislature. The legislature shall determine the total allowable amount available for transfer for FY16-17 and thereafter.

Proposed law requires the board to distribute all funds appropriated from the Higher Education Initiatives Fund derived from the SAVE Credit program pursuant to its formula for the equitable distribution of funds to public institutions of higher education.

Proposed law provides that no student or student's parent or legal guardian shall be required to pay an assessment that is not offset by a SAVE Credit.

Proposed law provides that the tax credit registry is not applicable to the proposed law.

Effective July 1, 2015.

(Amends R.S. 47:6007(B), (C)(1)(intro. para.), (c), and (d) and (2), and (D)(4)(ii)(aa); Adds R.S. 47:6007(C)(1)(e) and 6039)