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MEMORANDUM

To: Members of the House Committee on Taxation
From: Office of Revisor of Statutes
Date: March 12, 2025
Subject: Senate Bill No. 52 (As Amended by Senate Committee)

Summary

Senate Bill No. 52 creates the Kansas Film and Digital Media Production Development Act. The Act provides tax incentives for eligible projects produced in Kansas for the purpose of developing the film and digital media industry in Kansas. The Act would be 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, 2025, and no income tax credit or sales tax exemption would apply to production or postproduction expenditures made after 2034.

The provisions of Senate Bill No. 52 mirrors House Bill No. 2038 except that Senate Committee added a limitation to the sales tax exemption provided under the Act where the aggregate total amount of sales exempt from tax shall not exceed \$1,000,000 per year per production company including any contractors of the production company. Additionally, the amount of credit available for each tax year was lowered from \$10,000,000 to \$5,000,000.

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.

Income Tax Credit for Production Companies

- (1) The income tax credit for tax years 2025 through 2034 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. 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. Excess amounts of tax credit may carry over for deduction in next succeeding years but not after the 10th succeeding year. (Sec. 4(a))
- (3) Credit is transferrable and excess amounts of tax credit may carry over for deduction in next succeeding years but not after the 10th succeeding year for a transferee. (Sec. 4(k))
- (4) Claim to be made within a year of the date of the last eligible expenditure. (Sec. 4(b))
- (5) The aggregate total amount of income tax credits allowed shall not exceed **\$5,000,000** (change from \$10,000,000 in HB 2038) in a tax year. 10% of the total shall be designated for Kansas-based production companies. (Sec. 4(l))
- (6) The maximum cumulative amount of all income tax credits awarded to a production company for a certified project for a taxable year shall not exceed 40% of the total qualified production expenditures or qualified postproduction expenditures. (Sec. 4(h))
- (7) Prior to receipt of any income tax credit, the Secretary of Commerce shall examine the expenditures and other evidence provided by the production company to determine compliance with the Act. The Secretary shall notify the production company and Secretary of Revenue of determinations of qualified expenditures as well as any disqualifications. (Sec. 3(f), (g) and (h))

Amount of Credits

- (1) Basic credit is 30% of:
 - a. Qualified production expenditures; or
 - b. qualified postproduction expenditures if no production expenditures. (Sec. 4(d))
- (2) Additional credit available for up to 5% of qualified production expenditures for multi-film deal, eligible television series, high-impact production or of contributions to film-related infrastructure or workforce development. (Sec. 4(e))
- (3) Additional credit available for up to 5% of qualified production expenditures if 50% or more of the crew or above-the-line personnel are Kansas residents. (Sec. 4(e))

- (4) In addition to the above amounts, credit up to an additional 5% 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. (Sec. 4(e))
- (5) Special or additional 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. (Sec. 4(f))

Sales Tax Exemption for Production Companies

- (1) Sales tax exemption for:
 - a. Sales of tangible personal property or services constituting production or postproduction expenditures purchased for the purpose of a certified project; and
 - b. the sale or installation of machinery and equipment and the construction, maintenance, repair or modification of sets, props or scenery or other facilities, constituting production or postproduction expenditures by such production company for use in this state for a certified project. (Sec. 7)
- (2) Production companies may obtain project exemption certificates for contractors.
- (3) Exemptions must be approved and may be limited by the Secretary of Commerce. (Sec. 3(e) and Sec. 7)
- (4) No sales tax exemption pursuant to the Act shall apply to production or postproduction expenditures made on or after January 1, 2035. (Sec. 6)

Kansas Film and Digital Industry Development Program Administration

- (1) The Act requires a production company to make an application for approval of a production as an eligible production and for designation as a certified production prior to commencement of a project or of principal photography and to provide evidence of adequate financing and general liability insurance, a description of the project and an economic impact statement to the Secretary of Commerce. (Sec. 3(c))
- (2) If an application is approved by the Secretary of Commerce, the productions company is required to enter into an agreement with the secretary on terms as the secretary requires and must agree to provide documentation and information, to cooperate with any audits and to the termination of tax credits and sales tax exemption and repayment if the terms of the agreement or the requirements of the Act are not met. (Sec. 3(d) and (i))

(3) The Secretary of Commerce and the Secretary of Revenue may adopt rules and regulations to implement the provisions of the act. (Sec. 3(j))