Date of Hearing: March 25, 2013

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND INTERNET MEDIA
Ian C. Calderon, Chair

AB 1839 (Gatto and Bocanegra) – As Amended: March 19, 2014

SUBJECT: Income taxes: qualified motion pictures.

SUMMARY: Extends for five years the requirement that the California Film Commission (CFC) annually allocates tax credits to qualified motion pictures, as specified, continuing through the 2021-22 fiscal year and would recast these credits as Personal Income Tax Credits beginning on and after January 2016. Removes the $75 million dollar cap on the budget for a qualified motion picture and instead places a cap on the amount of credits a qualified motion picture is eligible to receive, as specified. Expands the portion of the program which covers television series beyond the current cable-TV only eligibility, to include all television series, as defined, regardless of broadcast media. Provides a new incentive for productions located outside of the Los Angeles zone, as specified. Makes various technical changes. Specifically, this bill:

1) Extends the requirement in law that that CFC annually issue tax credits to qualifying motion picture productions, as specified, through the 2021-22 fiscal year. (See Existing Law for a detailed explanation of the film tax credit program).

2) Declares that the credit shall be 20% of the qualified expenditures attributable to the production of a qualified motion picture in California, including, but not limited to:

   a) A feature, up to $100,000,000, or;

   b) A television series in its second or subsequent years of receiving a tax credit allocation pursuant to this section.

3) Defines a "Qualified motion picture" to mean a motion picture that is produced for distribution to the general public, regardless of medium, that is one of the following:

   a) A feature with a minimum production budget of $1,000,000.

   b) A movie of the week or miniseries with a minimum production budget of $500,000.

   c) A new one-hour television series of episodes longer than 40 minutes each of running time, exclusive of commercials, that is produced in California, with a minimum production budget of $1,000,000 per episode.

   d) An independent film.

   e) A television series that relocated to California.

f) A pilot for a new television series that is longer than 40 minutes of running time, exclusive of commercials, that is produced in California, and with a minimum production budget of $1,000,000.

g) Requires the CFC to increase the applicable percentage by 5%, not to exceed a maximum of 25%, if the qualified motion picture incurred or paid the qualified expenditures relating to original photography outside the Los Angeles zone.

4) Provides the following definitions:

a) "Applicable period" means the period that commences with preproduction and ends when original photography concludes. The applicable period includes the time necessary to strike a remote location and return to the Los Angeles zone.

b) "Los Angeles zone" means the area within a circle 30 miles in radius from Beverly Boulevard and La Cienaga Boulevard, Los Angeles, California, and includes Agua Dulce, Castaic, including Lake Castaic, Leo Carillo State Beach, Ontario International Airport, Piru, and Pomona, including the Los Angeles County Fairgrounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch property is within the Los Angeles zone.

c) "Original photography" includes principal photography, additional unit photography, and reshooting original footage.

d) "Qualified expenditures relating to original photography outside the Los Angeles zone" means amounts paid or incurred during the applicable period for tangible personal property used or consumed outside the Los Angeles zone and relating to original photography outside the Los Angeles zone and qualified wages paid for services performed outside the Los Angeles zone and relating to original photography outside the Los Angeles zone.

5) Restructures and increases the allocation from 20% to 25% of the qualified expenditures relating to music scoring and music editing attributable to the production of a qualified motion picture in California.

6) Requires the CFC to set aside the lesser of 10% of the amount specified in subparagraph (A) of paragraph (1) or $20,000,000 of tax credits each fiscal year for independent films, as specified.

7) Further requires the CFC to set aside up to $30,000,000 of tax credit each fiscal year for television series that relocated to California, as specified.

8) Make various technical changes.

EXISTING LAW:

1) Establishes a motion picture production tax credit, equal to either:

a) 20% of the qualified expenditures attributable to the production of a qualified motion picture, or;

   b) 25% of the qualified expenditures attributable to the production of a television series that relocated to California, or an independent film.

2) Defines "independent film" as a film with a budget between $1million and $10 million produced by a non-publicly traded company which is not more than 25% owned by publicly traded companies.

3) Requires the CFC to administer a motion picture production tax credit allocation and certification program, as follows:

   a) Taxpayers will first apply to the CFC for a credit allocation, based on a projected project budget.

   b) Upon receiving an allocation, the project must be completed within 30 months.

   c) The taxpayer must then provide the CFC with verification of completion and documentation of actual qualifying expenditures.

   d) Based on that information, the CFC will issue the taxpayer a credit certificate up to the amount of the original allocation.

4) Defines "Qualified motion pictures" as one produced for general distribution to the public, and include feature films with budgets between $1 million and $75 million; Movies of the Week with a minimum budget of $500,000, and new television series with a minimum production budget of $1 million.

5) Requires that in order to be eligible for the credit, 75% of the production days must take place within California or 75% of the production budget is incurred for payment for services performed within the state and the purchase or rental of property used within the state.

6) Declares that the credit is not available for commercial advertising, music videos, motion pictures for non-commercial use, news and public events programs, talk shows, game shows, reality programming, documentaries, and pornographic films

7) Requires that the CFC allocate $100 million of credit authorizations each year during the period 2009-10 through 2015 on a first-come, first-served basis, with 25% of the allocation reserved for independent films.

8) Declares that any unallocated amounts and any allocation amounts in excess of certified credits may be carried over and reallocated by the CFC.

9) Provides that qualifying taxpayers could claim the credit on their tax return filed with the Franchise Tax Board (FTB) under either the Personal Income Tax or Corporation Tax.

10) Provides further that taxpayers may use certified credits in a number of ways, they may;

   a) Claim it directly;

b) Assign it to another member of their unitary group;

c) Sell the credits to other taxpayers, or;

d) Elect to apply the credit against their sales and use tax liability.

11) Specifies that the CFC will allocate $100 million of credit authorizations each year during the period starting July 2015 until July 2017 on a first come first served basis.

FISCAL EFFECT: Unknown

COMMENTS:

1) Author's statement: According to the author, "Hollywood is internationally celebrated as home of the entertainment industry, having established itself as a film-making locale by the early 1900s. The entertainment industry creates hundreds of thousands of good paying middle class jobs and billions in economic activity throughout California each year, and hopefuls still flock to the area with dreams of being 'discovered.' Unfortunately, the film industry's last big peak occurred in 1997, and the steady, local jobs offered by the industry have been under constant attack.

"Since the late 90s, film production has been lured across state lines to other states and nations that have sought to attract the notoriety, tax revenues, and workforce. There are now more than 40 states and numerous other countries that offer incentives, almost all of which are substantially larger than California's. In the last 15 years, film production has dropped nearly 50% in California. In 2013, 21 of the 23 new prime time series were filmed outside of California. When production leaves California, those left jobless are not the top-tier talent, such as the actors and producers, who are often shipped to the filming locations. Instead, the below the line and behind the scenes workers take a hit, as do the ancillary businesses that serve the production sites and teams, such as the caterers, hotels, set construction companies, restaurants, etc.

"In an effort to combat production flight, in 2009, the Legislature passed the California Film and Television Tax Credit Program to promote film production and create and retain jobs in California. Since 2009, California has allocated $100 million a year to eligible film and TV productions that meet specific criteria. To date, more than 270 projects, contributing more than $4.75 billion in economic activity and creating more than 51,000 jobs, have benefitted from the program. Tax revenue generated from filming helps to pay for teachers, police officers and infrastructure throughout California.

"However, while California's incentive program has been fully subscribed to, at least 43 other states and international governments offer tax incentives for film and TV production. As more and more states create attractive production incentive programs, filming in California becomes less and less attractive, and when the production goes elsewhere, so do the jobs, tax revenue, local spending, and tourism that accompany it.

"By creating a more robust and better targeted incentive program, the California Film and Television Job Retention and Promotion Act will help keep more feature and television production in the state, guaranteeing thousands of well-paid, highly-skilled jobs in our local economies."

2) Existing Film Tax Credit Program: In 2009, the Legislature approved, and Governor Schwarzenegger signed, the California Film & Television Tax Credit Program (Film Tax Credit Program) as a part of the 2009 Budget plan to promote film production and to create and retain jobs in California [SBX3 15 (Calderon), Chapter 17, Statutes of 2009-10 Third Extraordinary Session, and ABX3 15, (Krekorian), Chapter 10, Statutes of 2009-10 Third Extraordinary Session].

   The CFC allocates $100 million in credits for qualified production expenditures annually - $10 million of which is set aside for qualified production expenditures incurred by independent films. Qualified taxpayers are allowed a credit against income and/or sales and use taxes, based upon qualified expenditures. Credits are not refundable, and only tax credits that are issues to an “independent film” are transferrable to an unrelated party.

   Qualified expenditures are costs that must be incurred in the State of California. They include crew and staff salaries, wages and benefits (not including wages and benefits paid to writers, directors, music directors/composers/producers, and actors), cost of rental facilities and equipment, and costs such as lodging, food, wardrobe and construction.

   To apply for the California Film and Television Incentive Program, a “qualified motion picture” must be one of the following:

   a) Eligible for 20% Tax Credit -

      - A feature film with a production budget of no less than $1 million and not more than $75 million.

      - A movie of the week or miniseries with a production budget of no less than $500,000.

      - A new television series licensed for original distribution on basic cable with a production budget of $1 million minimum and with a running time of no less than 60 minutes (including commercials).

   b) Eligible for 25% Tax Credit -

      - A television series, without regard to episode length or media distribution outlet (basic cable, premium cable, or network broadcast), that filmed all of its prior seasons outside of California and that chooses to relocate to California.

      - An “independent film” (with a production budget of at least $1 million and a maximum qualified expenditures budget of $10 million; must be produced by a company that is not publicly traded and that publicly traded companies do not own more than 25% of the producing company).

   The film must also have 75% of its production days take place in or total production budget spent in California.

In an effort to ensure fairness, the oversubscribed program is operated in a lottery manner. Applications for tax credits are due to the CFC at the beginning of June, and the CFC holds a drawing at the end of the month to select the films that will be issued credits. The number of applicants for credits far exceeds the available funds for credits: in 2012, only 27 projects out of the 322 applicants that applied were selected.

After the applications for credits have been received and the "qualified motion pictures" have been selected for the available credits, the CFC issues a credit allocation letter reserving an amount of tax credits to an applicant based upon projected qualified expenditures. If a project is approved for a credit, the project must shoot within 6 months and be completed within 30 months from the date that the application was approved.

Upon completion of the project, and before the Tax Credit Certificate is issued, the applicant must provide to the CFC several documents, including a list of qualified expenditures that has been reviewed by a trained CPA. The CFC reviews the documents with the applicant to determine if all criteria has been met, at which time the CFC will issue the credit certificate. The credit allows the taxpayer to claim the credit on their file tax return with the Franchise Tax Board under the personal income tax or the corporate tax law.

3) Major Changes Proposed to the Film Tax Credit Program Under AB 1839: As noted above, the current motion picture and television production incentive provides a 20% tax credit for feature films with budgets between $1 million and $75 million; for movies-of-the-week and mini-series with a minimum budget of $500,000; and for one-hour television series that air on basic cable channels. The current program provides a 25% tax credit for any TV series, regardless of where it airs, that relocates to California. The current program allocates $100 million to qualified production annually, of which up to $10 million is set- aside for productions made by independent (not publicly traded) companies. The current program has two more $100 million annual allocations left before it sunsets, on July 1, 2014 and July 1, 2015.

Currently, eligible applicants can receive a 20% tax credit on qualified expenditures. Under AB 1839, eligible applicants will be expanded to include:

a) A feature film with a minimum budget of $1million with no maximum; qualified expenditures limited to $100 million.

b) Any television series (with episodes longer than 40 minutes) regardless of how it is distributed (basic cable, premium pay cable, network, Internet); minimum budget of $1million per episode.

c) A pilot for a TV series with a minimum $1 million budget and longer than 40 minutes.

d) A movie of the week or mini-series with a minimum budget of $500,000.

e) A television series relocating to California can receive a 25% tax credit for the first year of relocation to California and a 20% credit for subsequent years (Currently they receive 25% for the entire run of the series).

f) A qualified production filming outside the Los Angeles zone can receive a 25% (5% increase) on expenditures incurred outside the Los Angeles zone.

g) Defines "Los Angeles zone" to mean the area within a circle 30 miles in radius from Beverly Boulevard and La Cienega Boulevard, Los Angeles, California and includes Agua Dulce, Castaic (including Lake Castaic), Leo Carillo State Beach, Ontario International Airport, Piru and Pomona (including the Los Angeles County Fair Grounds). The Metro-Goldwyn-Mayer, Inc. Conejo Ranch property shall be considered as within the studio zone

h) Music scoring and editing for a qualified production can receive a 25% (5% increase) on those qualified expenditures in California.

i) A set aside for relocating TV series of up to $30 million, and;

j) A set aside for independent productions (non-publicly traded companies) of up to 10% of the allocation or $20 million.

4) Legislative and Oversight Hearings of Arts, Entertainment, Sports, Tourism & Internet Media (AEST&IM) and Revenue & Taxation Committees: The issue of film production tax credits has come before this committee many times, in many years, in many versions. (Please see, Comment 9 below). The Committee has also studied this issue extensively, both alone and with the Committee on Revenue and Taxation.

On March 21, 2011, a Joint Oversight Hearing of the Assembly AEST&IM and the Assembly Revenue and Taxation Committees was held on, "California's Film Credit Under the Spotlight: *A Review of the Film and Television Tax Credit Program."* This was followed by the Revenue and Taxation Committee Oversight Hearing on "*Assessing Tax Expenditure Programs in Light of California's Fiscal Challenges*" on February 22, 2012, where the Film Tax Credit was again analyzed. On October 9, 2013, yet another Joint Oversight Hearing of the Assembly AEST&IM and the Assembly Revenue and Taxation Committees was held, entitled "*A Review of the California Film Tax Program*." The topics of discussion in the many hearings followed the same general themes. Below is a capsule of some of the findings which came from these many reviews of the Film Tax Credit Program.

a) Run-away Production: From the 2011 Joint Informational Hearing: At the state level, "run-away productions" are film or television productions that are developed for initial exhibition or broadcast in California, but that are actually filmed in another state or country in order to achieve lower production costs.

A number of other states (forty two at last count) have adopted or are adopting measures, including tax credits, to attract film production. Various entities (state & local governments, non-profits, labor unions and the film industry, among others) indicate that tax credits and other incentives to produce films outside California have resulted in film production moving out of California and into other states and countries.

According to the Los Angeles Economic Development Commission (LAEDC):
"Most people think of film production running away to Canada, though Europe was a quite popular destination for a while (and Romania is currently). However, run-away

production to other states has become a more significant challenge to California's film industry. This trend impacts not only production activities in the Los Angeles area, but film commissions around the state that have also been facing this competition. LAEDC tracked the location of major photography on feature film production from (2003 to 2005). Two things stood out from this informal survey. One, when productions leave California, the major studios still tend to go offshore rather than to other states. In many cases, these decisions are due to story considerations, but the financial benefits are still important components of the decision.

"The second trend is that independent producers are increasingly going elsewhere in the U.S. Other states have been busy offering new incentives or increasing the level of existing incentives for filming in their jurisdictions. More worrisome are the efforts to develop production facilities to lure more of the production process. For example, in New Mexico, there are plans to build a $60 million film, TV, and digital media production facility in Albuquerque. New York is working on a studio complex.

"LAEDC conducted research for the CFC on the job and state tax revenue implications of run-away production. On a "mid-budget" film ($17 million), 304 direct and indirect jobs were created and $1.2 million state sales and income taxes were generated. For a "large budget" film ($70 million), 928 direct and indirect jobs were created, while $10.6 million in state taxes were generated. These were conservative estimates."

According to the CFC, "In 2003, 66% of studio feature films were filmed in California. In 2009, only 38% of studio films were filmed in state. San Francisco film and TV production employment dropped 43% between 2001 and 2006.

"The Los Angeles region experienced a steady decline in feature film production days in 11 out of the last 13 years. However, Film L.A., the permitting agency for Los Angeles, reported that in 2010, feature film production posted a 28.1% fourth quarter gain and a year-over-year gain of 8.1%. “The annual increase can be wholly attributed to California’s Film and Television Tax Credit. The Program attracted dozens of new feature film projects to Los Angeles, which were responsible for 26% of local feature production for the year. Were it not for these projects, 2010 would have been the worst year on record,” reported Film L.A. in their Jan. 11, 2011 release. These numbers are an excellent early indicator that the incentive program is having an immediate impact on production levels

b) Testimony Presented to the Committees by the CFC Included the Following Information on the Economic Impacts of the Current Film Tax Credit Program: To date, $600 million in tax credits have been allocated (reserved) resulting in: Total aggregate direct spending by Program projects: $4.7 billion Total wages paid / to be paid by Program projects: $1.48 billion. (This paragraph was updated to include current figures).

In addition to the economic figures above, the CFC presented testimony at the 2011 Joint Informational hearing, which included the following testimony about the motion picture industry's general contribution to the state's economy, "The motion picture industry is an essential source of economic activity, tax revenue, jobs and tourism for California contributing $38 billion dollars annually to our state’s economy and supporting nearly 250,000 well-paying direct jobs - with health benefits.

"For instance: An average $70 million dollar feature film generates $10.6 million in state sales and income taxes. The average daily shooting costs on a feature film or TV series range from $100,000 to $250,000 per day. (That's actual dollars that each production spends on groceries, hotel rooms, gas, building supplies, props and payroll). A typical film shooting outside of Los Angeles County will spend on average $50,000 per day in a local community. The average salary for production employees is $75,000, well above the national average."

c) California Research Bureau (CRB) Data Demonstrates That Loss of Feature Film Productions Drove Down Wages, Even Though Production Days of Other Categories (Such as Reality Television) Increased: As background material for the 2011 Joint Oversight Hearing, and in support of their testimony, the CRB prepared a briefing packet that updated some basic data on employment, wages, and production in California's movie and video production industry; surveyed state Movie Production Incentive (MPI) programs nation-wide; and surveyed the scholarly and official state literatures on the operation and effects of MPIs.

The CRB researchers offered their report with the caveat that time and staffing constraints limited the comprehensiveness of our response. The following is excerpted from that document: "The industry as a whole showed modest growth over the first half of the decade through 2004, a flat trend through 2007, declined in 2008-9, followed by a sharp recovery in 2010. In California outside of Los Angeles County, the industry peaked in 2002, showed slow employment declines through 2007, and then rebounded in 2008-9.

"However, employment growth in Los Angeles County was coupled with relative and absolute *declines* in average industry wages. Los Angeles County movie industry employees earned, on average, 27 percent more per month in 2000 than their non-L.A. counterparts ($4,279 – or $5,349 in 2009 dollars, vs. $3,370 – $4,213 in 2009 dollars). In 2009, the average L.A. County industry employee earned 13 percent *less* per month than his non-L.A. counterpart ($3,754 vs. $4,232). Thus, in real terms, the L.A. average has dropped 30 percent, declining almost every year, whereas the non-L.A. County average grew by a scant 0.45 percent for the decade.

"Further, according to this data, feature film production has declined since the beginning of the 2000s both in absolute terms as well as in relative terms. Television, which accounted for 23 percent at the start of the decade, now takes more than 40 percent of the total production days."

5) LAO study of the Film Tax Credit Program due in 2016: In addition to the bill and Informational Hearing noted above and below, AB 2026 (Chapter 841, Statutes of 2011), provided that the LAO must provide to the Assembly Committee on Revenue and Taxation, the Senate Committee on Governance and Finance, and the public, on or before January 1, 2016, a report evaluating the economic effects and administration of the tax credits.

AB 2026 authorized the LAO, in researching the reports, to:

a) Request and receive all information provided to the CFC pursuant to state law.

b) Request and receive all information provided to the FTB relating to the sale or assignment of credits, and;

c) Request and receive all information provided to the board pursuant to state law.

AB 2026 also required CFC, the board, the FTB, the Employment Development Department, and all other relevant state agencies to provide additional information, as specified by the LAO, as needed to research the reports.

The bill authorized the LAO to publish statistics in conjunction with the reports required, derived from information provided to the LAO, if the published statistics are classified to prevent the identification of particular taxpayers, reports, and tax returns and the publication of the percentage of dividends paid by a corporation that is deductible by the recipient.

6) Recent Private Studies Support but Recommend Improvement of the Film Tax Credit Program: Private entities have also studied the California Film Tax Credit Program, including a UCLA report from the nonprofit think tank the Headway Project, *There's No Place Like Home Bringing Film & Television Production Back to California*, which verifies the positive economic impact of California's Film & Television Tax Credit Program, and makes suggested improvements. Key findings include that there remains a very strong correlation between tax credits and where film and TV producers go to shoot their projects, and while tax credits are not the only factor in deciding where a project should be shot, they appear to be the most powerful. The authors of the study conclude that the program "is creating jobs and is likely providing an immediate economic benefit to the state."

FilmL.A. also released a recent study which found the impacts of runaway production continue and will worsen without expansion of the Film Tax Credit Program, see *California Ranks Fourth in Total Live Action Film Project, Job and Spending Counts*. "According to data provided to FilmL.A. by the California Film Commission, from 2010-2013 a total of 77 film projects applied for but were not awarded California state film incentive and then went on to complete production. Most of these projects fled the state; more than 66 percent (51 count) of these projects eventually filmed outside of California in places were (sic) incentives were available…The loss for the California economy exceeded $914 million." The report concludes, "California's film and television tax credit program is a good investment, but needs to be extended and restructured to keep the entertainment industry from fleeing the state."

The Milken Institute also recently released a study which was entitled, "*A Hollywood Exit - What California Must Do to Remain Competitive in Entertainment - and Keep Jobs*." In the study, researchers confirmed that production flight has continued, despite the presence of the California Film Tax Credit Program. They also confirmed that California cannot win, and should not attempt to win, an all-out tax incentive race to enact the highest incentive program. Rather, Milken researchers suggest that California build on its strengths of being the established global leader in film production and preserve its core employment base and infrastructure. In order to do this, they make the following recommendations which track closely with those of the other studies author's:

a) Reduce the uncertainty involved in the filmed production credit:

   i) Increase funding: Raise the total amount of available annual funds in the state's filmed production credit to a level that allows for the elimination of the annual lottery and for the awarding of credits on a rolling basis throughout the year rather than at one arbitrary point tied to the state's fiscal calendar. This level should be high enough to eliminate the need for the lottery but should also have a clear annual ceiling to avoid creating unpredictability for the state's general fund. The newly raised level of funding should also be divided into specific allocations to maximize the impact across the economy and allow for productions not eligible for the current incentives to be covered.

   ii) Remove sunset: California legislators should eliminate the sunset date of film production incentives in favor of a periodic review process, similar to that used by New York, to allow the state to make adjustments to the total pool of money (based on economic conditions and competition) that will take effect after two years. By establishing certainty in the incentives as well as a review process that can make rational adjustments, the state would encourage studios and film companies to make larger commitments to the local infrastructure and can avoid the pitfalls of sudden policy reversals seen in states such as Michigan.

b) Ensure a smooth evaluation process:

   Establish an application fee for productions over $3 million that will be dedicated to providing new employees at the CFC who will handle the evaluation process. The fee can be weighted to the size of the application, with a minimum application fee for smaller productions scaled up somewhat for larger productions. This funding would be dedicated to the hiring of evaluation staff at the CFC and could be diverted to the state general fund.

c) Restructure the credit to align with television schedules:

   Dedicate a portion of the fund to hour-long dramatic television, including miniseries, and ensure that network television is explicitly included. Establish a rolling allocation in order to align the fund availability with television filming schedules, particularly in the period when networks determine their fall schedules. Strongly consider emphasizing new productions and eliminating the provision for relocating ones, while continuing to offer coverage to existing television shows as long as they are renewed on a timely basis. In addition, a dedicated pool of money separate from television funding should be established for films, as well as movies of the week and other non-recurring productions.

d) Capture blockbuster productions:

   Movies with budgets over $75 million should become eligible for filmed production incentives. Total credits for larger productions can be capped to ensure that no one film takes a disproportionate share. Big-budget films could remain eligible for the incentives provided they spend a to-be-determined minimum in the state. This will encourage productions to shift a significant portion of high-value filming to California, and by including visual effects as recommended below, the state can more readily meet a threshold for a total percent of the budget spent in the state.

e) Encourage production across the state:

Productions outside the union-designated 30 Mile Zone around Los Angeles suffer a clear cost disadvantage. These projects are exposed to higher costs for on-location filming or higher union travel rates. To mitigate this expense, productions that film outside of the zone should be eligible for an additional 5% credit. This has been implemented to clearly positive effect in New York to encourage productions outside the immediate vicinity of New York City. This will stimulate productions in formerly busy locations such as San Francisco and encourage scouting of diverse locales throughout the entire state.

f) Embrace digital effects and innovation:

i) Digital visual effects and animation expenditures should be made explicitly eligible for filmed production incentives at the 20 percent rate. This would offset a cost disadvantage faced by local visual effects companies - particularly those in the San Francisco Bay area that do not qualify for the current incentives - and encourage additional expenditures in the state.

ii) Establish a digital infrastructure investment credit that is part of the state's research and development tax credit rather than the filmed production incentive. As California works to encourage investment in the filmed production infrastructure, it can also provide a research and development credit to production.

7) Arguments in Support:

This bill has generated an unusual amount of correspondence. The Committee received a stack of letters approximately six inches tall from individuals urging support. In addition many business and industry related labor organizations have written urging passage. Therefore, it is impossible to express or share every aspect of support. Below is a summary of major themes.

The bills main supporters come from the entertainment labor community. Typical of their support is the California Labor Federation, who write to say, "California's film tax credit has a proven track record of creating and retaining jobs in the film industry. According to the CFC, in the first two years alone, the tax credit program has generated more than 20,000 jobs and $3.8 billion in economic activity since 2009. There are not just high paid actors and directors the credit has helped. The majority went to 'below the line' workers, those who have good, middle-class jobs working on sets, doing lighting, technical work, hauling props, and setting up locations. These are the workers who are most hard-hit by job loss in the industry and the least able to scrape by with no work."

Other key proponents of the measure are the studios who produce film and television programming. Their line of argument for support is well stated by the Motion Picture Association of America, (MPAA), which claims, "California's existing incentive has been successful in attracting feature films with a budget below $75 million and one-hour television series that air on basic cable channels. The CFC reports that 269 film and television projects have qualified for the tax credit program, resulting in spending of more than $4.7 billion in California's economy, including $1.48 billion in wages to California workers.

"But the current program is not open to large budget films and one-hour television series that are seen on the networks, pay cable channels and Internet sites. As a result, many of these projects are produced and the thousands of good paying middle class jobs they generate are located outside California. For example, in 2012 and 2013 only one movie, of the 54 released, with a budget exceeding $75 million was made exclusively in California. And only 11 of those 54 large budget feature films shot some of the project in California.

"The situation is similar with regard to television series. California used to be the filming location for 64% of the one-hour television series, but the competition from other states has eroded California's dominance and in 2013, the state was the location for only 28% of the one-hour series. AB 1839 addresses this by expanding the incentive program to include large budget features, up to $100 million of qualified expenditures, and to one-hour TV series, regardless of where they are aired or broadcast.

"And we support the five year extension of the incentive program contained in your bill. Planning for both motion picture and television productions can occur several years in advance, and productions rely on the certainty that the incentive will be available as location decisions are made."

Small business which cater to the entertainment community share common concern with the Motion Picture & Television Mobile Catering Association (MPTMCA), who strongly support AB 1839, saying, "A healthy and strong film industry here in California is critical to the survival of our businesses and association. But the reality is that over the past decade we have watched film and television production 'run away' from California in favor of tax incentives offered first in Canada, then in other countries like Australia and the UK, and finally, and overwhelmingly, to other states. … Thanks to the Legislature and the Governor, we do have the current California production incentive, without which the picture would be much bleaker. But it is limited in both eligibility and funding - only about 50 projects a year receive the credit. In 2013, 348 productions who had applied and wanted to film in California were waitlisted. Of course, many of them then had to leave to film elsewhere - taking with them the vendor contracts, revenue for my business, and jobs from my employees that would have otherwise have been funneled into the California economy."

Marin Convention & Visitors Bureau and Film Resource Office, writes in support, sharing a theme of Northern California Cities and Counties, sharing "Production work takes place all over our state. It is not just a Los Angeles-based business. Wherever a film crew uses locations, it purchases what it needs from a diverse array of local businesses as well as paying for permits, police help, fire safety, and more. Spending takes place at hotels, gas stations, restaurants, hardware stores, gyms, beauty salons, dry cleaners, department stores, party rentals, and caterers. And productions frequently hire local residents as crew and background extras, and pay film students to be production assistants.

"Before runaway production, Marin County had a fairly consistent influx of major film making, whereas now, the majority of filming is primarily auto commercial and fashion catalogue still shoots. AB 1839 would expand the current production incentive program beginning in 2016 to include one-hour dramas and large budget feature films. There is an added incentive for filming outside the Los Angeles area to support increased production for the entire state. It will help make California - the state known across the globe as the home of filmmaking - competitive once more."

San Francisco Travel writes to say tourism and filming are interrelated, another popular issue highlighted by travel businesses and tourism offices statewide, "The production of films and television in the state also has a significant impact on attracting tourist dollars to cities such as San Francisco. The production teams support hospitality industry services including lodging, rental cars, catering and restaurants, to name a few. Secondly, the inclusions of scenes of San Francisco, and other California cities, are earned media that help create aspirations throughout the world to come visit our beautiful state."

8) Argument in opposition: The California Teachers Association (CTA) opposes AB 1839, stating, "CTA opposes any reduction in revenue to the State's General Fund which would reduce Proposition 98 funding. In the last several years, K-12 education alone has taken over $20 billion in cuts. This does not include cuts that have hit the California Community Colleges, CSU and the UC systems. Likewise, we must not forget the cuts that have also hit our social and health services, safety programs, and many other essential services.

"CTA has been on record opposing tax credits for its own members (Teacher Tax Credits). Tax credits for special interest groups, corporations, and others have, over the last decade, depleted our General Fund of billions of dollars. California cannot afford to continue giving away tax credits that deplete the General Fund, because this hurts funding for our schools"

9) Prior and Related Legislation:

a) AB 286 (Nazarian), of the 2013-14 Legislative Session, would have expanded the definition of qualified motion pictures under the film tax program by removing the cap on the production budget for feature films and would limit the amount of qualified expenditures to $75 million. This bill additionally would have revised the amount of credits allocated by the CFC per fiscal year for a qualifying television series, as specified, to provide that the minimum production budget threshold is met by allowing aggregation of two fiscal years expenditures. AB 286 was returned to the Chief Clerk pursuant to Joint Rule 56.

b) AB 1189 (Nazarian), of the 2013-14 Legislative Session, would have extended for five years the requirement that the CFC annually allocate tax credits to qualifying motion pictures, as specified, through the 2021-22 fiscal year and would also extend and increase the limit on the aggregate amount of credits that may be allocated through the 2021-22 fiscal year. AB 1189 was returned to the Chief Clerk pursuant to Joint Rule 56.

c) AB 1435 (Gatto), of the 2013-14 Legislative Session, would have removed the sunset provisions, thus extending the credit indefinitely, revise the limit on the aggregate amount of credits that may be allocated in a fiscal year, revise how the credit amount is determined for specified qualified motion pictures, provide that credit amount for television series shall be 20% of qualified expenditures, provide that the credit amounts may be increased based on specified criteria, for a television series and for specified productions that perform postproduction in the state. AB 1435 is currently in the possession of this committee.

d) This bill would also, under both laws for taxable years beginning on or after January 1, 2014, allow a credit against tax in an amount as provided in a written agreement between the California Film Commission and the taxpayer, not to exceed 5% of an investment made by the taxpayer in a qualified film and digital media infrastructure project, as defined, located in this state.

e) AB 2026 (Fuentes), Chapter 841, Statutes of 2012, extended the film production tax credit program for two years, until 2017, under terms which are substantially similar to the measure under current consideration.

f) SB 1197 (Ron Calderon), Chapter 840, Statutes of 2012, extended the film production tax credit program for one year, until 2015, under terms which are substantially similar to the measure under current consideration. Chaptered out by AB 2026 (above).

g) AB 1069 (Fuentes), Chapter 731, Statutes of 2011, extended the film production tax credit program for one year, until 2015, under terms which are substantially similar to the measure under current consideration.

h) SB 1197 (Calderon), of the 2009-10 Legislative Session, deleted the fiscal year limitation on the existing film production tax credit. SB 1197 was held in Senate Revenue & Taxation Committee without a hearing.

i) SBX8 55 (Calderon), of the 2009-10 Legislative Session, deleted the fiscal year limitation in the existing production tax credit. SB X8 55 was held in Senate Rules Committee without a hearing.

j) ABX3 15 (Krekorian), Chapter 10, Statutes of the 2009-10 Third Extraordinary Session, established a five year $500M tax credit for qualified expenditures on qualified productions. Limited allocations to $100M/year.

k) AB 855 (Krekorian), of the 2009-10 Legislative Session, established a film production tax credit. AB 855 was held at the Assembly Desk.

l) AB 1696 (Bass), of the 2007-08 Legislative Session, established a financial assistance program within the CFC to encourage filming motion pictures and commercials in California and requires the Business, Transportation & Housing Agency to report the economic impact of this program by December, 2011. AB 1696 failed passage on the Senate Floor.

m) SB 359 (Runner), of the 2007-08 Legislative Session, mega tax credit bill which included motion picture production credit. Part of State Budget negotiations. Created a credit for a percentage of the wages paid of amounts paid to purchase or lease tangible personal property in conjunction with the production of a qualified motion picture. The credit is certified and allocated by the CFC. The bill also allows the credit to be claimed against the sales and use tax liability of the company in lieu of the franchise or income tax liability. Finally, the bill allows the credit to be carried over until exhausted. SB 359 was held in the Senate Revenue and Taxation Committee.

n) AB 832 (Bass), of the 2007-08 Legislative Session, created unfunded grant program administered by the CFC to encourage filming motion pictures and commercials in California. AB 832 was held on the Assembly Appropriations Committee Suspense File.

o) SB 740 (Calderon), of the 2007-08 Legislative Session, created a film production credit equal to 100% of the direct revenues attributable to the production or 125% of the revenues of the productions in a TV series that relocated to California or an independent film as defined. SB 740 was held in Senate Revenue & Taxation Committee without a hearing.

p) AB 777 (Nunez), of the 2005-06 Legislative Session, authorized qualified motion picture tax credit in an amount equal to 12% of the qualified production for qualified wages paid with an additional 3% for qualified motion pictures. Created refundable credit. AB 777 was held in Senate Revenue & Taxation Committee without a hearing.

q) SB 58 (Murray), of the 2005-06 Legislative Session, granted a refundable income or corporation tax credit equal to 15% of the amount of qualified wages paid and qualified property purchased in the production of a qualified motion picture. SB 58 was held in Senate Revenue & Taxation Committee.

r) AB 261 (Koretz), of the 2005-06 Legislative Session, re-established funding for the Film California First Program. AB 261 was a gut and amend out in the Assembly Rules Committee and became a transportation bill.

s) AB 1830 (Cohn), of the 2003-04 Legislative Session, authorized tax credits between 2006 and 2012 in an amount equal to 15% of qualified wages paid or incurred for services performed, with respect to the production of each qualified motion picture. AB 1830 was held in this Committee without a hearing.

t) AB 1277 (Cohn), Chapter 662, Statutes of 2003, transferred administrative authority over the CFC to the Business, Transportation & Housing Agency. This bill also created the Film California First Fund, administered by the CFC, which provided for reimbursements to local governments for their costs in issuing permits for local filming of motion pictures. In the last two state budget cycles, no General Fund monies have been appropriated to operate this program.

u) AB 2410 (Frommer), Chapter 1042, Statutes of 2002, required the CFC to report annually the number of motion picture starts that occurred within the State of California. The bill also required EDD to research and maintain data on film industry employment, to determine the economic impact of the film industry, to monitor film industry employment and activity and competing states and countries, to examine the ethnic diversity and representation of minorities in the entertainment industry, to review the effect of federal, state and local laws on the filmed entertainment industry and to report that information to the legislature biannually, provided that funds are appropriated by the legislature in the annual Budget Act for these purposes.

v) AB 2747 (Wesson), of the 2001-02 Legislative Session, provided a tax incentive to produce motion pictures within California. Would offer tax credits to productions with a total cost of qualified wages between $200,000 and $10 million for 15-25% of wages paid to qualified individuals during the taxable year with respect to qualified motion picture production depending on the area. For each motion picture, the maximum amount of wages per qualified individual that could be taken into account when computing the credit was $25,000. AB 2747 failed passage in the Senate Appropriations Committee.

w) SB 2061 (Schiff), Chapter 700, Statutes of 2000, created the State Theatrical Arts Resources (STAR) partnership which offers surplus State property to filmmakers, where unused State properties, such as health facilities and vacant office structures, are available at no charge or "almost free" to filmmakers.

x) AB 358 (Wildman & Kuehl), of the 1999-2000 Legislative Session, provided a refundable income and corporation tax credit for 10% of eligible wages paid for motion pictures and TV programs produced in California. AB 358 was held on the Senate Appropriations Committee Suspense File.

y) AB 484 (Kuehl), Chapter 699, Statutes of 1999, created the Film California First program, housed at the California Film Commission to reimburse certain film costs incurred by a qualified production company when filming on public property, but which is currently unfunded.

10) Double referral: Should this bill pass out of this committee, it will be re-referred to the Assembly Committee on Revenue and Taxation.

REGISTERED SUPPORT / OPPOSITION:

Support

American Federation of Musicians, Local 47
Association of Talent Agents
California Chamber of Commerce
California Labor Federation
California Teamsters
CBS Television Studios
Chef Robért Catering, Inc.
City of Culver City
City of Hemet
City of Long Beach
City and County of San Francisco
County of Riverside
County of San Bernardino
Directors Guild of America
Entertainment Union Coalition
Fox Entertainment
HBO
Inland Empire Film Commission
International Alliance of Theatrical Stage Employees, Local 729, Motion Picture Set Painters & Sign Writers

International Alliance of Theatrical Stage Employees, Local 892, Costume Designers Guild
Marin County Film Resource Office
Motion Picture & Television Mobile Catering Association
Motion Picture Association of America
Movie Movers, Inc.
NBC Universal
Nest Studio Rentals
Northern California Production Council
Paramount Pictures
Placer Lake Tahoe Film Office
Producers Guild of America
Sacramento Film Commission
San Francisco Film Commission
San Mateo County/Silicon Valley Film Commission
Santa Barbara County Film Commission
Screen Actors Guild-American Federation of Television and Radio Artists
State Building and Construction Trades Council of California
The Walt Disney Company
Valley Industry and Commerce Association
Warner Brothers Entertainment, Inc.
1075 private citizens

Opposition

California School Employees Association
California Teachers Association

Analysis Prepared by: Dana Mitchell / A.,E.,S.,T. & I.M. / (916) 319-3450