

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3011

STATE OF NEW JERSEY

DATED: JUNE 24, 2010

The Assembly Budget Committee reports favorably Assembly Bill No. 3011.

The bill provides a temporary reduction of the annual cap imposed on the corporation business tax benefit certificate transfer program available to certain technology and biotechnology companies, and temporarily suspends the tax credits provided for qualified film and qualified digital media content production expenses under the corporation business and gross income taxes. The bill also requires the State Treasurer to make and file a report regarding the effectiveness of the transfer program and the ability of the tax credits to meet their statutory goals and objectives.

With respect to the transfer program, the bill reduces the annual cap imposed on the corporation business tax benefit certificate transfer program for new or expanding emerging technology and biotechnology companies in this State from the current \$60 million per year limitation to \$30 million in State Fiscal Year 2011, and proportionally reduces the current set-aside for innovation zone-located companies under the program from \$10 million per year to \$5 million during the same period of time. The change in the annual limitation and the modification to the set-aside applies to the surrender of transferrable tax benefits in State Fiscal Year 2011; it does not affect tax benefits associated with previously authorized certificates or certificates which may be authorized in future fiscal years.

The corporation business tax benefit certificate transfer program was established under P.L.1997, c.334 and permits approved technology and biotechnology businesses with net operating losses to sell their net operating loss carryover and unused research and development tax credits for at least 80 percent of the value of the tax benefits to a profitable corporate taxpayer in this State that is not an affiliated business. The program allows technology and biotechnology businesses with net operating losses to turn their tax losses and credits into cash to buy equipment or facilities, or for certain other allowable expenditures. Under current law, the New Jersey Economic Development Authority must set aside a certain amount (\$10 million) of total funds allocated (\$60 million) each year for the surrender of transferrable tax benefits by eligible companies that operate within three innovation zones geographically distributed in the northern

(Newark), central (greater New Brunswick), and southern (Camden) portions of the State.

In terms of film and digital media, the bill temporarily suspends the corporation business tax and the gross income tax credits for qualified film production expenses and the corporation business tax credit for qualified digital media content production expenses by effectively reducing the existing annual tax credit caps from \$10 million per year for film and \$5 million per year for digital media content to \$0 for film and digital media content in State Fiscal Year 2011. The bill provides that the temporary suspension of tax credits applies to the authorization of new credits and the application of previously authorized credits in the upcoming fiscal year. It does not, however, affect the carryover of unused film and digital media tax credits previously allowed or which may be allowed following the suspension.

The film and digital media content production tax credits were established under P.L.2005, c.345 and P.L.2007, c.257, respectively, to encourage the undertaking of film and digital media content production activities in this State. The credits permit eligible taxpayers to receive a corporation business or gross income tax credit in an amount equal to 20 percent of the qualified film production expenses or a corporation business tax credit in an amount up to 20 percent of the qualified digital media content production expenses incurred during a privilege period or taxable year, as the case may be, provided certain conditions related to production are achieved. Under the film credit, 60 percent of total production expenses, exclusive of post-production costs, must be incurred in New Jersey, and principal photography of the film is required to commence within 150 days of the approval of an application. Under the digital media credit, at least \$2 million of the total production expenses must be incurred for goods and services used or consumed in this State.

With regard to the report, the bill requires the State Treasurer to make and file a report regarding the effectiveness of the tax benefit certificate transfer program and the film and digital media tax credits in meeting their statutory goals and objectives. The bill stipulates that the report must include information regarding the ability of the program and the credits to create and retain jobs in this State, and must be submitted to the Governor and the Legislature on or before the date the Governor's annual budget message is presented to the Legislature for State Fiscal Year 2012.

The temporary reduction in the annual cap on the technology business tax certificate transfer program and the temporary suspension of the film and digital media tax credits are two components of the Governor's Budget Recommendation for State Fiscal Year 2011. The measures are intended to reduce spending, and provide an opportunity for the State Treasurer to conduct an evaluation of the effectiveness of the program and the credits under current law.

FISCAL IMPACT:

The Executive has estimated that the tax benefit provisions incorporated in this bill will increase State revenues by a maximum of \$45 million in State Fiscal Year 2011. Of that amount, \$30 million is related to the temporary reduction of the cap imposed on the corporation business tax benefit certificate transfer program, and \$15 million is a result of the temporary suspension of the tax credits for qualified film and qualified digital media content production expenses.